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ISSN 1710-9477

**Legislative Assembly  
of Ontario**

First Session, 38<sup>th</sup> Parliament

**Assemblée législative  
de l'Ontario**

Première session, 38<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Monday 31 January 2005**

**Journal  
des débats  
(Hansard)**

**Lundi 31 janvier 2005**

**Standing committee on  
social policy**

Accessibility for Ontarians with  
Disabilities Act, 2005

**Comité permanent de  
la politique sociale**

Loi de 2005 sur l'accessibilité  
pour les personnes handicapées  
de l'Ontario

Chair: Mario G. Racco  
Clerk: Anne Stokes

Président : Mario G. Racco  
Greffière : Anne Stokes

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Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
111, rue Wellesley ouest, Queen's Park  
Toronto ON M7A 1A2  
Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
SOCIAL POLICY**

**COMITÉ PERMANENT DE  
LA POLITIQUE SOCIALE**

Monday 31 January 2005

Lundi 31 janvier 2005

*The committee met at 0907 in committee room 1.*

**ACCESSIBILITY FOR ONTARIANS WITH  
DISABILITIES ACT, 2005**

**LOI DE 2005 SUR L'ACCESSIBILITÉ  
POUR LES PERSONNES HANDICAPÉES  
DE L'ONTARIO**

Consideration of Bill 118, An Act respecting the development, implementation and enforcement of standards relating to accessibility with respect to goods, services, facilities, employment, accommodation, buildings and all other things specified in the Act for persons with disabilities / Projet de loi 118, Loi traitant de l'élaboration, de la mise en oeuvre et de l'application de normes concernant l'accessibilité pour les personnes handicapées en ce qui concerne les biens, les services, les installations, l'emploi, le logement, les bâtiments et toutes les autres choses qu'elle précise.

**The Chair (Mr. Mario G. Racco):** Good morning, and welcome to the first day of public hearings of the standing committee on social policy on the Accessibility for Ontarians with Disabilities Act.

Before we start, I would like to point out several features that we hope will help to improve accessibility for those participating in and attending these hearings. In addition to our usual French-language interpretation, we have added services for these hearings. Closed captioning is being provided for each day of the hearings. Sign language interpreters are present each day of the hearings; I would like to welcome today Penny Shincariol, Gus Mancini and Angi Tippett. There are two support services attendants available to provide assistance to anyone who wishes it; today I would like to welcome Jackie Hudson and Frank Hamilton.

The hearings today and tomorrow in Toronto are being broadcast live on the parliamentary channel available on cable TV. Also, for the first time these hearings are being Webcast live on the Legislative Assembly Web site at [www.ontla.on.ca](http://www.ontla.on.ca). Our other hearings will be shown as a delayed broadcast and Webcast. Niagara Falls will be available on Friday, February 4; London will be on Saturday, February 5; Thunder Bay will be on Wednesday, February 9; and Ottawa will be shown on Thursday, February 10, 2005.

We welcome you all to these public hearings.

**MINISTRY OF CITIZENSHIP  
AND IMMIGRATION**

**The Chair:** We can proceed with the first order of business, the technical briefing by the Ministry of Citizenship and Immigration. I ask that you come forward and introduce yourselves for the purposes of Hansard, please.

**Ms. Katherine Hewson:** Good morning. I'm Katherine Hewson, acting deputy minister at the Ministry of Citizenship and Immigration.

**Ms. Cherith Muir:** I'm Cherith Muir. I'm the manager of the legislative project for Bill 118.

**Mr. David Lillico:** David Lillico, legal branch, Ministry of Citizenship and Immigration.

**The Chair:** Thank you. Please proceed.

**Ms. Hewson:** Good morning. I'm pleased to provide you with a technical briefing this morning. There are some materials that I believe were handed out, which look like this, if you care to follow along.

The purpose of the Accessibility for Ontarians with Disabilities Act is to benefit all Ontarians by achieving accessibility for Ontarians with disabilities by developing, implementing and enforcing accessibility standards on or before January 1, 2025.

The standards must be in the following areas: goods, services and facilities; accommodation; employment; buildings, structures and premises. The bill also provides for the involvement of persons with disabilities, industries and sectors, and the government of Ontario in developing standards. There is involvement through standards development committees, through municipal advisory committees, through standards advisory councils and through public consultation requirements.

**0910**

As you will see in sections 4 and 5, the act applies to any organization to which a standard applies. Accessibility standards in subsection 6(3) can apply to every person or organization in the public or private sectors in Ontario: those who provide "goods, services or facilities to the public;" those who employ "persons in Ontario;" those who offer "accommodation to the public;" those who own or occupy "a building, structure or premises that is open to the public;" or those who are "engaged in a prescribed business, activity or undertaking" or who meet "other requirements as may be prescribed." The purpose of this is to provide for very broad coverage and to cover all things that are available to the public in order

for services, goods and physical premises to be accessible to people with all disabilities. In addition, the act binds the crown, which you will see in section 5.

One of the main purposes of the act is to develop accessibility standards. The standards are provided for in section 6. As you can see, accessibility standards would require a standard to set out measures for the identification and removal and prevention of barriers “with respect to goods, services, facilities, accommodation, employment, buildings, structures...” So the requirements would be in the standard. In addition, the standard would require actions to be carried out by persons or organizations to remove or prevent those barriers that are preventing accessibility. A person or an organization can be subject to more than one accessibility standard. Accessibility standards would apply to all persons or organizations who are identified in the standard. The application of an accessibility standard “may be general or specific” and “may be limited as to time and place”; that is in subsection 8. The standards would be established by regulation through a general regulation process.

On page 5 of the slide deck, you’ll see that accessibility standards requirements may vary according to “different classes of persons or organizations.” The statute as proposed is very broad around what could be a class, so it could be any number of criteria, and there are some that are specifically provided for in the statute: the number of people employed by a person or organization; the annual revenue of the organization; the type of industry; the size of the buildings, structures or premises. This is a recognition in the statute that it may be more appropriate to subject large organizations to different requirements than small organizations, and this allows some flexibility within the statute to provide for different classes. An accessibility standard may define a class as one person or organization or as including or excluding a person or organization that has the same or different characteristics, so there is quite a broad range of ability to differentiate in classes.

On page 6, we talk about the standards development committees. There is a very participatory process that is provided for in the proposed legislation. One of the ways of participating is through the appointment of standards development committees. The minister would establish the committees that would be responsible for the development of accessibility standards. The committees would also have the responsibility of defining and further clarifying the organizations or individuals that are considered to be part of a sector. The minister would fix “terms of reference” for each committee that would include deadlines to be met through “the various stages of the standards development process.” In this way, the standards development committees could be required to meet specific timelines for each part of their processes.

Before appointing a committee, the minister must consult with ministers who are responsible for a certain sector. This is intended to provide for inclusivity across government and to make sure that the ministries that have a relationship with the sector are advising the Minister of

Citizenship and Immigration and are participating as well. The minister, in consultation with other key ministers, would invite the following people or organizations to participate in standards development committees: persons with disabilities or their representatives, representatives of the industries or sectors of the economy to which the accessibility standard is intended to apply, and representatives of ministries that have responsibilities related to the industries or sectors that are identified in the accessibility standard. In this way, we ensure that persons with disabilities, the sectors themselves and government ministries that have responsibilities are all included in the standards development process. The minister could also invite members of the Accessibility Standards Advisory Council to participate in the standards development process.

Finally, section 12 provides that the minister may appoint experts, if she wishes, to advise the standards development committees. These could be experts in various technical aspects who could provide their advice and help to the committees.

Section 9 of the bill deals with the standards development process. The standards are developed in accordance with the act and with the terms of reference, which are issued by the minister. The standards development process would include, first of all, the determination of long-term accessibility standards, provided for in subsection 9(2). It is provided that the standards development committee would promptly move to develop these long-term objectives. Secondly, the standards development process includes the implementation of standards in increments of five years or less. The committees would prioritize which requirements should be implemented within the first five years after the committee is established and then what should be done in the subsequent five-year chunks to meet the objectives.

The development of the time frames would take a variety of things into account. First of all, it would look at the range of disabilities that would be accommodated. Secondly, it would look at the nature of the barriers to accommodation: What things need to be identified? Which barriers need to be removed and prevented? Finally, it would look at the technical or economic considerations associated with the implementation of each standard. In this way, the standards development committee can balance and identify the priority needs and the economic and technical impacts of moving to prevent or remove barriers.

Once the committee had completed that work, the committee would propose accessibility standards to the Minister of Citizenship and Immigration. The minister would then make the proposed standards available for public comment for a 45-day or other time period, as specified by the minister. This would be done by making the proposed standards available on the ministry Web site—or in some other way, but one would expect that it would be through posting them on the ministry Web site. There would be the 45-day or other period in which organizations or persons could provide comments about

the proposed standards. After that, the committee would take that information from the public into account and decide whether to modify the proposed standard. Once they had modified it, they would provide the modified standard to the minister, and then the minister would take that and consider it through the government regulation-making process. So after the proposed standard, as modified, comes to the minister, the minister would take that to cabinet as a proposed regulation. Once it's a regulation, there are obviously requirements to comply.

The standards development committees would be required to provide periodic progress reports to the minister so that she would be aware of what is going on. I think it's important to note that the minister does have responsibility in the statute for the development of standards. This is through the terms of reference she provides, the periodic reports the committee provides to her and other methods. So there is a clear accountability on the minister.

#### 0920

Section 9 also deals with a review of standards. Within five years of the adoption of a standard by regulation, or earlier if it's specified by the minister, the standards development committees would reconvene and perform the following functions: First, they would review the long-term accessibility objectives and time frames. Second, if they needed to, they could revise the requirements to be implemented on or before January 1, 2025. So they could look at the long-term objectives and decide whether they needed to be changed in some way. Then they would develop another proposed accessibility standard with suitable additions and modifications. We would anticipate that they would take the work that was done originally and decide what more can be done in order to achieve the long-term goal of accessibility by 2025. They would submit the revised accessibility standard to the minister, again, to make it public—the 45-day period—and receive comments. If they decide there are changes coming out of the public consultations that needed to be made to the proposed standard, they would do that, and they would provide the minister with the subsequent proposed accessibility standard.

Sections 14 and 15 deal with accessibility reports. Individuals or organizations who are subject to an accessibility standard would be required to file accessibility reports annually. The statute provides that the reports may be filed electronically, and there are provisions for electronic signatures which are similar to other statutes. The report would include a statement certifying that the information provided in the report is accurate, and a senior official of the organization or the individual preparing the report would be required to sign the certification statement. In this way, there's a senior official of the organization certifying that the report is accurate.

Individuals and organizations would be required to make accessibility reports available to the public. In this way, people who are potentially affected by the compliance with standards could take a look at the report and see how the organization is doing and what it says it has done.

Individuals or organizations are required to comply with accessibility standards within the time frame set by the standard. This is in section 13 of the bill. Anyone who files false or misleading information in an accessibility report or who fails to comply with an order that is made under the act would be subject to financial penalties if convicted of an offence. This would be a maximum of \$50,000 per day for an individual and \$100,000 per day for a corporation. In addition, if there is an obstruction of an inspector or intimidation of somebody who is providing information or doing other things that they are supposed to be doing under the act, those are also offences that can be subject to those penalties.

Inspections are dealt with in section 19 of the bill. Inspectors would carry out inspections to determine whether a person or organization had complied with the act and regulations. An inspector could require the production of a document, record or other item relevant to the inspection. An inspector can also be accompanied by an expert or a person with professional knowledge to assist in carrying out the inspection. So if there was a particular need, for example, for someone with building expertise that the inspector himself or herself did not have, that person could accompany the inspector.

Section 21 deals with the enforcement of the act. Subsection 21(1) says the director can order that an "organization be treated as being part of" an industry or sector and that two or more organizations be treated as one ... organization" if they are organized with the intent or really with the effect of defeating the purpose of the act. This takes into account the fact that there could be differentiating standards, depending on the size of the organization, for example. The inspector can say, "That organization really is one organization, not two organizations, and therefore is covered by the more stringent requirements of the act."

A director can issue compliance orders against a person or organization in the following situations: If the person or organization has failed to comply with an accessibility standard or regulation, then that order can be made; secondly, the order can be made if the person or organization fails to file a report or provide other information. The bill is really predicated on the organizations themselves providing information through reports. So it's important for the inspector to be able to order the report to be completed.

A director may make an order to comply with the standard or regulation within a specified time, to file an accessibility report that complies with the act or to pay an administrative penalty.

Section 23 provides that if the person fails to pay an administrative penalty, that order can be filed with the court and can be collected as if it were an order of the court. Administrative penalties are provided for three basic reasons in the act: First of all, to encourage compliance with the act; secondly, to prevent a person or organization from deriving economic benefit from non-compliance with the act; and third, to recover the cost of enforcement. In subsection 40(2), there are regulation-making authorities to deal with administrative penalties.

On page 15 of the slide deck, you'll see that there are requirements on the director before he or she issues an order under the act, and these are just basic fairness requirements. First of all, a director would be required to provide notice to a person or organization before issuing an order, and the notice would have to include some basic information so the person knows what the implications, potentially, of the order would be: first of all, the nature of the order proposed by the director; second, the right of the individual or organization to make written submissions explaining the alleged failure to comply; and third, the deadline for making written submissions, which is 30 days under subsection 22(3), or could be according to whatever is provided in the notice. But the usual would be 30 days.

Sections 26, 27 and 28 deal with appeals and mediation. In section 26, the Lieutenant Governor in Council designates one or more tribunals for the purposes of this act. A person or organization subject to a director's order has the right to appeal that order to the designated tribunal. The parties to an appeal would be the person or organization who made the appeal, the director who made the order and any other person or organization the tribunal deems necessary for the proper conduct of the hearing. So there is discretion left to the tribunal to allow other parties if it is appropriate for the proper conduct of the hearing.

The tribunal would normally hold a written hearing; that is, unless they're satisfied that there's good reason to hear oral submissions. Upon hearing the matter, the tribunal could confirm, vary or rescind the order of the director. The tribunal could make attempts to effect a settlement of all or part of the appeal matter by mediation, with the consent of the parties. As you probably know, mediation is very often an effective alternative dispute mechanism for litigious matters. So we have provided for that for the designated tribunal.

#### 0930

Section 33 deals with incentive agreements. If it is deemed to be in the public interest, the minister can enter into an incentive agreement with a person or organization if they agree to exceed the standards. The purpose of this is there are many organizations, we know, that are real leaders in accessibility; they will meet the standards that are provided for through the process in the bill, and this provides an opportunity through a contract, basically, with the minister to agree to do more. There can be benefits to that. One benefit can be that the organization may be exempted from doing the annual reports or may have different reporting schedules provided. There can be other benefits, but they are not specifically provided for in the draft legislation. It's important to note that these agreements really take on legal responsibilities and requirements. So, if the person or organization entering into the agreement with the minister does not comply with the terms of the agreement, that could be treated as non-compliance with the act and all of the processes in the act could be applied to that person or organization.

As I mentioned, there can be specific exemptions from the legislation that can be part of the agreement, both

around reporting and providing other information, documents or reports. The exemptions granted by the minister in these cases would be limited to the period of time specified in the incentive agreement.

There are some administrative bodies created by the bill. First of all, section 29 continues the accessibility advisory committees that were created under the Ontarians with Disabilities Act, 2001. This is a requirement on municipalities to have accessibility advisory committees where the majority of members are persons with disabilities. The functions of the municipal advisory committees would include advising municipal councils about the requirements and implementation of accessibility standards and the preparation of accessibility reports. So they would be continued and they would have ongoing responsibilities around the standards and the reports.

Section 31 establishes the Accessibility Standards Advisory Council. This would be a council of persons, the majority of whom would be persons with disabilities, and they would be responsible for advising the minister on the accessibility standards development process and the progress that's being made by the standards development committees. They would provide advice on accessibility reports, public information, public education and other matters.

Section 32 provides for the continuation of the Accessibility Directorate of Ontario. This also is a body that was created under the Ontarians with Disabilities Act, 2001. Under the proposed act, the directorate would be continued with the following additional functions. They would be supporting the standards development process, conducting research and public education on the act and on accessibility issues, and supporting and consulting with the Accessibility Standards Advisory Council.

Section 39 is something that I think needs to be pointed out. It is a section that deals with conflict with other legislation. It's possible that there would be different requirements coming from different pieces of legislation that would deal with accessibility in some way. Under the proposed bill, if an accessibility standard conflicts with any other act or regulations, the provision that provides the highest level of accessibility for persons with disabilities would prevail. In this way, we are ensuring that persons with disabilities benefit from the highest amount of accessibility, and this act or standards would not take away existing rights to accessibility.

Section 41 provides for the repeal of the Ontarians with Disabilities Act, 2001. The repeal could take place section by section, and this is intended in order to provide for an orderly transition from the planning requirements that are currently the case in the Ontarians with Disabilities Act, 2001, to the new requirements for compliance with accessibility standards which will take place once the accessibility standards are in place under this act.

That's the end of what I had proposed as a technical briefing.

**The Chair:** Thank you for your presentation. There are 55 minutes available for questioning, and we are

going to try to split it evenly in three ways. I would ask, if the Conservative Party has any questions, to proceed, please.

**Mr. Cameron Jackson (Burlington):** Katherine, welcome. A couple of initial questions: You're the same team that's been operating since 2001, as I recall, having worked with you as the then minister, and you've been responsible for Bill 125 and the transition to the draft of Bill 118. Is that correct?

**Ms. Hewson:** That's correct.

**Mr. Jackson:** I'm going to flip between the two pieces of legislation, because one is the current law, from whence the new law springs. So my first question has to do with the proclamation of the specific section dealing with compliance that leads to penalties for those organizations that do not file their accessibility plans. Has that section been proclaimed?

**Ms. Hewson:** No, it has not.

**Mr. Jackson:** Is there a reason why you have not proclaimed that two and a half years after the legislation?

**Ms. Hewson:** My understanding is that the government undertook the consultations with respect to strengthening the Ontarians with Disabilities Act and, as a result of those consultations, which were quite widespread, they decided that they wanted to take a different approach with standards and, given that, did not choose to proceed with proclaiming the offences section under the Ontarians with Disabilities Act, 2001.

**Mr. Jackson:** So you do concur with the fact that Bill 125 did deal with setting standards at a municipal level and that the vehicle through which that—this is what you just indicated to me—

**Ms. Hewson:** No, I think—

**Mr. Jackson:** Let me finish, and then I'll let you answer.

The point I'm trying to stress here is that we do not have accessibility plans from all those groups required under the legislation. So by not proclaiming the penalty section, a \$50,000 penalty to a municipality that refuses to either have an accessibility committee or have a plan, that section is about to be repealed and there isn't a replacement section in your Bill 118. Clearly, both sets of legislation call for the creation of these, but the only penalty section that I find in your legislation is the one dealing with failure of compliance at the end of the process of setting standards.

So, at the outset, I'm concerned that there is a whole host of municipalities—there may even be some ministries; there may be a public institution, whether it be a hospital or a university or a school board—that has not filed its plan and has not embraced the principle that not only exists in Bill 125 but, we've been led to believe, will also be embraced in Bill 118.

The pure empowerment of this model, which I'll get to later, seems to have a better end game for the disabled community, but I have some concerns about the process in between, because we've pulled the teeth out of the empowerment model the way it's currently structured. But I want to stay focused on the issue of the penalty

section which has not been proclaimed and, therefore, the only penalty is at the very end of the process when there's non-compliance. And then there's a whole arbitration and mediation process, which we'll get into. So perhaps you can just advise me, how do we guarantee that we will get accessibility plans from all of these people, which are required in the original legislation?

**0940**

**Ms. Hewson:** I think perhaps the best way of trying to answer that is by comparing the two pieces of legislation. The Ontarians with Disabilities Act, 2001, provides that certain organizations—municipalities, transit providers, school boards, universities etc.—must develop accessibility plans. There is an offence provision in that act, which has not been proclaimed, that provides that it is an offence punishable by a fine of up to \$50,000 if the organization does not do a plan.

**Mr. Jackson:** You can't do a plan without a committee, in the case of municipalities.

**Ms. Hewson:** Smaller municipalities can.

**Mr. Jackson:** Yes, under 10,000, but let's stay with the core responsibility in this legislation.

**Ms. Hewson:** Large municipalities must have an accessibility advisory committee and must develop an accessibility act—

**Mr. Jackson:** By Bill 125. We do not have that absolute requirement. Let me get to the real point of this: Under the law today, every single cabinet minister and every minister of a government is required by law to publicly file. Under your legislation, they will not be required to do that. We're going to get into this with the minister and we're going to get into this with the public, but the fact of the matter is, the level of government that can most afford to make Ontario fully accessible is the Ontario government. It's argued that those other public institutions that rely on the provincial government for their funding have less of a propensity to make Ontario fully accessible. So if the very seat of government gets a bye out of this legislation and does not have to file accessibility reports by ministry, and if each minister is responsible, with their funding base, to make their ministries fully accessible—in other words, how are we then going to ensure that the public generally is able to reach those benchmarks? You've confirmed for me that nothing in Bill 118 impels a ministry to file an accessibility plan.

**Ms. Hewson:** There is a change from a planning regime to a standards regime.

**Mr. Jackson:** A yes-or-no answer is what's required, Katherine. You and I know that that's your—

**Ms. Hewson:** What is required will be for the government to comply with any standards that are applicable to it.

**Mr. Jackson:** Set by a standards committee, but it doesn't set the same standard for a ministry to be working on accessibility, in the way in which we're calling upon municipalities to do the same thing. This is a question of principle and one of process as well. But

fundamentally, I'm offended by the notion that we're allowing ministries to catch a bye.

Here I have in front of me all of the accessibility plans for the province of Ontario and for each of the ministries. Now, I'm going to raise this with the minister later on, but the Attorney General's plan talks about reducing its budget and its financial capital commitments for new courthouses in the province of Ontario. That is their plan. Now, the only way the public is aware of this, the only way that we in government, regardless of which political party we're in, know this is because it forces a government to be held to a standard of accountability and to declare publicly where it is or is not making the commitment. I don't think our courthouses need to wait 20 years in order for a committee to set up standards for courthouses 20 years down the road, when in fact the ministry, with the money it has—and we'll build many new courthouses in the next 20 years—shouldn't be making them fully accessible as quickly as possible. Yet I have an act which says that they should file a report and be moving toward full accessibility.

Let me ask you a second question: Have you done any regulations in the more than three years since Bill 125 was approved? Have you done any regulations at all that are called for in that legislation?

**Ms. Hewson:** No.

**Mr. Jackson:** OK. So you've been the accessibility directorate called for in the legislation. You're still the accessibility directorate being called for in the new government's legislation, Bill 118. Yet you've been there three years without setting any of the regulations that are required to guide not only municipalities but all transfer agencies that are called for in the legislation, and you haven't done a single regulation to help advance the concerns that were called for in the legislation.

**Ms. Hewson:** We have not passed any regulations. For the past year, I would say, the government has been undertaking consultations around what the disability community, the business community and others think needs to happen with the legislation. Since then, there has been a focus, I think, on developing Bill 118.

**Mr. Jackson:** Have you been instructed that all forward progress with the given law of this province is to stop?

**Ms. Hewson:** No.

**Mr. Jackson:** Yet I have evidence that you are not doing—all right, let me ask you another question. Can you inform this committee of all those municipalities and transfer agencies in our province that have not filed their plans and are in non-compliance?

**Ms. Hewson:** There is no requirement in Bill 125, the Ontarians with Disabilities Act, 2001, for municipalities to provide their plans to the government, so I am not able to say that.

**Mr. Jackson:** It's public. Are you telling me that you're not even monitoring the fact that the act calls for it to be public?

**Ms. Hewson:** Staff are monitoring, however—

**Mr. Jackson:** Do you have the list?

**Ms. Hewson:** I don't have it with me, but we can certainly provide what we have.

**Mr. Jackson:** But it would appear that you're not even monitoring the performance under the existing legislation. Much of the disability community has said that 20 years is far too long. They waited for a long time to get a disability act; they got one, and now, a little over three years later, we're seeing no progress from the government side in terms of advancing the principles and the law that were put in place with Bill 125.

I want to ask you a couple of questions, because I know I'm going to run out of time fairly soon. When we had our technical briefing on November 15, you were unable to tell any member of this committee how many different committees you have in place. Have you begun the work on drafting the terms of reference and the number of committees that will be required under this legislation?

**Ms. Hewson:** No. That would be premature until the Legislature passes this legislation.

**Mr. Jackson:** I don't think that is necessarily the fact. If you're going to cost this legislation, you need to determine at least the basics of some of the committees that are going to be required. Have you not put your mind around any of this? Did none of this come out of the consultation?

**Ms. Hewson:** The specifics of how to set up the standards development committees and which ones need to be established first are still under development.

**Mr. Jackson:** So since your minister declared her desire to revamp this almost a year ago, you still have no plan or draft plan in place to deal with the standards committee, the regulations that will govern them, the membership of them, the areas of involvement there will be with both the public and private sector and its impact, either financially or otherwise?

**Ms. Hewson:** We have some work underway. However, we feel it is important for the Legislature to look at this bill. There may be changes that come out of the legislative process, and we will be developing implementation plans in due course. We have, of course, started to work with other organizations that have expertise in standards, such as the Canadian Standards Association, to learn from them and to be in a position to quickly move to implement this bill if the Legislature passes it.

**Mr. Jackson:** So we don't have the committee number down pat; we don't know the composition; we'll have to go through a process of developing the terms of reference, going out and asking the public if they would like to participate, and then appointing them and training them. What is your best guess? Will it take a year, a year and a half, to get those off the ground and running?

**Ms. Hewson:** No, I wouldn't think it would take that long. I'm not prepared to give a specific amount of time, however there is work that will be done and will continue to be done as the Legislature continues its work on this bill.

0950

**Mr. Jackson:** The reason I raise that is that the legislation is specific about from the time the committee is formed—you know the section I'm referring to. If that's three or four years from now, and then you start your five-year cycle, something as simple as banning all un-accessible curb treatments in subdivisions in Ontario may be seven or eight years away.

My question is, how is it that you give the committees, according to the legislation, up to five years from the first time the committee is constituted and therefore able to function? That could potentially be, as I say, about eight years down the road.

**Ms. Hewson:** No, Mr. Jackson. The way it would work is that the committee would establish the requirements and the time frames for complying with those requirements for the first five years. The time frames could be before the five years are up, and that will be up to the committee to decide. Then, after a maximum of five years—it could be earlier—the committee has to reconvene to establish the next five-year requirements.

**Mr. Jackson:** You mentioned the word “reconvene,” and that doesn't show up in any previous briefings, nor does it show in the legislation. You've sufficiently done work in regulations to determine that once the committee has done its work, it will, in a sense, be put on hold until it's called upon in the next five-year segment.

I have concerns about the fact that no work has been done in this area, and it's critical. The reason it's critical is more than just the composition. I think a simple majority is not sufficient. I think a two-thirds majority of disabled persons—if I had to do it over again, that's what I'd do, because it's sufficient for the private sector with special interests to put one of their employees who's disabled on, whose interests may or may not be in the best interests of the disability sector generally but of their corporation specifically.

Therefore, I will be proposing amendments to make sure that the composition of all the standards committees is two thirds persons with disabilities, and that will accommodate specifically even civil servants who will be sitting on these boards—if you put disabled civil servants on, they can protect their ministry perhaps more than they can protect the disability agenda.

I have a lot more questions, Mr. Chairman. I will raise those during the course of the hearings over the next two weeks, and with the minister. To be fair, I think the legislation does require some major adjustment, but I would hope that—one last question, and this is a short question.

**The Chair:** Mr. Jackson, you just went over. Thank you for that. Maybe Ms. Martel will ask some questions you may have.

**Ms. Shelley Martel (Nickel Belt):** Thank you for being here this morning. I appreciate the briefing. I've had a chance to read a few of the briefs that have been put together in advance of the public hearings starting, so the questions I'm raising come from my reading. They are questions that I agree with, actually.

The first question I have has to do with the purpose clause of the bill. ARCH in particular has pointed out that a purpose clause in any bill—and this is correct; we know this as legislators—is to really set out the vision statement. You want to make sure that vision statement is very clear, because if there is any kind of court challenge, the courts would be looking to the purpose clause to really determine what the government was intending.

What they pointed out was that the purpose, as it appears in the bill, is to benefit all Ontarians, which is fine. But I think the purpose is really to do away with discrimination. This is what this bill should be all about. I agree with them that the purpose clause, as it stands, is not strong enough in terms of pointing out that it's the government's intention to have legislation that stops discrimination and that that should be very clearly referenced in the purpose clause.

Can you tell me how the ministry ended up with the purpose clause that it did, and are you open to an amendment that would clearly state that this legislation is anti-discrimination legislation? That's the point of it, and that's how it should be judged if it's ever challenged in court.

**Ms. Hewson:** I don't think I can comment on what the government ultimately will be open to. I think the hearings will be very helpful in making that case. Certainly the genesis of this is anti-discrimination. However, we have the Ontario Human Rights Code, which provides for complaints against discrimination, and we don't want to set up a duplicate process. I take your point that certainly this is social justice legislation that would need to be interpreted broadly by the courts in order to achieve its purpose. It does have a background, if you will, in anti-discrimination, and I think that the words you'll see around barriers will help make that point, because those are the kinds of things that are dealt with in other rights legislation. I don't know that I can give you a complete answer at this point. Certainly I imagine that the government would look forward to hearing further discussion about proposals around the purpose.

**Ms. Martel:** From my perspective, while the legislation may reference barriers in other sections, I think the purpose clause really needs to be very specific. Yes, the act is to benefit all Ontarians. But frankly the act is to benefit those Ontarians who have been left out, and that should be the driving force. However we can change the purpose clause to make sure that is the driving force and that the intent of the bill is very clear at the outset, then I think we should be looking for that kind of language. I hope the ministry and the minister are going to be open to that.

Secondly, there are two definitions that do not appear. I found that funny, because there are very specific terms defined, such as “barrier” and “disability.” But “accessibility” is a term that's not defined, and “services” is also not defined. It seems to me that people, as they start their work, are going to need some clear idea of the government's intention with respect to what it thinks accessibility is, what those services are, and they should or

could be defined. Can you give me some sense of why some terms are identified in the legislation and others are not?

**Ms. Hewson:** The first thing I would say is that there is a specific regulation-making authority. Clause 40(1)(q) provides for a regulation-making authority to define the terms “accessibility” and “services.” Those terms are fairly broad in nature, and so it was thought it may be useful, given that this is really broad-based legislation and something that hasn’t been tried before in many cases, to have some flexibility in defining those terms.

**Ms. Martel:** We all know that it’s much better to have it in the law. The regulation is not as powerful—it doesn’t have as much authority—and as much of this as you can put in the actual act itself would be my preference. I think there are far too many sections in the bill that are left to regulation-making, which I think we should spend some time trying to move into actual legislation.

ARCH points out that in fact the Human Rights Commission does have a discussion of the word “services” in its guide to the Human Rights Code, and it seems to be quite an extensive list, as I look at it. They also make a recommendation that “services” be defined. I’m wondering if the ministry looked at the definition of “services” that’s already set out by the Ontario Human Rights Commission in its human rights guide. What was the problem with using that definition of “services,” especially if the Human Rights Commission, with some support from the disability community, you would think, has already accepted that definition?

**Ms. Hewson:** We did look at it, but we thought, given the fact this is going to be broad-ranging legislation dealing with a whole variety of organizations, employers and service providers, that having some flexibility to define it in regulation was the better way.

**Ms. Martel:** But wouldn’t the Ontario Human Rights Commission be worried about doing the same thing? It would be in their interest, and I would think it’s part of their mandate, to be defining those terms, with respect to their own mandate, in the broadest possible way as well, so they would already have considered a variety of organizations to be included.

**Ms. Hewson:** Their mandate is very broad, and so their definition is going to be very broad. Our legislation is at an early stage, really, and it may well go in the same direction as the Human Rights Commission’s definition, but there may be some specific things that need to be adjusted. That’s why we thought it was preferable to put it in the regulation.

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**Ms. Martel:** I’m sure that ARCH will be coming before the committee, and they can probably make their case more powerfully than I can. But we’ve got some other words that I think one might consider to be difficult to put in legislation that’s already defined. I think, with another round of that, we can probably find some definitions the majority can live with. I think we need to have that in the legislation and not in the regulation-making section.

This has to do with the minister making regulations establishing accessibility standards. If I’m reading this correctly, Section 6(1) says, “The Lieutenant Governor in Council may make regulations establishing accessibility standards.” That’s a bit contrary to what we’re doing here. You’re setting up the committees, whose work is going to be to develop the standards and to bring them to the minister, they go out for public input and they come back. I’m not sure why you’re using permissive legislation. It should say, “The Lieutenant Governor in Council shall,” to make it very clear that that’s what is going to happen and that the work all these folks do is not going to be for naught. Why did you use “may” instead of “shall”?

**Ms. Hewson:** My understanding is that it is difficult to constrain the Lieutenant Governor in Council to do something in legislation. However, it is certainly intended that regulations would be passed.

**Ms. Martel:** I know what the intent is, but I’m looking at what the bill says. Legal counsel, can you give me a clear explanation as to what constraint may or may not be on the LGIC? I’ve got to assume that in some other statute somewhere it says, “The Lieutenant Governor in Council shall”; I can’t imagine that we only ever use “may” with respect to what the Lieutenant Governor in Council can do.

**Mr. Lillico:** I don’t know of another statute that provides that the Lieutenant Governor in Council “shall” make regulations. Subsections 6(1) and (2) provide that the LGIC “may” make regs, and that when that happens, they shall have a specified content. I think that’s the more usual procedure.

Another issue that arises is that if the section said, “The Lieutenant Governor in Council shall make regulations establishing accessibility standards,” then the Lieutenant Governor in Council would be out of compliance with the law if one moment in time passed between that provision coming into force and the first standard coming into force. Of course, it wouldn’t be possible to do that, because the standard cannot come into force until the entire standards development committee process has taken place: The committee has met, they’ve made a recommendation to the minister, it has been put on the Web site for 45 days, it comes back to the minister etc. So as a matter of law, the first standard cannot come into force at the same time that the provision comes into force. If it said that the LGIC “shall” make regs establishing standards, then the LGIC would be out of compliance with the law, and there’s no legal way around that.

**Ms. Martel:** Does the same thing happen if you say “minister” instead of “LGIC”? You’re changing by regulation, so it’s a little tougher.

**Mr. Lillico:** The standard can’t come into force except by regulation, and the regulation cannot be made until the process of establishing the committee—going through sections 8 and 9, that were referred to earlier—has taken place: The committee has met and come up with the recommendations etc.

**Ms. Martel:** For your consideration, Mr. Jackson is going to put on the record a way that you might get around that.

**Mr. Jackson:** David, is it not possible to state within the time frame of the bill, since the bill says that we shall reach a level of compliance by the year 2025—so we have an end date—that we shall make regulations in accordance with or that flow from the work of the standards committee? I've seen that in legislation over my 20 years at Queen's Park. Instead of making it general, which I guess Shelley and I are accepting to a degree, make it specific, which I've seen in legislation, instead of all-encompassing. The act clearly sets out the progression of the evolution of the standards, but at the end point the standards have to come into regs. It doesn't even see, say, which ones or from which number of committees. It just says that once you get the standards, they shall be put into regulations. Given what we just asked about the lack of regulations in three and a half years, I think it's important.

Sorry, Shelley. Thank you.

**The Chair:** Is there an answer to the question?

**Mr. Jackson:** That was a question to David.

**Mr. Lillico:** We can consider that from a drafting point of view.

**Ms. Martel:** OK. I'd appreciate that.

I have a question about the section on tribunals. As I read it, there certainly is an opportunity for there to be more than one tribunal established. I wondered why the ministry would not have a single specialized tribunal, with the majority of participants being representatives of the disabled community, to deal with situations that arise from this legislation. I think what you want here is a panel, if I can describe it, which would have some very specific expertise and a body of knowledge that would be helpful to make standards to deal with complaints etc. over the period of time that all of these are to go into effect. We have a very long time frame—too long, in my opinion—for the standards to be established.

Instead of using a single tribunal with very clear expertise, with a majority of representatives being from the disabled community, why was there a decision made to pick and choose, have a tribunal here, have a tribunal there, where you may lose some of that expertise?

**Ms. Hewson:** The provision that allows for a designated tribunal gives a lot of flexibility. So there could be a specific tribunal or there could be a use of existing tribunals, where they have the expertise, where the subject matter is more closely aligned to the kinds of things the tribunal is currently dealing with. It leaves it fairly open, but there are opportunities to provide that requirement to whichever tribunal is the most appropriate.

**Ms. Martel:** Can you tell me, because I honestly don't know, what would be the tribunals that you see already in place that could logically deal with some of the issues that are going to arise here? You're talking about the Ontario Human Rights Tribunal.

**Ms. Hewson:** That certainly could be one.

**Ms. Martel:** OK. Can I raise a concern? Right now it takes people three, four or five years to get complaints through the Ontario Human Rights Commission and through the tribunal. This is a process that is not working in Ontario. As supportive as I am, it is not working. So to look to additional responsibilities for an existing tribunal where there is a long wait list is not an option for me. I would much prefer that we look at establishing a separate tribunal that has no wait list before it, whose particular expertise would be in dealing with this bill and everything that flows from it. Is the ministry open to considering that? I think your other option is one that's just not going to work.

**Ms. Hewson:** I think the fact that it is a designated tribunal means the ministry is open to a variety of possibilities. So I would imagine that the ministry is very open. However, I would just like to point out to you that you can only get to the human rights tribunal itself if you've been through the Ontario Human Rights Commission. That would not necessarily be the case here if the human rights tribunal were a designated tribunal.

**Ms. Martel:** But even for the cases it's dealing with right now there's a long delay. To give you an example, there are a number of parents of autistic children before the tribunal now. They've been there for over a year and there is no end in sight. I'm not blaming anyone; I'm just saying that is the reality of what we're dealing with at the tribunal.

**Ms. Hewson:** The only thing I just wanted to point out is that there is a process of investigation and so on at the commission before it does reach the tribunal, and we wouldn't be dealing with that.

**Ms. Martel:** You're right.

**The Chair:** There is one minute left.

**Ms. Martel:** With respect to what the tribunal can do, I don't see a lot of guarantee about public access. First of all, I don't really see where there is an opportunity for people to make complaints if they are concerned about an accessibility standard—not an organization to which the standard has been applied, but persons who are concerned that a standard may not be stringent enough or may not be implemented properly. I don't see much room for them at the tribunal, because the tribunal seems to be a place where you go to deal with an order. What is the mechanism for public input around complaints that accessibility is just not being achieved in a timely fashion, be it in one sector or another? Where do people have a chance to fit in here and have their complaints reviewed, investigated in a very serious manner, and adjudicated?

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**Ms. Hewson:** There is no individual complaints process provided for in the bill. Individuals who believe they have been discriminated against under the Human Rights Code can go to the Human Rights Commission. However, this bill is proactive in nature, with standards that have to be complied with, so the organization that is required to comply with the standard must do so. It must provide its report to the public, so there is public access

to information there. It must file its report with the government, and there can be an inspection. So somebody who felt the organization was not, for example, complying with the standard could first of all go to the organization itself based on the report and say, "You say that you are doing X, but here we see that you are not doing it. Therefore, you should do it." That's one mechanism. It is not a legal complaints mechanism.

The second mechanism would be to indicate to the inspector, and that may be a reason to audit the organization or to inspect it. But you're quite correct in that there is no individual complaints mechanism. There are many opportunities for people to be involved; for example, there is the public consultation process for the standards themselves. There are municipal advisory committees. There are other mechanisms as well for public consultation.

**Mr. Kim Craitor (Niagara Falls):** Thank you very much for the briefing. I just want to talk to you with respect to section 1 of the act, the one that deals with accessibility standards. You've got them listed here. Does transportation fall under one of these?

**Ms. Hewson:** Yes.

**Mr. Craitor:** In order for me to grasp how this act functions, let me just run by you a situation that we have. I'm the member who represents Niagara Falls; I cover Thorold and Niagara-on-the-Lake, so I want to understand how this act would benefit people with disabilities from that area. In that area, we have a number of communities, including Welland, Pelham, Wainfleet, so there is a large geographic area that has to be covered for people who have disabilities when they want to access services. It could be dialysis services, going to Brock University, going to Niagara College: There's a large area that they have to move around in.

Within the region, municipalities do have disability committees. I was a city councillor, and we had one in Niagara Falls; so do a number of the other communities. Then, within the region, there's a regional government. They also have a disability committee. One of the issues that we have been trying to come to grips with at the regional levels is, how do we set up within the region an inter-municipal transportation system so that people throughout the region would have access to moving around and getting the services they need?

Watching the process back within the region, it seems that the communities and the representatives who sit on regional government and speak on behalf of their communities can't seem to buy in collectively to this concept. So in some municipalities you have their elected officials saying, "Good idea," and you have others saying, "No."

Having said all of that to you, how would this act play into that so that there would be an onus at the regional level that they would come up with a system that would assist people with disabilities so they can move around throughout the entire region?

**Ms. Hewson:** The act would provide for the development of specific standards, and the standards in transit—well, let me back up. The first thing that would happen

would be that there'd be a standards development committee that the minister would appoint, and that would be in the area, let's say, of transit. So there would be representatives of people with disabilities, there would probably be transit providers and likely municipal people as well—so people representing the sector that is going to be regulated—and, third, probably people from the Ministry of Transportation and maybe the Ministry of Municipal Affairs and Housing. Those people would develop a long-term vision for accessibility. So, if you were to achieve accessibility in the transportation sector, what would it mean? They would identify what the long-term goals are.

Once they do that, they would look at what is achievable in the first five years, what is technically feasible, they would look at the economics, the opportunities for transit investment, and they would come up with standards, probably in four main areas: (1) physical accessibility; (2) customer service; (3) communications; and (4) employment. But there may be other things as well that you need to address to get to accessibility in that sector. So they would come up with standards—specific outcomes that all providers of transit would have to achieve within five years. That doesn't specifically require transit providers to come together to create one transit organization, but it does create the obligation on each of those providers to meet those standards, and they may find it is more efficient and effective to band together in order to do that.

**Mr. Craitor:** I'm not really feeling comfortable with what you just said. You're telling me that five years—we have all these groups that have already gone through this process locally and they know what the issues and the needs are. So they're going to start all over again?

**Ms. Hewson:** There are planning requirements now under the Ontarians with Disabilities Act, 2001. Transit providers have that obligation to provide an annual plan. There aren't specific outcomes that are required, but there are areas they have to look at. So those planning requirements will continue to be the law until there are standards in place, at which point that part of the Ontarians with Disabilities Act, 2001, would be repealed and then kind of replaced with the standards.

**Mr. Craitor:** Is there a faster process within this legislation than what you just told me, five years?

**Ms. Hewson:** Yes. The five years is within the standards development processes in the bill.

**Mr. Craitor:** How do you expedite it for something that's been discussed for years in the Niagara region?

**Ms. Hewson:** Well, the minister sets out terms of reference for the committee, and she could indicate to the committee that they needed to come up with something earlier. But remember, these will be standards that will apply across the province.

**The Chair:** Ms. Wynne?

**Ms. Kathleen O. Wynne (Don Valley West):** Correct me if I'm wrong, but my understanding is that if a particular organization or sector wants to move more quickly, that's where the incentive agreements come into

play. They can actually jump over some of the administrative requirements if they move more quickly.

**Ms. Hewson:** That's correct.

**Ms. Wynne:** So that would expedite the process that Mr. Craitor was talking about.

**Ms. Hewson:** Yes, and that's a legislative part. That's absolutely right.

**Ms. Wynne:** I have a couple of questions. One of them comes out of a meeting I had in my riding last week on this legislation. The discussion was not so much about the standards—I want to ask you about the move from a planning to a standards regime—but about the setting of the sectors, the determination of what the sectors were going to be. It was a question I didn't have a good answer for. So my question is in two parts. The role of the ASAC, the Accessibility Standards Advisory Council, and the Accessibility Directorate—first of all, what's the difference between the roles of those two bodies in terms of the standards committees? And, related to that, how are the sectors—because we can talk about transportation, but are there particular disability areas that will be sectors? How are those sectors going to be determined? I expect that's not finalized yet, but—

1020

**Ms. Hewson:** Let me try to deal with what a sector is. A sector is not a specific disability, it is a sector of the economy. So it could be hospitality, it could be transit, it could be municipalities. It's a group of service providers—I can't think of another term for it—that will have the same kinds of accessibility issues. So you can imagine that hotels might have the same kinds of accessibility issues; municipalities would.

You're right. There is some work that we're working on now but we don't have a perfect answer yet on what a sector is. The bill, though, knows that there are going to be different rules that could apply to different organizations, or you could be one organization and theoretically there could be different sets of rules that apply to you. That can happen and the standard-setting process will have a mechanism for determining which set of standards will apply. We're planning to do that, actually, and providing some help to organizations so that they would be able to electronically have the kinds of requirements that are going to apply to them and that could be combined even with reporting.

**Ms. Wynne:** So the fine-tuning of the particular group of people within a sector is going to happen; it's going to be the refinement within the economic sector? It's a very tricky question because if you're talking with people who have acquired brain injury, as opposed to people who are deaf-blind, the requirements are different. The economic sector may be the same but the requirements for accessibility are going to be quite different.

**Ms. Hewson:** That's right, and one thing I should say is that one of the first things the sector development committees will be doing is refining the idea of sector.

**Ms. Wynne:** Right, OK.

**Ms. Hewson:** The other thing they'll be doing is trying to define what accessibility is in their sector, and

to do that, they are going to need to look at the full range of disabilities.

**Ms. Wynne:** Now you're talking about the disability sector. Or are you talking about the economic sector now?

**Ms. Hewson:** The economic sector will be the standards development committees. So you'll have, let's say, people from hotels, you'll have people with disabilities and you might have the Ministry of Tourism or the Ministry of Economic Development and Trade. Those are the people on the standards development committees. They're looking at the hotel sector. One of the first things they will do is determine what is accessibility in the hotel sector. In order to do that, they need to take account of a full range of disabilities.

**Ms. Wynne:** So all of those different communities are going to have to feed in from their perspective what accessibility means and then that becomes the discussion on the standards development committees.

**Ms. Hewson:** That's right.

**Ms. Wynne:** OK.

**Ms. Hewson:** And they can't just focus on physical disability for people. They have to recognize there is more than that.

**Ms. Wynne:** Is there anything in this act that allows for that meta-process of feeding in from the different communities what accessibility means? Because that's almost a step back from what this legislation does. Is there anything that provides for that?

**Ms. Hewson:** The bill itself provides a very broad definition of disability. Secondly, there are people with disabilities who will be on the standards development committees. Thirdly, the accessibility directorate, which is where you started out, will be providing a lot of work to the standards development committees. We have a number of years of experience in helping organizations plan for accessibility. In order to do that, they have to look at the full range of disabilities. So we have lots of experience within the accessibility directorate on that very issue. That can be provided.

**Ms. Wynne:** So that's what the directorate would be doing, providing that kind of advice?

**Ms. Hewson:** That's one of the things the directorate can do, and they can do other things. They can do public education. They can assist the standards development committees with technical information. They will also do general policy work, as well, around accessibility issues.

**Ms. Wynne:** OK. My last question is a more global question. You had talked about moving from a planning regime to a standards regime, and it seems to me that the reason we should be celebrating this legislation is that there is a tightening up of requirements in the broader community for all people with disabilities and for accessibility in general. It's great to have a plan, but if there is no requirement to implement the plan, which it seems has been the case for the last number of years, then things are not going to get better. Can you talk about how this bill is going to move us, and what that means, planning to standards regime?

**Ms. Hewson:** I maybe would just start by saying that the government undertook fairly broad consultations on how to strengthen the existing legislation. What they heard was that there was a lack of clarity around specific outcomes that were required because there was just a planning requirement with nothing specific about what the plans had to achieve.

So there was a feeling, that was fairly generally shared, that there was uncertainty about what achievements actually had to be made and that the plans did not address that. So there was a lot of inconsistency and, as you say, there wasn't a requirement to actually implement. That was something that came out of the consultations that took place last year with, I think, over 2,000 people participating.

The decision was made to move to a standards approach, recognizing that there needs to be a lot of participation by the sectors that are going to be regulated, a lot of knowledge that needs to be acquired, and a lot of harnessing of the good practices that are already out there, because many organizations go through the planning that they've done, and also the private sector, either because they have been compliant with the Americans with Disabilities Act or they just believe that it's important to being accessible to people with disabilities.

So there's a lot of good activity out there that can be harnessed, a need to use that to build on the good practices that have taken place and to provide more certainty and specifics, and outcomes and measurable results, rather than plans.

Having said that, the planning requirements—sorry, one other thing I should mention is, through the consultations it was noted quite a lot that the current act, the Ontarians with Disabilities Act, 2001, applies only to the government of Ontario, municipalities, transportation providers, universities, school boards and hospitals. So it's to the broader public sector. There was a desire to expand that and apply it to the private sector as well.

The application, the results-based focus, and the certainty were all identified as reasons to move to a standards-based approach.

**Ms. Wynne:** Great. Thank you very much.

**The Chair:** Mr. Fonseca, two minutes to go.

**Mr. Peter Fonseca (Mississauga East):** I'll be brief. It's in regard to the range of disabilities, or that spectrum, and when it comes to disabilities that may be invisible, those that are mental health or addictions. Where does the spectrum start? How do you define that?

**Ms. Hewson:** It's a very broad definition, and I'd just draw your attention to section 2, "disability." There are five parts to that. This is basically the same definition as in the Ontario Human Rights Code, which is a very broad definition. So it's very clear that it is both visible and invisible disabilities. It is physical disabilities, it is mental disabilities, it is sensory. It's a very broad range of disabilities.

I think that is one of the things the standards development committees will have to take into account right from the beginning, that they will need to address a broad

range of disabilities, and there are different activities that need to be undertaken in order to address the whole range of disabilities.

**Mr. Fonseca:** A question about one of the industries: With the airline industry, where you go to the federal level of government, what would happen in a case like that?

**Ms. Hewson:** This is provincial legislation, and it applies to those organizations that are subject to the provincial jurisdiction; so not airlines.

**The Chair:** Thank you, and that terminates this part of the presentation.

**Ms. Martel:** Mr. Chair, may I just raise a point of order? Some additional information just before we leave, because I'd like some clarification on the questions that were raised by Mr. Craitor and Ms. Wynne.

Can the incentive agreements be signed before the regulations have been passed, or after? As I read your page 17, I thought that it said the incentive agreements could only be entered into after the requirements had been outlined in the regulations, which would, from my perspective, still not respond to Mr. Craitor's concerns about work already being done and how much longer the process would take as you develop standards.

So you don't have to do that now, but if you can get back to the committee about this, because essentially the time frame, then, would not be shortened, and that's what I'm worried about.

**The Chair:** Any other questions? I thank you again for your presentation.

**1030**

**The Chair:** Next is the opening statement by the minister, the Honourable Marie Bountrogianni.

Welcome. Good morning.

**Hon. Marie Bountrogianni (Minister of Children and Youth Services, Minister of Citizenship and Immigration):** Good morning, everybody.

Mr. Chair, members of the committee, today we take a momentous step for Ontario as this committee begins its review of the proposed Accessibility for Ontarians with Disabilities Act, 2005. This landmark bill, which I was honoured to introduce on October 12 as the first order of business in the fall sitting, is about fairness. It is about opportunity, inclusion and empowerment, building stronger communities and a stronger economy, and making Ontario the place to be.

The vision behind this bill is an inclusive Ontario. As Premier McGuinty has said, "Every Ontarian deserves the opportunity to learn, work and play to their fullest potential, and every Ontarian benefits when we tap into the potential of each Ontarian."

Inclusion is not only the destination; it is the vehicle that will take us there. We have developed this bill through a participatory, inclusive process. If passed, people with disabilities and other stakeholders would have a real voice in setting accessibility standards that make a real difference.

As every committee member knows, by providing full accessibility for people with disabilities, Ontario would

benefit enormously: more participation in the workforce by people with disabilities; improved educational achievements by thousands of young people; a higher quality of life for citizens; more consumer spending; and an enviable reputation across Canada and around the world.

With this legislation, the government proposes action to remove the barriers facing Ontarians with disabilities, whether those disabilities are visible or invisible: real, physical barriers; real technological, communications, bureaucratic barriers; and, very importantly, real attitudinal barriers. I've been told over and over again that the community is confident that this proposed legislation would finally take those barriers down.

Since introducing the bill, I've had the opportunity to meet with a number of disability groups. When I visited Community Living London, I saw the wonderful work they are doing to support adults and children with intellectual disabilities.

For instance, I attended the annual general meeting of the Ontario Special Olympics to salute the remarkable athletes and the dedicated volunteers and staff. I remember being so humbled that evening to assist in presenting awards to the extraordinary people involved in the Ontario Special Olympics, like the Metro Leafs floor hockey team, who won team of the year. They could teach us all a lesson in team spirit, and hearing their stories of triumph is something I will never forget. I was honoured again yesterday, in Stoney Creek, for the skating Special Olympics. These truly are the best people, pure at heart and bold in spirit.

In Ottawa, I toured the Independent Living Centre. I saw first-hand how individuals are given the chance to develop skills through workshops, a library, newsletters, Internet access and other services. I also met with Disabled Persons Community Resources, which helps ensure the independence, participation and integration of people with physical disabilities.

I also met with the regional municipality of Niagara accessibility advisory committee and learned about the gains the region has made to improve accessibility.

In November, I toured the Canadian National Institute for the Blind's new service centre and their extraordinary and fully accessible library.

On December 3, the day after Bill 118 received approval in principal in a unanimous vote at second reading, I took part in an inspiring event in Ottawa to celebrate the United Nation's International Day of Disabled Persons, hosted by the Canadian Association of Independent Living Centres.

All of these groups, and many more, are knocking down barriers facing people with disabilities. They are champions of ending inflexible approaches and old attitudes. All of them are leaders in the movement toward full equality, toward fairness, toward a truly inclusive society. This is the true spirit behind our proposed Accessibility for Ontarians with Disabilities Act, 2005.

In the fall, the Legislature debated this proposed legislation. The debates showed how very personal the issue

of accessibility is for each member. Most of us know someone who has trouble getting around physically, has vision loss, is hard of hearing, has a learning disability or mental health challenges or copes with a chronic condition. In Ontario alone, 1.5 million people with disabilities encounter barriers every day, from insurmountable curbs on the street, to telephones without volume controls, to restaurant menus in small print, to insensitive customer service.

Members on all sides spoke with deep passion and emotion about the obstacles faced by their constituents, their families, their neighbours, their friends, their loved ones and, in some cases, themselves. For example, I remember Kathleen Wynne telling us about the Villatones, a group of teenagers with disabilities who came together to form a singing group that traveled across the province. They had no systematic support, couldn't go into restaurants when they traveled and had no way of entering many public buildings. They had to fight for funding to buy a van so they could do their radio shows in small towns. It is for people like the Villatones that this legislation is so essential.

We all agree accessibility is the right thing to do. It is also the smart thing to do. Within 20 years, as our population ages, more than one in five Ontarians will likely have a disability, up from 13.5% today. We have to prepare for a future that is fast approaching. Many business leaders recognize the value of accessibility in terms of expanded markets for their products and services—a market already estimated at \$25 billion a year in Canada, according to a Royal Bank report. Apart from purchasing power, people with disabilities have untapped employment potential that can be developed to build a stronger economy.

Our major trading partner, the United States, is moving ahead with accessibility. They're expanding their labour market and consumer market by opening up opportunities for people with disabilities. In the US hospitality industry, for example, implementing standards under the Americans with Disabilities Act increased annual revenue by 12%, according to a US General Accounting Office report. That's action on the macro level. It's happening in response to change at the micro level. For example, a theatre company in Ohio used one customer complaint about listening devices to launch a whole program of accessibility. It decided to do weekly tests of its headsets in all 100 of its theatres. It provided new maintenance training to employees. At the ticket booth, it advertised the availability of listening devices for patrons. The company also trained all its staff in customer service for people with disabilities and on the requirements of the Americans with Disabilities Act.

Big change starts small. Some say accessibility sounds like a good idea, but how can we afford to do it? The answer is, we can't afford not to do it. The issues are clear. The needs are real. The potential is extraordinary.

The roots of the proposed legislation now before us can be traced back 10 years. That's when a small band of 20 Ontarians with disabilities formed a committee for the

purpose of making Ontario barrier-free. I'm proud that, first, as opposition members and then in office, we listened and responded. But the real credit for making this bill happen goes to those Ontarians with disabilities who pushed so hard for so long. For 10 years, they would not give up. They will never give up, nor should they.

During the 1995 election campaign, the Ontarians with Disabilities Act Committee asked all three parties to pass this kind of legislation. The Tory government said they would do it in their first term, but to the dismay of the disability community, they failed. As their first term was drawing to a close, the House demanded action. I'm referring to the resolution introduced in October 1998 by my colleague Dwight Duncan, now Minister of Energy and government House leader. This resolution called on the government to enact disability legislation based on 11 principles that had been articulated by the ODA committee. The House unanimously adopted the resolution.

#### 1040

A few weeks later, in November 1998, the Tory government tabled the Ontarians with Disabilities Act, 1998. The bill was widely rejected by the disability community. When the Legislature adjourned in the following month, it quickly died on the order paper. Finally, not after the first term but six long years later, in November 2001, the former government at last introduced and passed the Ontarians with Disabilities Act, 2001. I believe this was introduced in good faith, but it too was dismissed as ineffective by advocates for people with disabilities.

In April 2003, with another election in the offing, Dalton McGuinty, as Leader of the Opposition, sent a letter to the ODA committee. He wrote that if we formed the government, we would enact a strong and effective Ontarians with Disabilities Act.

The legislation before us is a priority for the Premier. He instructed me to make it a priority—something I was honoured to do. In our first throne speech, shortly after forming the government, we said we would work with Ontarians with disabilities on meaningful legislation, and that's exactly what we did. From January through March 2003, my former parliamentary assistant, Dr. Kuldip Kular, and I undertook a series of consultations across the province. More than 1,000 individuals participated in seven regional public meetings, 246 stakeholder representatives took part in 14 round tables, and a live Web-cast for students with disabilities registered about 2,000 viewer hits. All these sessions, of course, were fully accessible to persons with disabilities. As well, countless individuals spoke to me to express their personal hopes, their practical suggestions and their unwavering determination to build a truly inclusive Ontario.

In these consultations, people with disabilities told us that we should listen to their needs, their aspirations, their ideas, their dreams. That is what we have tried to do in developing the proposed new accessibility legislation. Ontarians with disabilities urged us to address the need to respond to the full range of disabilities, both visible and invisible; the need to fully include the private sector as

well as the public sector in the legislation; the need for strong enforcement measures; and the absolute imperative of enabling people with disabilities to be ongoing partners in shaping the policies that affect their lives.

As we met with communities around Ontario, we made a point of inviting business people to the table, and the result was positive. What we heard from business leaders were their own personal experiences, stories about parents with disabilities or children or grandchildren or brothers or sisters or employees.

Adding up all this input, the bottom line is unmistakable: This province needs meaningful legislation to deliver fundamental change, real change in the way we think and act as a society. If passed, this legislation would do just that. Under this bill, accessibility standards would be phased in with real results every five years or less, moving toward an accessible Ontario in 20 years.

Mandatory standards are the building blocks of an accessible society. Standards set out the measures, policies, practices and other actions that must be taken to prevent and remove barriers. The proposed standards would address key areas of daily living, including access to goods, services, facilities, accommodation and employment. They would cover the full range of physical, sensory, mental health, developmental and learning disabilities, and they would be given the force of law through regulation and enforcement.

Businesses frequently say that they want to make their establishments more accessible, but they are not sure what needs to be done. Standards would bridge this gap. Standards could range from safe pedestrian routes into buildings, to automatic doors at entrances, to lower counter heights at cash registers, to staff training in how to serve customers with learning disabilities, to adaptive technology in the workplace.

The best way—indeed the only workable way—to develop standards is through an inclusive process involving government, public and private sector partners, and people with disabilities. Under the proposed legislation, the government would establish standards development committees in specified industries or sectors. Each committee would determine the long-term accessibility objectives for the sector as well as the time frames for achieving them. Representatives of the industry or sector involved, provincial ministries and people with disabilities would be invited to join the standards development committees. People with disabilities want to be full partners in developing the standards that affect their lives. If this legislation is passed, they would be.

In all the business sectors, the government would ensure that the committees are representative of small as well as large firms, together with people with disabilities and other interested parties. We would also ensure balanced representation on the committees, so that various geographic perspectives are reflected where appropriate.

Standards development committees would have flexibility. There would not be a one-size-fits-all approach. Small business representatives on the committees, for

example, could help establish realistic obligations for their type of operations. If the proposed legislation is passed, we would begin immediately to set up standards development committees. We estimate that the first sectors could begin developing standards by the fall of 2005. Based on current readiness, the first sectors could be the retail, hospitality and transportation areas, because they have a big impact on everyday life. The first standards could be ready for adoption as regulations as early as the spring of 2006.

As the government relations director for the Retail Council of Canada, Doug DeRabbie, has confirmed, "Our members want to be proactive in this area—they want to make sure that people of all abilities have equal access." That is why the Retail Council of Canada has begun the development of a working group on this issue with companies across Ontario. The Ontario Chamber of Commerce has also offered their support to educate the public, both their members of small and large businesses as well as the greater public in their communities.

Let me refer back to the unanimous resolution passed by the Legislature in 1998. The 11th and final principle in that resolution included the following: "The Ontarians with Disabilities Act must be more than mere window dressing.... It must have real force and effect." Unlike the previous ODA legislation, our legislation would have real force and effect, real teeth. It would provide for realistic timelines, and it would put in place strong enforcement measures. It is all well and good to set standards for installing ramps or getting menus into alternate formats or improving customer service, but without timelines, we just have window dressing. Our proposed legislation is both visionary and realistic. Real results would be achieved every five years or less, moving toward an accessible society within 20 years. We have learned from jurisdictions that had good visionary goals but did not have timelines and therefore did not meet their goals.

Realistically, this cannot happen overnight. But what can happen rapidly is to accelerate progress so momentum builds, accessibility improves markedly and change becomes unstoppable. That's what we propose to do. There has been considerable discussion about the 20-year time frame, and I understand that 20 years is a long time to wait, a long time for people with disabilities to fully participate in our province. But let us make it crystal clear that 20 years would not be the starting point but the end point. Within five years, people with disabilities would begin to notice real, fundamental change in our society and our built environment. Ontarians would enjoy greater access in such areas as buildings, transportation and customer service. We would see a shift in this province's thinking with regard to accessibility.

#### 1050

Businesses have welcomed the phased-in approach. We have listened to their concerns, and we have addressed them. They say it would give them the time to absorb the costs associated with making their facilities accessible. Our approach of establishing a long-term

vision with milestones along the way is in line with other leading jurisdictions. For example, with regard to transportation barriers, Australia has a 30-year time frame with five-year goals for implementing full accessibility, and the United States has transportation time frames ranging up to 30 years. David Lepofsky, of the Ontarians with Disabilities Act Committee, has also supported the idea of setting benchmark periods based on needs and resources. "We're very practical," he said. "We want business to make money on this, not lose money on this. We want to bring more business in their door, including customers with disabilities and their friends and families."

The bill could potentially cover more than 300,000 public and private organizations. We would need innovative enforcement solutions to get cost-effective compliance, and the proposed legislation would provide for them. This is another way it would have teeth. The bill would require organizations to file regular accessibility reports confirming their compliance with standards and to make these reports publicly available. The public compliance reporting would be the front line of the enforcement process. It would create a picture of the entire regulated community. The government would review the accessibility reports, and problems could trigger an inspection. The reports would also undergo spot audits to verify accuracy. The bill would establish tough penalties for filing a false report or failing to obey an order.

We want Ontario to lead, not lag, in accessibility. If passed, we would become the first Canadian jurisdiction to adopt a comprehensive approach covering all spheres of government and business, covering all disabilities and covering all major aspects of daily life. I'm pleased that the Legislature unanimously approved second reading of the bill on December 2 and that we have now entered the committee stage. I'm more than prepared to listen to workable suggestions for improving this bill, whether from members of the committee, from the witnesses who will be appearing or from written submissions. We all share the same goal: to produce the best possible legislation to benefit all Ontarians by achieving accessibility for people with disabilities.

One of our biggest challenges is a change in attitudes, because that is one of the biggest barriers people face. Some of us remember a time when job opportunities for women were limited because some employers didn't have women's washrooms. Today that is hard to fathom. When I tell my daughter of my personal experience in this in engineering, she can't believe it: "Are you that old?" Maybe, but the real answer is, it wasn't that long ago.

We need that same inclusive mindset when it comes to disabilities. We want our children and grandchildren to grow up in a society where they can't imagine that accessibility for people with disabilities was ever an issue. We want a society where people will say, "What were they thinking, complaining about a ramp? What were they thinking, complaining that menus should be in Braille or large print?" We want a society where people

with a disability can move freely around their neighbourhoods, where they can easily visit their friends and families using public transportation, where they can fully enjoy the recreational, cultural, leisure and volunteer experiences available to other members of the community. The time has come to move forward.

It's a challenge for all of us. We all know the incredible benefits to be gained by all of us with the integration of persons with disabilities in every aspect of our political, social, economic and cultural life. We want Ontario to be a leader in building a world of true inclusion. We want every Ontarian to have the opportunity to learn, work, play, participate and contribute to the maximum of their talents, goals and dreams. That is essential to the social and economic vitality of our province. It is fundamental to embracing and celebrating our common humanity. The creation of an accessible Ontario is a vision and a challenge for us all. It is our shared responsibility and an extraordinary opportunity.

I thank the committee, and I look forward to suggestions and comments.

**The Chair:** Thank you, Minister, for the opening statement. We have half an hour for the opposition to ask questions. I will start with the opposition, with 15 minutes.

**Mr. Jackson:** I am very pleased to welcome the minister and her new legislation. The original legislation calls for a five-year review. You're a little early, so that's wonderful.

As the draftsperson of Bill 125, I obviously have some technical questions, which I've raised with the three staff who were here from the ministry, all of whom I had the privilege of working with in developing the original legislation. But there are also some larger public policy questions that form the principles and the underpinnings of the original Bill 118 and they are not necessarily consistent with Bill 118. I'd like to put that on the record, to express some. I believe that with the exception of not having a clearly defined end date for all aspects of accessibility in the province—so with that exception—there were elements in Bill 125 that called for the setting of standards and who was empowered to set those standards, and there is a clear distinction here. So let me just suggest a few things.

First of all, the principle I first applied to the legislation was that it had to be an empowering model. Again, I've seen far too many, whether school boards or municipalities, water down the intent and concerns that individuals bring forward—any level of government, for that matter. The empowerment model was an important aspect of any legislation because it meant we could take the disability community and they could educate those able-bodied persons about what their true needs really were. As long as you have a majority of disabled persons in decision-making positions, they will make the proper decisions, understanding what financial limitations any level of government has.

The second principle was that everybody talked to us, and I'm sure the minister talked to you, about the ability

to pay. Now, we can certainly triage this question quite easily; we do it every day in government. The ability of the federal government, with all its taxing powers, is greater than the province and greater than the municipality and so on and so forth, down to the local confectionery store run by two new Canadians. It always struck me—and I remember it was Dean LaBute in Windsor who, in my first day of consultations, said to me, "Cam, why aren't you starting with what you control now?" It was a very powerful question. The question was basically saying, "That government of Ontario building isn't accessible. You don't need 10 years or 20 years or 30 years to make that determination." Surely the government, armed with the battery of rulings from the Ontario Human Rights Commission—clearly those would indicate that you could fix that. You should have some mechanism in which those decisions can be made.

The third thing I learned from Windsor was that they had already had an accessible advisory committee operating for 10 years and they could demonstrate very clearly what they had achieved and what changes—and really positive changes. They were educating the powerful decision-makers and they were causing change to occur. That's how the construct of the accessibility advisory committees was developed. In those days, the notion that we try to create regulations for an entire province would be far more difficult than it would be to set standards that each municipality could negotiate directly with the majority of disabled persons who were empowered under the act.

Which brings me to the concern I have that there are certain key sections of Bill 118 being abandoned in this legislation. Disability rights and the growth of their rights in this province is an evolutionary process. It's not a devolutionary process where we say, "We're going to dump this whole effort to date and we're going to reconstruct over here." It just doesn't make sense. But in fact we are doing that in a couple instances with your legislation.

The first case in point is the positive onus required under law for each ministry of the government of Ontario to create accessibility plans that are then in turn reviewed by the Accessibility Advisory Council of Ontario and that they then in fact recommend to the minister that these are the kinds of laws, regulations, codes, penalties, whatever, that are required to be put in place to achieve the compliance first by the provincial government within a 10-year period. I can say that because that was in the cabinet minute and that was the big fight I had at the cabinet table about timelines. But the cabinet minute clearly says that the government of Ontario should be compliant within 10 years. That is not a standard that we feel we could present to municipalities, which objected strenuously that unless there was funding by the province to assist them to become accessible, they could not achieve that.

Now, that was an interesting statement, because I could find every municipality in the province saying they would be more than willing to endorse the principles of

an ODA but not one municipality willing to put up any money or earmark that. Therefore, that became a challenge. Clearly, they weren't even buying any year, let alone a 10- or a 15- or a 20-year window.

**1100**

I note that at the time, Jim Bradley indicated that any legislation for the disabled that didn't include funding for municipalities would be tantamount to downloading. He's clearly on record in Hansard. He expressed the concern and he has begged the question.

My office has submitted an order paper question to your ministry asking for any of the costing that went into this legislation. I know it exists, because I know that I wasn't allowed to take anything to Management Board or to cabinet unless I had it costed. So you do have costings in terms of what this would cost the government and the broader public sector. Those costs exist, and yet I've been formally informed that under freedom of information, those requests have been blocked. Minister, at some point I'll let you explain to the media and to the disability community why we do not have access to that information.

When we're dealing with accessibility, one of the first victims is the facts, and we need to have those facts. I know that when the costs associated with making the various ministries fully compliant within the 10 years were—we had a draft of what those costs were. In some ministries, they were horrendous. Just to give you an example, if we keep GO Transit under transportation, those costs are not in the hundreds of millions of dollars but in the billions of dollars. If we go to education and talk about autistic services, we're talking about hundreds of millions of dollars. So in order to have the Ontarians with Disabilities Act be compliant with the principles of the Ontario Human Rights Code and to have the code impact and guide any standards set—now, you've got a bunch of committees doing it. Under the previous legislation, we only had one committee setting the standards; the Accessibility Advisory Council made those decisions. But there are huge cost implications for this, and the public needs to know what those costs are going to be.

How much longer do I have—about a minute?

**The Chair:** Five.

**Mr. Jackson:** Thank you very much, Mr. Chairman.

At some point during the course of the hearings, perhaps it could be made known if you're willing to embrace an amendment to the legislation that will call specifically for compliance with the Human Rights Code.

Last week I met with the chief commissioner, Mr. Norton, and we reviewed the sizable number of cases before him and the sizable number of mediated settlements and the fact that his process will continue but that there isn't an adequate individualized process contained in the current legislation. I'm not putting words in his mouth. He raised this in a letter to you, Minister, specifically about issues around monitoring and having an arm's-length auditing system which audits compliance in all of these various areas.

So we'd like to know that the bill can be strengthened in this area. This is important, because as your bill removes the responsibility of ministries and the government of Ontario, to be compliant on its own, you now have set up a process where you're going to create a civil servant, a director, who will mediate at the far end of the process, 15 or 20 years down the road, those people who are non-compliant. I find it really hard to believe that a civil servant and a director in your ministry is going to be able to mediate and arbitrate and pass judgment on ministers of the crown who are not compliant with the act. So I see that as a fundamental departure from the way the previous government envisaged holding the proverbial feet of the provincial government to the fire.

I would hope that you would retain those elements of the accountability for ministries, because they have the budgets, they have the expertise, and quite frankly we're impelled under the Human Rights Code to try all in our power to be compliant, and we shouldn't need to take the extra time in order to do that.

Prior to your arrival I had asked the staff; I was very disappointed to learn that section 21 of the previous bill dealing with offences was not proclaimed in the last year and a half. The suggestion was made that you were more involved in consulting, and that's fair. However, there are organizations out there in the province who have not filed their accessibility plans. Now all the ministries are no longer going to be required to fill them, to provide access plans under your legislation. That section is being deleted.

I have referenced this in the House and I want to bring it to your attention, Minister: The current access advisory committee would be monitoring all the access plans of each ministry. I have Attorney General Michael Bryant's access plan right in front of me. It talks specifically in a section—I believe the amount of money is \$80,000 that was taken out of the budget and has been set aside for making Ontario courtrooms more accessible.

That also means that another section, that says that all new construction for any ministry of the government of Ontario—and by extension, any organization or institution or transfer agency that receives capital funding—must be fully compliant to higher standards of accessibility, has been deleted in this legislation.

So I might even argue that in some instances, and again, I'm only guided by what I read and what the ministries are admitting to me—in the case of Michael Bryant, the Attorney General, he's actually removing earmarked dollars. I also know, according to the Treasurer, that he's got every ministry in the province considering how to cope with frozen budgets or reduced budgets. Some are protected. We know that; that's in the newspaper.

Again, the power of the audit committees or the accessibility advisory committee—and members who have been appointed to this arm's-length body are here in the chamber with us today. They're in the position to publicly state to taxpayers in this province, and more importantly, to the disabled community they're able to

articulate, “Here is a ministry that’s actually taking its dollars away from its commitment to accessibility and spending it elsewhere.” Again, the issues around transparency, reporting and auditing were an important fundamental aspect of the legislation I brought in in order that it would survive the changes of government and survive the financial difficulties.

I know I’m almost running out of time.

You know, we’ve seen recently a clause that says to the physicians of Ontario that if we run into financial difficulty, we may have to change what we’re going to compensate you. I don’t really think, when it comes to rights and, as my colleague Ms. Martel has said very clearly, to matters of discrimination, governments with the sizable amount of money they have shouldn’t be put in a position that they can say, “You know what? We really just can’t afford that this year. We’re going to put that off another year.”

So, Minister, I see room for a lot of improvement. Perhaps I know more about the legislation than the average person only because I devoted a year of my life to developing it and have spent considerable time analyzing the legal implications of the new bill. I would hope that you and your government would remain open-minded about those changes which will ensure compliance in the short term.

1110

Finally, I’ll leave it with this one. There are two things being removed here: One is the Ontario elections, which are required to be fully compliant and accessible, and the other is this legislative precinct, which has to be fully compliant. Again, Minister, the cabinet minute required that regulations be drafted to deal with those issues. I’m just saying to you that there is an example where we can fix the legislation if, in your opinion, it doesn’t exist—I’ll grant you that—or we can retain those elements.

**Hon. Mrs. Bountrogianni:** We’re not taking it away.

**Mr. Jackson:** Well, I—

**The Chair:** Thank you, Mr. Jackson. Maybe there will be more time later on.

**Mr. Jackson:** Thank you very much.

**Ms. Martel:** This morning I have a couple of concerns that I’d like to raise with you on behalf of our party, and I will give you some time to respond.

The first has to do with the time frame of 2025 to make Ontario fully accessible, which myself and my colleagues believe is too long. If I reference the resolution that was passed when you and I were both in the Legislature in October 1998, it says an Ontarians with Disabilities Act “should seek to achieve a barrier-free Ontario for persons with disabilities within as short a time as is reasonably possible.” I don’t think any of us who were there thought that meant essentially 20 years. I know that you’ve referenced people who have said that 20 years is appropriate. I’m going to reference some groups that said it’s not.

This comes from the ARCH legal clinic. It was a synopsis of the bill they released publicly January 11, 2005. It says, “Many have said that the 2025 date is too

long from now. We share that view.... It is essential that as much as possible be accomplished in the first decade of the statute’s life.... We recommend that the accessibility standards be developed by 2020.”

And further, “of equal concern is the cycle of five-year periods set out for the development of accessibility standards.

“We ... think that five years is too long for this sort of project. People work most effectively when there are tight but manageable time frames. In general, it is our view that five years is too long for effective committee work or project development.

“Three years is a realistic commitment for an individual or a disability organization to make to any one project.

“We recommend that each stage of the process be reduced from five years to three years.”

We also “recommend that the terms for those appointed to the committees should be the same length as the stages of development of the proposed standards.”

Minister, I have to believe that in Ontario today we have the people with the skills and the expertise, we have the technology and I hope we have the will generally across all segments of society, but more importantly the political will, to be bold. In my humble view, 20 years is not being bold. Why is it that the government thinks we are not capable of making Ontario fully accessible to those who have been left out for far too long in a much-reduced time frame? Is the government prepared to reconsider the time frame so that Ontario would be fully accessible by 2020, and that the development of the standards would occur within a three-year, versus a five-year, time frame?

**Hon. Mrs. Bountrogianni:** With respect to the time frame, this was negotiated with disability groups, government, transfer partners and the private sector. I’ll just quote you one person, without saying which company he’s from, who said to me, “As a father of a disabled daughter, it’s not fast enough. As an executive of a business, you’re scaring me.” Those are the sorts of comments we had to bridge. This comment came from the same individual. Those are the sorts of conflicts.

Having said that, I agree that 20 years is a long time. That’s why the terms of reference do allow for less than five years for the standards as well. The reason we have the five-year standards is because we’ve learned from other jurisdictions, in this case the UK, that had admirable goals but didn’t have those every five years. So when their 20-year time goal came up, very few people in England knew what a standard or even what the legislation required of them. We wanted to learn from that.

We wanted to learn from the United States, where just imposing without appropriate consultation leads to a very litigious environment, which is what we have in the United States right now. Not one case of mental health discrimination under the ADA has been won—not one. I learned this as of last year at the American Psychological Association leadership meeting. I asked specifically about this. They said, “It looks good on paper but we

didn't consult enough," and they're in court and they never win. I wanted to pre-empt that. I wanted to learn from other jurisdictions' examples, and I guess that was the one advantage of being behind in Canada.

I understand your concern, but 20 years is the end goal. If this legislation passes in the spring, or whenever it passes, we will start immediately with the standards committees. In fact, some legwork has been done in the areas I have already mentioned. As Mr. Jackson and you know, we have some leaders in the area in the private sector; for example, the hotel association, the retail council and other businesses. We have leaders who have already developed their own standards. Their question was, "Before we proceed, what are the government's standards?" So we are already advancing that.

The other reason the time frame is important is that it's not just the built environment and not transportation, it's everything—a fully accessible Ontario for everybody. That is much more complex than ramps and transportation. It also comes with attitude changes and education. We know that educating the public takes longer. I'm very proud of the public and how they've embraced this to date, but we did have comments in our consultations such as, "Will it take away from my child's activities in the school if you make it accessible to the one child who needs an elevator? What will this do for my child's curriculum? Are you going to take money from my child's curriculum to do this?" There are still attitudes out there that we need to change, and unfortunately that does not happen overnight. But to the best of my ability, I will push, I will encourage, I will do my best to make the terms of reference push for less than five years for certain standards.

**Ms. Martel:** Let me just respond in this way, and then I'll move on to another point: I ask myself the question, "Are we really challenging ourselves?"—and I say that generally—"with the 20-year time frame?" I can't believe that we are. There will be some employers who will drag their feet for as long as they possibly can because they don't want to comply. We can't work from their timetable, because they are not interested in making the changes that are necessary to ensure that everyone can participate. There are some other employers, as we already said, who are well on the way, and we should be working with their best practices and seeing how much of their best practices can be applied to other sectors and in other jurisdictions to move people forward. I remain very concerned. Twenty years is a whole generation of people who will continue essentially to be left out when they have an enormous contribution to make.

I guess the challenge I leave with you is that if, during the course of the hearings, groups come forward and say, "We think the time frame should be less; we think we can rise to this opportunity and this challenge and do it in a shorter time frame," I hope your government will be prepared to listen to that, accept that and make changes, either with respect to standards development and that cycle and/or—and I hope both—with respect to a final time frame that would be shorter, so we allow people to participate fully much sooner than 20 years from now.

The second point I want to raise—it's funny that you mentioned court, because one of the concerns I want to raise is essentially with the purpose clause. Their reference for wanting a change had to do with whether or not people would end up in court because the interpretation of the statute might be challenged. Their concern had to do with the fact that the purpose clause currently talks about a benefit to all Ontarians, which is fine, when in their view the purpose of the act should be to ensure that Ontarians with disabilities can participate fully and there is an end to the systemic discrimination they have faced for so many years now. They very clearly believe—and I agree with them—that the purpose clause should very clearly talk about this legislation being anti-discrimination legislation. That is the purpose; that is the point. This is a group of Ontarians whom we are trying to benefit. So I'm asking—I asked this to staff earlier, and I'm sure ARCH and, I hope, other groups will come forward and talk about the purpose clause—if you would go back and have another serious review of the purpose clause to see how it can be strengthened so that the intent is clearly outlined: This is anti-discrimination legislation—that's the point—and it should be in the purpose clause.

**Hon. Mrs. Bountrogianni:** We will definitely take that under advisement, because that is the intent of the bill, or that was the intent of the bill. Indeed, any legislation that gives the most rights to the disabled will be adhered to, whether it's this legislation or the Human Rights Commission's. We are not taking anything away from the Human Rights Commission.

1120

**Ms. Martel:** I'm not suggesting that you are. A purpose clause, in law—if you're getting into litigation, the courts are going to be looking at what the Legislature and legislators intended. Right now, as I read the purpose clause, it says, "The purpose of this act is to benefit all Ontarians by..." I think the purpose of the act should be stated very clearly: "This legislation is anti-discriminatory." So I hope you will take another look at that and strengthen it so that's clearly outlined at the outset.

**Hon. Mrs. Bountrogianni:** We will.

**Ms. Martel:** Secondly, ARCH also talked very clearly about monitoring and evaluation. I want to read into the record what they said about the bill, and then you can respond. "Bill 118 does not expressly provide a means to effectively monitor the success of its implementation. Nor does it require the minister to publish an annual report on the progress of standards development or their enforcement. There is no mandatory evaluation process that will assess whether barrier removal has been successful." Finally, "There is no explicit provision for the maintenance of a publicly accessible database that could be compiled from the reports filed under" the act.

I wonder if you can respond to that concern, which I thought was most appropriate. If you're going to spend time developing a piece of legislation, we all want to make sure it's going to be implemented. How can you respond to ARCH's concerns?

**Hon. Mrs. Bountrogianni:** That's actually a very good point. Because of my previous profession, I'm a big believer in evaluation, research and monitoring, and will definitely take that under advisement. Again, this was meant to be a transparent and open process with the standards development committees and with the compliance and enforcement measures, but evaluation is very key. We could definitely take that under advisement. I would certainly require an annual report myself if I'm still the minister in two or three years. So I think that could be provided. We will look into that.

**Ms. Martel:** If you have an annual report that's given to the Legislature in the same way that the Ombudsman's report or the Environmental Commissioner's report is given to the Legislature, then it becomes a public document.

**Hon. Mrs. Bountrogianni:** That's a good point.

**Ms. Martel:** I think that would be one important thing; obviously there are other issues they deal with about evaluation processes etc.

I had a question about what support you envision for those members who are going to be on standards development committees. My understanding is that those members who serve on the Accessibility Standards Advisory Council will be remunerated for their work. Is that correct?

**Hon. Mrs. Bountrogianni:** As they are now, but their focus will evolve into a standards development advisory role as well as what they are doing now, advising me on all aspects of accessibility.

**Ms. Martel:** I understand that members of the standards development committee—it doesn't say anywhere in the legislation that they would be remunerated. Is that correct?

**Hon. Mrs. Bountrogianni:** Yes, that's correct.

**Ms. Martel:** I'm going to make a suggestion to you. You're asking people to do an incredible bit of work. If the time frame for the establishment of the standards stays at five years versus three, that's a long period of time for people to be devoted to this work, and I assume that most people will want to be devoted to this work. That's a lot to ask of them. It's especially a lot to ask of members of organizations that represent disabled people. That's an enormous contribution for them to make.

I'd like to know much more clearly, before the committee ends its work, what kinds of supports are going to be put in place, both in terms of remuneration and of any other aids that may be required to especially ensure that members from groups representing disabled persons will be able to fully participate. The legislation is silent on this. Frankly, I think the legislation should outline very clearly what supports will be in place so that they can fully contribute and know that they can contribute in the time frames you are asking them to.

**Hon. Mrs. Bountrogianni:** We will consult with them to see what's appropriate and get back to you on that.

**Ms. Martel:** I especially would make the recommendation around some form of remuneration. Volunteer work

is all well and good, but the work we're asking them to do is very important for the development of this legislation, and I think the ministry ought to be considering paid remuneration as well.

I also asked your staff this morning about some definitions that do not appear in the legislation. You have definitions like "barrier," "disability" and "organization," which are clearly defined. Definitions that are not defined have to do with both accessibility and services, and we had some discussions about why those weren't in place. If I look at "services" particularly, ARCH legal clinic raises the point that right now the Ontario Human Rights Commission, in a document that it has, a guide to the code, has some plain-language terminology with respect to services. I thought that was actually quite broad. It should be broad enough for the purposes of this act. I wonder then, specifically with respect to a definition of services, if the ministry would revisit using the definition of services that the human rights commission uses in its guide.

**Hon. Mrs. Bountrogianni:** We'll take that under advisement. We do need some flexibility in the definition-making—I know that also from my previous profession—but we'll take that under advisement.

**Ms. Martel:** I think if you go this broad, it would probably give you the flexibility you're looking for.

**The Chair:** Thank you for your participation; the time is over. We will have a five-minute break before we start listening to the presentations. Thank you again for coming.

*The committee recessed from 1125 to 1132.*

#### ONTARIO PUBLIC SERVICE EMPLOYEES UNION

**The Chair:** If I can have your attention, please, we have so many people who wish to speak, and we must maintain time. Even if not all the members are here, I suggest that we start the first presentation from the public, the Ontario Public Service Employees Union. Do we have anybody present?

Would you please take a seat; we'll start right away. Please proceed. Thank you for coming, and good morning.

**Mr. Suresh Paul:** Good morning. My name is Suresh Paul, and I am chair of the Ontario Public Service Employees Union, human rights committee. This committee's mandate in part is to increase the awareness and understanding of workplace, community, national and international human rights issues throughout the membership. Accessibility is unquestionably a human rights issue. The provincial human rights committee works very closely with all equity-seeking groups, which include the disability rights caucus, as well as with other committees and departments within OPSEU.

With me today is Carol McGregor, a passionate, long-time human rights activist and co-chair of OPSEU's disability rights caucus. We want to thank the committee for the privilege of presenting today, and it's my pleasure

at this stage to invite Sister McGregor to offer comments on Bill 118. Thank you.

**Ms. Carol McGregor:** Thank you very much. Mr. Chair, I wonder if you'd have your members go around and identify themselves for me, please.

**The Chair:** The rest of the members were aware. They're here; they must be outside. I realize that you want all our attention. Unfortunately, we have a challenge here. We have a schedule which is quite tight and that means we will potentially have some difficulty. Could you proceed in the meantime? I would ask that—

**Mr. Khalil Ramal (London–Fanshawe):** We can say the names.

**Ms. McGregor:** I think you can say your name. I am blind. I don't know who's here. I really would like to know who is around the table as an accommodation.

**The Chair:** Of course. I'm sorry. I thought you were asking for the other members. Surely.

**Mr. Ramal:** My name is Khalil Ramal, MPP for London–Fanshawe.

**Mr. Fonseca:** My name is Peter Fonseca. I'm the MPP for Mississauga East.

**Mr. Craitor:** Good morning. My name is Kim Craitor. I'm the member who represents Niagara Falls, Niagara-on-the-Lake, and Upper Thorold.

**The Chair:** I am Mario Racco. I represent the Thornhill riding and I am the Chair. There are no other members at this time—oh, I'm sorry; There is. Introduce yourself, please.

**Ms. Wynne:** I'm Kathleen Wynne, and I'm the member for Don Valley West.

**Ms. McGregor:** Thank you very much. I want to thank the committee for allowing us the opportunity today to present on Bill 118, the Accessibility for Ontarians with Disabilities Act, 2004. We believe it's going to have a huge impact on Ontarians.

The act, however, as it's now written, we believe is a start, and much needs to be done if disabled Ontarians are really going to achieve full inclusion in Ontario society.

As a woman with a disability, every day I face barriers simply trying to go to work. I travel the GO train and use a car that is supposed to be designated for people with disabilities. Up to about a year ago, I had some comfort in knowing that the conductor at least would look out for my safety. That changed when that conductor, that employee of GO Transit, dared to ask able-bodied passengers to give up their seats so that disabled passengers might be able to ride. He also challenged GO Transit on trying to make things a little easier for us, because we were pushed on to the tracks, the dog and I and other people with canes, with the trains converging. So he did pressure them. This employee was relieved of his duties for pressuring GO Transit to accommodate people with disabilities. Needless to say, no other conductor is asking able-bodied passengers to give up their seats for disabled ones. And this was in a special car designated for disabled passengers. When I inquired of GO about their policy on accommodation for disabled passengers, because I felt there had to be a standardized policy, I was

advised that there is none. Therefore, it is up to the courage of each employee to do what they're willing to do. And what would you do in that situation?

The same applies to the Toronto subway system. In the morning rush hour, there is no conductor who looks out the window to make sure that passengers are off the train or coming on the train. The system is computerized for its doors to open or close. About two weeks ago, my dog was three quarters of the way into the car, and the door shut. I was on the outside, my dog was on the inside, and I was holding on to a leash. I had the option of letting the train go with my dog down a tunnel and me being left at Bloor Street without any cane or anything to find him. Of course I panicked, and I screamed for somebody to help me; fortunately, some passengers helped. That is not the first time. And I'm advised by GO Transit that the doors don't automatically open when a body gets caught in them.

Even though we have legislation that should provide access for blind persons using taxis, in 2005 I still have that problem. I'm told regularly by drivers we call that other drivers don't want to come and pick me up, so that's why it takes so long to come and get me. Or you will have a taxi that will pull right up to you and take one look at the dog and speed away. Because you can't see the car number, obviously they know you can't report them to any taxi commission. Welcome to my world—at least my transportation world.

Today, we want to direct our comments in the brief to the historical background, the purpose of the legislation, the definitions, time frames, regulations, the complaints process, the tribunals, organizational classes and accommodation in the workplace. I assure you, we won't be that long on each item. We're going to defer any commentary on standards to those presenters who have more expertise in that area.

From the historical perspective, since 1991 we have not had a proper census conducted in this country about persons with disabilities, despite the request of disability rights activists. At that time, in 1991, Ontario had a population of 11,192,730, of which the population of people with disabilities was 1,514,000. One can only assume that those figures are outdated, given the growth of our population and, in particular, our aging population. In addition, many injured workers who acquire a permanent disability due to a workplace accident are often not captured in this data. We are only now recognizing some of the permanent occupational diseases that are arising from the new economy, such as repetitive strain disorder, stress disorder, chronic pain.

#### 1140

Following the Decade of the Disabled, which occurred from 1983 through to 1992—this was the United Nations decade, which Canada participated in—with the exception of the continued pressure by the ODA committee, the issues of people with disabilities on government agendas have basically gone off the face of the map. The assumption was, “We gave you the decade; now you should be inclusive”—and everybody went on their way. The fact remains that we didn't.

The lives of people with disabilities have not changed that much in the intervening years. They still live in poverty. They still can't access certain premises. They continue to be denied employment. They face stigmatization regarding any mental health or developmental challenges. And they face myriad problems pertaining to transportation and support.

You as a government now face the challenge of trying to fix those forgotten years through this piece of legislation before us today. With this in mind, OPSEU is disappointed—am I interrupting?

**The Chair:** For your information, three new members have joined us subsequent to your starting. Since you wanted them to introduce themselves, maybe we can do that. Mr. Jackson, could you please start by introducing yourself to the lady?

**Mr. Jackson:** Cam Jackson, MPP for Burlington.

**Mr. Ted Arnott (Waterloo–Wellington):** I'm Ted Arnott, MPP for Waterloo–Wellington.

**Mr. Ernie Parsons (Prince Edward–Hastings):** Ernie Parsons.

**Ms. McGregor:** I got a letter from you.

**The Chair:** Please proceed.

**Ms. McGregor:** I'll go back to the purpose of the act. OPSEU is disappointed that the government has chosen not to recognize or expand on this history of disadvantage when defining the purpose of the legislation. We view Bill 118 as anti-discrimination legislation and we recommend to the committee that this be reflected in the purpose clause. While the legislation may make it easier for the population as a whole, we believe that this legislation should be specifically designed to address discrimination against people with disabilities.

Under the definitions section, we also recommend that the word "discrimination" be defined in that section.

Under the time frames, OPSEU agrees with ARCH and the Ontario Federation of Labour that January 2025 is much too long for the full implementation of this legislation. There are specific sections that could be enacted without the need for a long-drawn-out process of developing standards. We hope the government hears the words.

With regard to the regulations, people with disabilities in Ontario need very strong legislation that will endure changes in government. We urge the Liberal government to seize this opportunity. While regulations can be changed without much, if any, consultation, strong legislation will endure the test of time. We therefore support the position of the Ontario Federation of Labour and ARCH's recommendation that labour and people with disabilities play an active part in the development of any regulations. These appointments should be filled by people who have expertise in disability law and practice, not just political affiliation.

Under the complaints process, there is none for an individual, and OPSEU is concerned about this. We believe that if the government is serious about wanting to remove barriers for people with disabilities, then a process must be put in place that will allow an individual

to file a complaint to an agency that is independent or at arm's length from the government. I did happen to hear your technical person say, "Well, they can go to the human rights commission." That is not a viable option. I have no intention of waiting 20 years.

As the legislation is now defined, there are to be several tribunals ruling on different issues pertaining to standards. In our view, this is unnecessary. The Workplace Safety and Insurance Appeals Tribunal handles complex areas of workers' compensation law, with panel members who are most qualified in this area. Similarly, a single tribunal pertaining to Bill 118 could be established. We have people across the province who are very knowledgeable in this area. They are more than capable of making decisions. We urge the government to reconsider this section of the act.

**The Chair:** Thank you, Madame McGregor. The time is over. I thank you for your presentation. I also want to bring to your attention that another member joined us while you were talking. Maybe you can introduce yourself to the lady, please.

**Ms. Martel:** I'm Shelley Martel. I'm the member for Nickel Belt.

**The Chair:** Thank you for your presentation.

**Ms. McGregor:** Since we were interrupted, we have some recommendations just at the end that I really would like to be able to give you.

**The Chair:** Yes, you can proceed.

**Mr. Ramal:** Can we get a copy?

**The Chair:** Yes. I would ask that you leave a copy for us, but maybe the lady can still quickly make those recommendations, if possible.

**Ms. McGregor:** We heard the concerns I think from Mr. Jackson this morning over the costs to the different ministries to do the audits and whatnot. This is something we've also been looking at. One of our recommendations is that the Ontario government set up an accommodation fund for the broader public sector to assist with the financial cost of any workplace accommodations.

We also recommend: that funds be made available to small private sector groups to encourage the hiring of people with disabilities; and that the Workplace Safety and Insurance Board set up an accommodation fund to assist employers in retaining injured workers.

One of the things regarding the broader public sector and small employees is that we are concerned: We do not receive money. We receive line-by-line budget items. We don't have enough money to be able to do an accessibility audit. This concerns us. I work in a legal clinic and we want to be able, obviously, to make our facilities accessible to everyone.

**The Chair:** Thank you again for your presentation.

#### FAMILIES FOR EARLY AUTISM TREATMENT OF ONTARIO

**The Chair:** The next presentation will be from Families for Early Autism Treatment of Ontario.

**Ms. Norrah Whitney:** I'd just like to say that I will be leaving a copy of the brief with you. We're on a shoe-string budget and unfortunately I could only make one copy. May I begin?

**The Chair:** Yes. Please proceed.

**Ms. Whitney:** Thank you for this opportunity to present today on the proposed Bill 118. My name is Norrah Whitney. I'm executive director of Families for Early Autism Treatment of Ontario, FEAT. FEAT is a non-profit, research-based organization formed in 2002 to lobby and advocate specifically for the most effective science-based treatment for autism. We recognize that effective treatment is Lovaas-based intensive behavioural intervention, or under the Ontario program, the EIBIP. We are affiliated with 24 other chapters worldwide and are most fortunate to have a strong partnership with ASAT, a leading US-based global organization in the dissemination of accurate information regarding research in the field of autism. FEAT of Ontario operates independent of government funding and subsequent influence.

**The Chair:** Ms. Whitney, could you slow down a little? They are translating and it's a little challenging.

By the way, you have 15 minutes. If you leave some time, there will be questions for you. Otherwise, there will not be any.

**Ms. Whitney:** Yes, that's why I'm trying to work—thank you very much.

It is with that uncompromised position that I address this committee today. My focus will primarily be on issues facing children with autism.

Disability, as defined by Bill 118 and other provincial laws, including the Human Rights Code, has broad applications. Someone with cancer, HIV or diabetes could be considered to have a disability, just as somebody who is wheelchair-bound or perhaps someone who has a mental illness.

As many of the members here today are aware, there have been lively House debates regarding autism treatment in Ontario. It is not covered by our provincial health care plan, which, coincidentally, was founded by my grandfather, Sir John Leo Whitney. Treatment is provided in a discriminatory manner only to a small percentage of the autistic population who could benefit from it.

However, before we discuss those issues as they relate to Bill 118, may I take you back to the House floor to reflect upon another bill brought forward by one of your honourable colleagues, Michael Gravelle. The bill to which I refer is private member's Bill 55 regarding insulin pumps for diabetics and a motion to amend the provincial health care schedule to include these as a covered benefit.

**1150**

I am vigilantly aware that this committee is made up of members from all political parties, with a majority of you being Liberals. While I understand this bill must still pass third reading and come before this very committee, I would like to remind you of what happens when poli-

ticians elected to serve the people are free to vote their conscience and not their party.

The Liberals support Cadillac diabetes treatment for the following reasons: It would lower the cost in the long run to the health care system; people could work and have their lives restored. One member summarized a two-tier health care situation where you may have two children in one school, one whose family has the means to provide privately for the cost of the pump and the other without. He said, "We must level the playing field and provide the opportunity for everyone in Ontario to have the greatest quality of life." Another member said, "The cruel diabetic statistics could change with the introduction of insulin pumps," and it was said, "If left untreated or improperly managed, it could result in dramatic complications." Mr. Craitor, you said, "This is a therapy of necessity for me, not choice." And the Progressive Conservative member, Mr. John O'Toole, echoed that by saying, "I encourage the Minister of Health and all members to support this bill ... because it affects the quality of life for the most vulnerable. This is not something someone induces on themselves; it is a condition they are born with."

Now I ask you to remove the word "diabetes" and replace it with "autism." All the logic you and your colleagues have displayed supporting Bill 55 stands for the same reasons when we replace the first disability with the second, yet this non-partisan, commonsense camaraderie has somehow been dismissed or ignored for the most doubly vulnerable group of citizens I represent today—doubly vulnerable by the fact that they are children, and by the very nature of their disability. Instead, the majority of children diagnosed with autism in Ontario will never see a day of treatment, let alone a Cadillac version sensibly supported for a different disability. Instead, they face a life of institutionalization, filling hospital wards as teenagers and adults, being chemically restrained, with a staggering price tag to the taxpayer. Some 90% of children with autism who do not receive treatment will end up in institutions—a cruel statistic indeed. However, with treatment, almost half will be indistinguishable from their peers and they will make critical gains toward a greater independent functioning and quality of life.

Providing autism treatment is not only cost-effective, it is life-altering in the most profound manner for the child. Even as we speak today, courtrooms and tribunals are being filled with these fragile citizens as a last resort to protect their quality of life; a life they did not choose but rather were born with. This is a loud, resounding signal that even when laws are in place to protect the most vulnerable in society, there is no guarantee that the right thing will suddenly or magically happen, as has been the case with autism.

Now that we have determined by comparison that funding autism treatment is as logical and ethical as insulin pumps, let us consider the two major problems of access facing children with autism today. We've already touched on the fact that many children in Ontario are prohibited from treatment by discriminatory policy

guidelines; and poor program design and maintaining the status quo in the autism government contract have made the autism program unnecessarily the most inefficient of all health care programs. This was clearly outlined in a recent Provincial Auditor's report which was presented to the standing committee on public accounts.

**The Chair:** Ms. Whitney, I'll give you a couple more minutes as long as you slow down, please. Thank you.

**Ms. Whitney:** Sorry. On December 23, 2003, FEAT of Ontario presented to the ministry viable structural solutions, working within the current policy guidelines, and a model based on universal treatment. We demonstrated that by just changing the program to a fully individualized funding model, for the children under six it would be 100% more cost-efficient. We showed how, if we engaged Adam Smith's invisible hand, we could service more children for the same dollars while bringing the costs down and the quality of treatment up. More importantly, we showed the government that there was money already being wasted in other budgets for the 16- to 18-year-old cohort and that providing treatment to them would not cost this government any new money. Regrettably for the future of so many children, those simple, viable solutions have been ignored, with glaring and devastating consequences.

A second key barrier is that those same children cannot access education because they are denied IBI treatment at the door. There are no other disabilities that have this barrier to treatment, which is mandatory in order for them to access classroom and curriculum.

Learning the three Rs is a fundamental right, guaranteed by law, a public good in the province of Ontario, except of course if you have autism. While school boards and government point fingers back and forth in court at one another, playing the blame game, one thing is for certain: There is no accommodation to this public service that will allow autistic children to access education in Ontario. The proposed accommodation and the newly announced school support program are not based on peer review research or even best practice.

Subsequently, the ministry has been unable to provide any research to date to support the claim that this will solve the treatment and access issue for children with autism over the age of six. It is merely a voluntary, ineffective band-aid that has no legislation to govern or enforce it as it remains outside the guarantees of the Education Act.

By the way, that is not just FEAT's opinion but rather the opinion of judges who continue to hear and grant injunctions and the human rights tribunals that have recently denied crown motions to dismiss these cases, holding that the Ministry of Education and the minister are proper party on a prima facie evidence of barrier to education.

Further, there are currently dozens of cases against the school boards in investigation at the human rights commission regarding these very barriers to education today. Without a federal equivalent to the United States' Individuals with Disabilities Education Act, Bill 118

hasn't the teeth necessary to enforce any protection of disability rights to remove these barriers for children with autism.

On February 15, 2005, I will recommend to the standing senate committee on social affairs, science and technology, in public consultation on mental health, that a federal mental health parity law be established along with a federal education protection law for those with disabilities. It is only then that I believe protection will be offered to ensure equality under the law for these vulnerable citizens.

What do you do when those who break the laws in place to protect you are the very people who enacted them? That question is paramount to these children. It is a conflict of interest in this situation to have a minister who allegedly infringes the rights of the disabled to govern the act proposed to halt this very discrimination. While I believe that good people can sometimes make poor decisions, what is deeply and particularly concerning in this circumstance is that this minister is not a lay person but rather a psychologist who is a licensed professional and, as such, bound by a rigorous code of ethics.

How, Mr. Craiton, would you feel if the minister said to you, "I know you need five c.c. of insulin—that is what you had before you were six—but now I will offer you 2 c.c. We know there is no research to support doing this, and by the way, your diabetes will now be managed by teachers"? I don't think anyone in this room would believe you if you were to say you would be pleased with that type of proposal. Yet, that is exactly what this minister is condoning for children with autism, a proposal that is so oppositional to the ethical intent of her profession.

On that record today, it is not possible to believe that justice could or would be served by the measures or governances contained within Bill 118. While the bill holds that it binds the crown, so too does the existing Human Rights Code, and it is the position of the commission that the crown has violated the human rights of innocent children merely because they are autistic. The crown will stand in defiance the moment this bill is enacted as they stand now before the human rights tribunal.

This isn't just an opportunity today to explain why Bill 118 will do nothing for children with autism, but rather an opportunity for you to return to your parties and to the House floor with a new understanding that the very reasons you support Bill 55 are the same as why you should support universal autism treatment without barrier.

While perhaps one of the reasons I am before you today may be because Mr. McGuinty made a mistake by changing his election promise to fund universal autism treatment, he made no mistake when he said, "How we care for children is not only a reflection of our shared values, it is critical to the future social and economic success of our province.... Investments in children ... pay off with better learners, healthier children ... more secure

families and a more productive economy.... The time has come for us to invest in the services children need to become happy, healthy, productive adults.”

Sadly, however, neither Bill 118 nor the Premier’s inspiring words will give this child a future in this province, a future that clearly the voters of Ontario and across this country have said they should have. In a recent Ipsos-Reid poll, 91% of Ontarians, despite the Supreme Court ruling saying that the government was not legally bound under the Canada Health Act to provide universal treatment, 91% of your voters, said the government should cover it under health care.

When government engages in attitudinal discrimination and illogical litigation, then perhaps the only chance these beautiful children have for the same healthy and happy future as those with diabetes is the next time we go to the polls. Truly, if we are merely enacting laws only to have them be violated the moment they come into effect, then are they really worth the paper they are written on?

I implore you not only out of your legislative duty to the public purse, but to the future of these children who have committed no crime but their apparent selection of disability, to find your conscience today and ask yourself, “Do I really want to further discrimination against innocent children who need and deserve my help?” Thank you.

**The Chair:** Thank you very much. The time has expired.

**Ms. Whitney:** Sorry for speaking so fast.

**The Chair:** That’s understandable. That’s fine. Thank you.

We will be coming back for 1 o’clock.

*The committee recessed from 1204 to 1302.*

#### MULTIPLE SCLEROSIS SOCIETY OF CANADA, ONTARIO DIVISION

**The Chair:** Can we have some order, please?

*Interjection.*

**The Chair:** Yes, we’ll wait until the cameras are ready. In the meantime, if the people from the Multiple Sclerosis Society of Canada are present, please take a seat.

There will be 15 minutes for your presentation. Of course you know you can speak for 15 minutes or allow some time for questions. I suggest that when you speak, keep in mind that someone else is translating and you have to make sure they have enough time to do that. With those two things in mind, thank you and please proceed.

*Interjection.*

**The Chair:** As a reminder, there is support staff here. Maybe you can stand so they know who you are. There are a few people in the back if you need any support or assistance.

**Mrs. Kris McDonald:** Good afternoon. I am Kris McDonald, co-chair of the Ontario social action committee of the Multiple Sclerosis Society of Canada. With

me is Deanna Groetzinger, vice-president, communications, of the MS Society of Canada.

We are here to offer the perspective of people with MS on Bill 118. I have had MS for 20 years. Though without the clarity of a firm diagnosis, my symptoms occurred 30 years ago. The MS Society of Canada, Ontario division, supports Bill 118 and is pleased to participate in these hearings. Members of the MS Society pushed for the adoption of the 2001 Ontarians with Disabilities Act. We recognized at the time that it was less than what we wanted but understood that it was a starting point and a valuable precedent in protecting the interests and advancing the concerns of people with disabilities, including those with MS.

We are pleased to acknowledge the leadership of the McGuinty government, the minister, Dr. Bountrogianni, and her staff and officials in moving forward with this legislation. We also want to note the important contributions of ministers and MPPs from the former Conservative government and from the then Liberal opposition caucus, the NDP caucus and the work of literally thousands of activists, including the ODA committee led by David Lepofsky, in getting us to this point.

I would like to digress from our prepared remarks to share some of my experiences of the challenges that confront those of us who view our world from a different angle.

Picture this: I arrive 20 minutes late for a job interview because of a decorative step at the entrance of a downtown office building. There is no clear signage as to the location of the entrance ramp for those of us who are differently abled.

Picture this: A friend and I are trying to enter a now out-of-business restaurant where the only handicapped entrance is in the back alley, through the kitchen, where the hall is decorated with several odiferous bags of garbage.

Picture this: a cold winter day, when a neighbour, who is a paraplegic in a motorized wheelchair, attempts to board one of the accessible buses being tested by the TTC. The driver refuses her entrance because the buses were only being tested, while a busload of “normal” passengers silently watches.

Picture this: I am trying to do some last-minute Christmas shopping in a crowded mall, weaving between rushed shoppers whose elbows and purses keep missing my head by inches. However, I could speak to the potential for a career as a pickpocket to supplement my disability pension.

Picture this: a crowded cafeteria at a major telecommunications company, as I balance my lunch tray on the basket of my scooter, with a plate of goulash, a container of yogurt and a can of Diet Coke. When my lunch finally topples, the Diet Coke explodes, dousing several bystanders, who had not offered any assistance. Revenge is best served cold—ice cold.

But I digress—back to our prepared presentation.

For us, the reason for the legislation is to enable people with disabilities to obtain their rightful place within

the full range of opportunities available in Ontario. If effective, it will contribute to their ability to achieve full economic, political and social citizenship. That goal needs to be at the forefront of evaluating the effectiveness of the draft legislation and considering ways to improve it. Given the many barriers and obstacles that exist to full and equal participation in the life of the province by people with disabilities, this is a challenging task.

This brief does not summarize Bill 118, nor does it provide a legal analysis. This committee will hear a lot of legal arguments about the meaning of specific clauses and provisions. Such analysis is important. However, our members wish to emphasize a different perspective. What is important are challenges that will improve their lives by enabling their full participation as citizens. We are focused on outcomes.

It is important to keep in mind that we are in the beginning of a complex, multi-year process of developing and implementing accessibility standards. Many difficulties lie ahead, some predictable, others not. We urge the members of this committee to adopt this perspective as a way of evaluating the many arguments that you will hear. If the measures and wording that are proposed advance equality by improving accessibility, good, you're on the right track.

Our brief is focused on what people with MS want from this legislation and expect the government of Ontario to do. From our perspective, the following are the key deliverables:

(1) Accessibility standards that facilitate the activities of daily living, including access to public transit, stores, restaurants, doctors' offices, hospitals and other health facilities, schools and shopping centres. This is not an exhaustive list. What we want to convey is the importance of developing and implementing, as quickly as possible, standards that will allow people with MS to participate fully in their communities. The key outcome is standards that will eliminate barriers to accessibility to the places that Ontarians depend upon every day.

(2) Benchmarks and timelines that result in steady progress toward identifying barriers, then implementing actions to remove them, based not on legal differentiation of sectors according to public and private, status or size of facility or establishment but a pragmatic approach that identifies those most important to people based on the requirements of daily living.

(3) A tracking process that provides publicly accessible monitoring of, first, the process of developing standards; second, the public input into the development of standards; and later, third, monitoring of the implementation of those standards. In our view, this is a critical requirement to maintain accountability and public confidence as we move forward.

(4) An enforcement process that ensures that those required to remove barriers actually do.

(5) A simple user-friendly complaints process that enables a member of the public to raise concerns about the implementation or enforcement of the act and for public participation in the adjudication of complaints.

### 1310

Copies of our brief have been delivered to the committee members. There are additional specific recommendations in that brief that you can refer to later. I also have copies of my digression for you. Now we'll answer any questions that you have.

**The Chair:** Thank you. There are three minutes, one minute each, starting with the NDP, and then we'll go to the Liberals and the PCs.

**Ms. Martel:** Thank you both for being here today to make your presentation. Let me focus on your point number 5, a simple user-friendly complaints process. Earlier in the day, I raised a concern that had been raised with me about the fact that there doesn't seem to be a complaints process. So as an individual, if you are concerned that a standard is not being implemented, there's nowhere for you to go. One of the responses we got from ministry staff was that perhaps you could take that up either with the Ontario Human Rights Commission or with the organization that might not be implementing the standard you want implemented, or you could take it up with the inspection officer. I've got some concerns about all three of those possibilities. Do you have a view? Should there be a separate, independent complaints process, or how do you see that working so you can have some input?

**Mrs. McDonald:** Actually, we would like to see that a complaints process is part of this legislation so it actually can move toward that, because a complaints process through the human rights commission or even through the organization you're dealing with is one poor individual crying in the wilderness, whether from a wheelchair or using sign language or with limited abilities of some sort. We would really like to see in this legislation a complaints process. So for the five points that I brought out in the talk, we would like to see amendments to Bill 118 to this effect.

**Mr. Ramal:** Thank you for your presentation and for your smooth talk and your ability to express the needs of the people who suffer from MS. I have a friend whose wife has this problem.

To go back to Ms. Martel's point about the mechanism or the standard when you have a complaint, where you have to send it to, at present all these complaints are covered by the human rights commission and you can submit your complaint. But as we mentioned this morning, so many applications are being submitted to the human rights commission. Also, the same question was asked this morning of the assistant deputy minister, I think by Ms. Martel, and I think the minister is open for any discussion. If there is any need to have some kind of mechanism or a committee to look after these complaints, I think it's open for that. At the present time, it has not been set yet.

**Mrs. McDonald:** Certainly, using the human rights commission guarantees a delay of a minimum of two years. If I have a complaint about an organization that has not removed an obstacle, the only thing I can do is complain to the human rights commission, and I am

doing that as an individual, not necessarily as the MS Society. That is such a long, difficult and involved process that it really isn't tailor-made for correcting problems that are obstacles to the day-to-day living of Ontarians.

**Mr. Jackson:** Welcome. Regarding your first recommendation about accessibility standards that facilitate the activities of daily living, for many persons with MS, that is an extraordinary dependency upon Ontarians, with disability income support and with housing and services provided by the government. In the original Bill 125, each ministry—therefore the Ministry of Community and Social Services—is required to become fully accessible, and that includes their funding programs and their supports. Under this new legislation, they've been eliminated. So unless we get a standards committee dealing with income support and/or housing access or program independence, all those things that you've been asking for—do you not believe that should be part of the bill, in that it puts a public onus on government-run programs to be accountable and to go through the same process of setting their standards of service delivery?

**Mrs. McDonald:** Not all people with multiple sclerosis are covered by ODSP. I am the consultant for the MS Society for insurance coverage, so I deal with people who approach the MS Society and say, "I'm having problems with my long-term disability company." They say, "Call Kris." I work through them, empowering them to approach the insurance company properly and get the right documentation; I explain the process. In my former incarnation, before I was totally disabled due to MS, I worked in the life and disability insurance field, so that's my expertise.

Any of these government offices should have become accessible a long time ago. If they have not, shame on them.

**The Chair:** Thank you for coming.

DON WEITZ

**The Chair:** The next group will be People Against Coercive Treatment. Are they in the room? Is Don Weitz present?

While you are coming here, sir, let me remind all of you that if anyone needs some assistance, a gentleman and a lady from the March of Dimes are here—at the back, on my right—and will be available to assist you.

The gentleman will have 15 minutes to speak. If there is any time left in the 15 minutes, there will be questions from all three parties.

**Mr. Don Weitz:** How long did you say?

**The Chair:** You'll have 15 minutes. Thank you for coming.

**Mr. Weitz:** Chair, I have a copy of my recommendations, but I only made one set. I was told that one of the clerks would make a copy for all of you, so I have that here for whoever wants it.

**The Chair:** Yes, we will take care of that. At the end of your presentation, you can give us a copy, sir, or even now.

**Mr. Weitz:** Thank you. My name is Don Weitz. I'm a very proud psychiatric survivor and I've been an anti-psychiatry and anti-poverty activist for about 25 years now.

I noticed that a number of issues, at least two main ones, were not covered in this bill, which disturbs me a little bit. I'm going to focus on those two issues. Accessibility to affordable housing is clearly an accessibility issue, and of course it's proclaimed as a universal human right in the United Nations Universal Declaration of Human Rights, as well as the convention on social and political rights of the United Nations, which we now know has been seriously violated for many, many years in Ontario by this government, the city government and the federal government.

I have something to say about the concept of disability as it relates to psychiatric survivors. One is that we are very often disabled by so-called safe and effective treatment. There has been overwhelming documentation for many, many years that such so-called safe and effective treatments as medication and psychiatric drugs, particularly antidepressants and neuroleptics, as well as tranquilizers, have caused a virtual epidemic of disability throughout the world, certainly in Canada. I'm talking about brain damage, including permanent memory loss. These are direct effects, not side effects, of so-called safe and effective drugs. As you have probably heard, there is currently an uproar over the use of antidepressants, since it has now been definitely established that they trigger suicidal ideas and urges and have resulted in many, many suicides.

1320

The concept of disability is something that many of us can certainly relate to. I call myself a psychiatric survivor because I was disabled by insulin shock for quite a while. I was traumatized for many months. That was in the 1950s. Nowadays, so-called safe and effective electroshock has replaced insulin shock and others in Ontario and is causing a virtual epidemic of brain damage, including permanent memory loss, particularly to elderly women, as documented by the Ministry of Health in its statistics, which I happen to have. I didn't bring those here.

Access to accommodation: I refer to the national shame of homelessness, in particular lack of accessibility for people with disabilities, including psychiatric survivors. As you know, Premier McGuinty made a public commitment during his campaign for election to build 20,000 units. He has betrayed people with disabilities in Ontario, including psychiatric survivors, by failing to guarantee that these units will be built. From what I hear from the city, fewer than 500 units of affordable, accessible housing have been built in the last two or three years. You can check with Mayor Miller on that if you don't believe me. It's certainly a pittance and an insult, and it seriously deprives people who are homeless, who have a psychiatric history, of accessibility. This is unconscionable in a so-called democratic and socially conscious nation. I think Mr. McGuinty and all of you

committee members should start to take that seriously and pressure for the implementation of Premier McGuinty's promise to the people of Ontario. I've met quite a few on the street who could certainly use affordable housing, but because it's not being built they can't access it.

My recommendation number 1, of course, is to affirm in this bill access to affordable and supportive housing for people with disabilities and homeless people as a priority and fundamental human right. This action should include shared provincial, city and federal government funding in building 3,000 affordable, subsidized housing units each year for the next 10 years, and 1,000 of those per year should be earmarked for supportive housing, particularly for homeless psychiatric survivors.

Recommendation 2: Establish an affordable housing working committee, which would consist of provincial, city and federal officials, advocates for psychiatric survivors, people with disabilities and homeless activists. Its main purpose should be to develop and implement a crash program on affordable and supportive housing in close consultation with community non-profit organizations, including the Ontario Coalition Against Poverty and the Toronto Disaster Relief Committee.

I have another major recommendation on something that bothers me a lot; that is, accessibility to valid and reliable medical information for people with disabilities. That is systematically—I repeat, systematically—denied in our health care system, particularly for psychiatric survivors. I have personal knowledge of the serious violations of the ethical and legal principle of informed consent in many, many medical and psychiatric facilities, so that people very often do not know what they're being treated for and certainly do not know the serious risks, including brain damage, from so-called safe drugs. There is a serious lack of valid information. I have personally been aware that physicians do not inform people that they have an absolute right to refuse any—repeat, any—psychiatric procedure, although it says so in the Health Care Consent Act.

I'll just tick off in the Ontario act, called the Health Care Consent Act, which is about 10 years old, the elements of informed consent:

"1. The consent must relate to the treatment.

"2. The consent must be informed.

"3. The consent must be given voluntarily"—that is, without any pressure, duress or threat.

"4. The consent must not be obtained through misrepresentation or fraud."

Furthermore, the act states that the informed consent must describe:

"1. The nature of the treatment"—these are duties and responsibilities on the part of the health practitioner, the doctor.

"2. The expected benefits of the treatment.

"3. The material risks of the treatment.

"4. The material side effects of the treatment.

"5. Alternative courses of action"—which are virtually never mentioned, like housing and non-medical alternatives.

"6. The likely consequences of not having the treatment."

This is all in the Health Care Consent Act, and it is being constantly violated. I think that's an outrage, and I think you should be concerned, because when that happens, people are being denied the right to accessible information about their treatment.

Recommendation 3: Establish a treatment information committee for people with disabilities, including psychiatric survivors. Its main purpose should be to develop and distribute easy-to-read, easy-to-understand basic information on psychiatric drugs, other drugs and electroshock, including their major risks, in large print, tape and Braille, and obviously, of course, in both English and French. If implemented, this will make medical psychiatric information more accessible.

Recommendation 4: I propose that this government help to organize public hearings, which it hasn't so far, on community treatment orders, arguably the most controversial psychiatric law for many years in Ontario, which targets psychiatric survivors for forced psychiatric treatment in the community and longer periods of incarceration or involuntary committal, which undermine voluntary and human alternatives.

Recommendation 5—as you can see, I'm very concerned about the lack of rights, as mentioned in this bill and others—establish an Ontario rights protection and advocacy committee to investigate and publicize rights abuses and patient complaints. Someone mentioned patient complaints, that there was no mechanism or section in the bill for people to lodge formal complaints. I think, in that case, there should certainly be a body that will look into complaints and encourage people to come forward. It's not easy when you are being treated, sometimes against your will or with a lack of information, to muster the courage to lodge a complaint. It can be quite terrifying. But there has to be that kind of guarantee and support. This committee that I'm proposing, called ORPAC, should consist of people with disabilities, including psychiatric survivor advocates, patient advocates, human rights advocates and lawyers.

**The Chair:** You've got less than a minute to go, sir.

**Mr. Weitz:** One minute is all I need. The last, and perhaps one of the most important recommendations, is to guarantee a livable income under ODSP. People are being given 900 bucks a month to cover everything, including rent. The average rent for a bachelor, as you've probably heard, is roughly \$600 to \$700. I may be off, but I think I'm in the ballpark there. I do think you should recommend at the very least a 37% increase in ODSP rates, above and beyond the 3% that was insultingly proposed by your government. I mean, 3%—ODSP rates haven't been raised in about eight or nine years, and now you're going to raise them 3%? That doesn't even cover the cumulative cost of living over that time. So yes, a major increase in ODSP so people can live, not just survive.

**1330**

I'm open to questions. Thank you for the opportunity. I hope you take my recommendations seriously. By the

way, I'm also a member of the Ontario Coalition Against Poverty as well as the Coalition Against Psychiatric Assault, and I'm also a proud member of Psychiatric Survivor Archives, Toronto, which is preserving the history of psychiatric survivors in Canada. I just wanted you to know that.

**The Chair:** I thank you for coming and giving us your presentation. We all have the page that you provided to us. Thank you again. Have a nice day.

**Mr. Weitz:** There's no time for questions or comments?

**The Chair:** No, there is no time, sir. Thank you.

**Mr. Weitz:** Thank you.

#### ARTHRITIS SOCIETY, ONTARIO DIVISION

**The Chair:** The next presentation is from the Arthritis Society. Are they present?

Ladies, you also have 15 minutes for your presentation. If there is time left, we will allow people to ask you questions. You can proceed any time you're ready.

**Ms. Jo-Anne Sobie:** Thank you and good afternoon. My name is Jo-Anne Sobie and I'm executive director for the Arthritis Society, Ontario Division. I'll be sharing my time today with Ms. June Henderson, who's here beside me.

Each member should have received a copy of our submission. I believe they are being passed out right now. In it, you will find our six recommendations to the committee on Bill 118, as well as background on our organization and statistical data, which I'm sure you will find paints a very descriptive picture of how arthritis affects Ontarians and contributes to the levels of disability in our province. I would like to thank the committee for the opportunity to speak to Bill 118 and hope that I will be able to provide some insight into how the prevalence of arthritis in Ontario directly relates to the rate of disability.

First, I would like to commend the minister and her government for bringing forward such a progressive piece of legislation. Although it isn't perfect, its significance and potential are evident to individuals with disabilities as well as to their support agencies, such as the Arthritis Society. I would also like to commend all three parties for supporting in principle Bill 118.

The Arthritis Society is the leading not-for-profit organization dedicated to providing and promoting arthritis education, community support and research-based solutions to the 1.6 million Ontarians living with arthritis. Since its inception in 1948, the Arthritis Society has contributed millions of dollars to arthritis research to develop better treatments and understand the underlying causes. Arthritis is the second most prevalent chronic condition in Ontario, followed by non-food allergies, and results in more pain and disability than any other chronic disease.

As a degenerative disease, one in four people with arthritis report year-over-year decreases in their health.

The consequence of this progressive disabling condition is the forced reduction of participation in the labour force. With more than 50% of people with arthritis reporting long-term disability and with one in three people of working age with arthritis reporting being without a job, the economic effect of arthritis is staggering, at an estimated \$4.4 billion a year in Canada.

We are here today to share with the committee six recommendations we feel are necessary to deliver Bill 118 from being a good bill to being what disabled Ontarians need and deserve:

First, we recommend that Bill 118 must ensure that real and substantial progress is made during the earliest years of the bill's implementation. Based on the significant magnitude of what this legislation is proposing and the immense need for it to succeed, it is important to recognize that substantive change will not come quickly. It is critical, however, that special emphasis be placed on providing the disabled community with quick and effective change where possible in the early years of this bill's implementation.

Second, we recommend that Bill 118 must ensure that the process of developing accessibility standards is transparent, public and accountable. We all understand the immense pressures on government and that there are many competing interests. Due to the significant power provided to the Minister of Citizenship and Immigration and the Ontario cabinet in this legislation, it is vital that discretion be appropriately structured and constrained. By providing a transparent, public and accountable process to this bill's implementation, it will be possible to hold the government, cabinet and minister accountable for their actions.

Third, we recommend that Bill 118 must ensure that the accessibility standards committee is free from partisan appointments and insulated from partisan politics. In an attempt to promote the best intentions of this legislation and ensure that disabled Ontarians have access to the best expert advice on barrier removal, it is necessary that the appointment of the accessibility standards committee be free from partisan politics. The committee must be made up of individuals committed to eliminating barriers for the disabled, not advancing a government or political agenda. To ensure the integrity of this legislation, the standards development process must be kept free of political interference, acting at arm's length from the government. The standards committee must be free to make recommendations based on their expert advice if this legislation is to achieve its intended purpose of a barrier-free Ontario.

Fourth, we recommend that Bill 118 must provide the necessary financial means to ensure access for Ontarians with disabilities to the policy development process. If this legislation is to achieve its stated objective of a majority participation level of individuals with disabilities on its committees and councils, it will be necessary that financial support be made available that would enable them to participate. Individuals with a disability face greater than average levels of unemployment and higher living costs associated with managing their disability. The additional

expenses associated with participation in this process would prove to be a barrier and therefore prevent access to the process of this legislation. Furthermore, the disability sector is, for the most part, made up of community organizations that operate as not-for-profit charities. This sector has limited and often stretched budgets, but also holds the expert capabilities to make the necessary contributions to the accessibility standards committee. To ensure that these community organizations are able to contribute, it is critical that they have access to the necessary resources that will enable them to provide their sector expertise.

Fifth, we recommend that Bill 118 must provide the necessary resources to develop and deliver a comprehensive, province-wide public education and awareness campaign addressing the barriers facing persons with disabilities. A focused public education campaign highlighting the barriers and the individuals who face them will help to advance support and build enthusiasm toward the implementation of this legislation.

Finally, and most important in our opinion, the sixth recommendation is that Bill 118 must include in its definition of “disability” the intermittent nature of arthritis, as its onset often affects an individual’s physical ability gradually. To address the current gap in the definition of disability in Ontario, it is necessary to amend the definition to address the intermittent effects of arthritis. As arthritis progresses, it often begins to limit an individual’s abilities gradually, not significantly enough to prevent employment but certainly diminishing capacity to address work in a conventional way. The effect of an emerging disability often limits an employee’s ability to perform in a consistent manner and has consequences on an individual’s ability to do their job as they normally would. Recognizing the intermittent nature of an onsetting disability will help prolong employment opportunities, which often are terminated prematurely when staff are no longer able to meet all of the physical requirements of the job.

I would now like to turn to Ms. June Henderson. June is a volunteer and arthritis consumer whom I’ve had the distinct privilege of working with over the past year. June will speak first-hand to the challenges she faces as a disabled Ontarian.

1340

**Ms. June Henderson:** Thank you, Jo-Anne. Good afternoon. My name is June Henderson, and I am disabled. I remember a time when I was completely independent, a time when my abilities determined my life, not my disability. I had a full-time job, which I loved very much, and travelled every opportunity I got. I realize now I took for granted that I would always be able to do these things that I enjoyed. Over the past 25 years, I have struggled with the onset of my disability. It was about eight years ago, however, that I realized that my body would no longer permit me to continue working.

I have arthritis, a disease that has changed my life. The deterioration of my abilities has left me dependent—dependent on the kindness of strangers, dependent on my friends, but most importantly, dependent on the outside

world to determine where I go and what I can do. I feel a sense of embarrassment and frustration when I rely on others to open a door, help me shop for groceries or even cut my food at a restaurant.

I struggle every day to keep my independence, and as I get older, that fight is becoming harder and harder to keep. My daily life is a series of calculations, preparation and good luck. When I wake up in the morning, I find that there are some days when I can’t dress myself. The pain, the stiffness, the inflammation caused by arthritis make it so I can’t do the simplest task of putting my socks on.

If I am able to go out, navigating the streets, the transit system and the daily tasks are all based on what I can do, what is available to me and how much my body will take that day. I only go where I can ably navigate the entranceways, the facilities and the overall environment. Most successful buildings often only provide one elevator, which means additional walking and lengthy extensions to my day, extensions that tire me out and severely limit what I want to accomplish.

You see, having a physical disability isn’t only about being able to open a door or reach the top shelf in a grocery store. It’s not solved by building a ramp or providing an elevator, although these are critical needs in the community. It’s about education and awareness. It’s about making people understand that people like me are out there. It’s about helping them to appreciate the challenges we face every day so that they can see us waiting for a door. They know that by helping us to hold the door open, we have seconds to get on the escalator or in the elevator; or when they see our limitations, how they do their job, how they work, instead of losing their job.

I go as I can when I’m disabled. Bill 118, I believe, can change that. I want to commend the government and the minister for bringing forward this legislation. I want to thank the committee for listening so attentively to the recommendations not only of the Arthritis Society but of all the disability advocates who have presented. I ask only this: Please know that we are depending on you to work with us to tear down the barriers that our society has spent generations putting up. It is critical that this government and all subsequent governments look to the disabled community for guidance and direction. We can show you the barriers that you had no idea existed.

To conclude, Bill 118 is a good piece of legislation. I support the six recommendations the Arthritis Society has made today and look forward to being able to take advantage of these changes that I know are coming, changes I thought I would never see in my lifetime. Thank you.

**The Chair:** Thank you to both of you for the presentation. Have a nice day. The time has expired.

#### REGIONAL MUNICIPALITY OF YORK

**The Chair:** The next presentation is from the regional municipality of York, community services and housing. Are you present?

Please have a seat. You will have 15 minutes to make your presentation, and if you have any time left we will allow questions to be asked of you. You can proceed any time.

**Ms. Joann Simmons:** Good afternoon. I'm Joann Simmons, the commissioner of community services and housing with the regional municipality of York. My department has the responsibility and, might I say, the privilege of leading the implementation of the ODA for the current regional government.

York region is very pleased to have this opportunity to present our comments and suggestions on the proposed Accessibility for Ontarians with Disabilities Act to the standing committee on social policy. York region knows that there are tremendous benefits to be gained for our communities when people with disabilities can participate fully in all that our municipalities and the province have to offer. Bill 118 paves the way for tangible change to improve access for people with different types of disabilities. We support these efforts.

Given the potential impact of the new legislation on municipalities, the generality of its application and the reliance on regulatory authority to set mandatory accessibility standards, York region has prepared the following suggested amendments for this committee's consideration. We have focused our recommendations on those areas that will enable municipalities to implement the AODA more effectively without altering the intent of the legislation. In moving forward, it's important for the government to recognize that municipalities are unique organizations. In fact, they are another level of government that reflects the size and scope of the communities they serve. Their responsibilities are broad, and the services they provide are very diverse.

Let me tell you more about the region and the communities we represent. York region is one of six regional governments in Ontario. Our region covers 1,762 square kilometres, has a population of almost one million people, includes over 26,000 businesses and is made up of large urban, small urban and rural areas. York region is a strong supporter of accessibility and the existing Ontarians with Disabilities Act. We have met and in many cases exceeded the current requirements in the ODA to make it possible for our residents to have better access to our services and programs. In fact, in our long-term strategic plan, York region made a commitment that by the year 2026 all residents will live, work, play and learn in healthy, accessible and safe neighbourhoods. This commitment matches the purpose of Bill 118, which is to make Ontario fully accessible and allow all Ontarians to participate fully in the life of our province. York region has received recognition for the equality and the scope of our accessibility plan. The region is also identified in the Ministry of Citizenship and Immigration's Web site as a best practice for the process used to establish our AAC and for the region's accessibility planning process.

I say all this to give you some context and so that it is clear where we stand on the issue of accessibility. As I

said before, our interest is in presenting solutions that will help make it possible for this proposed legislation to succeed in a municipal government environment.

I'd now like to introduce Joy Hulton, York region's head of legal services and our regional solicitor, who will present our recommended amendments to Bill 118.

**Ms. Joy Hulton:** Bill 118 is complex, strong and enforcement-based legislation. It responds to many of the suggestions made since the current ODA was enacted and those made in the consultations this past spring. York region participated in these consultations and is pleased that many of our suggestions are incorporated in the new bill. This submission will briefly outline our five recommendations and the rationale for each suggested amendment. We have provided you with a copy of our submission.

Our first recommendation: The province should establish a specific municipal sector standard development committee to allow for a focused representation of municipal issues and standards. The rationale for this recommendation is as follows: Municipalities need to be recognized not only as stakeholders but also as a relevant level of government in the implementation of this legislation. Bill 118 does not recognize the role that municipalities will no doubt play in the implementation and possibly the enforcement of accessibility standards. We believe that it should be amended so that municipalities have a clearly identified role in the establishment of standards.

Municipalities are the level of government that is most closely tied to its citizens, and they are directly involved with many day-to-day activities, including transit, health and wellness, housing, parks and recreation, libraries etc. Municipalities also license a variety of businesses and services that impact people's daily lives. In most Ontario jurisdictions, upper-tier municipalities such as York region are also responsible for the prosecution of provincial offences, including some of the offences created under Bill 118. Municipalities may be called upon to enforce standards through inspection and licensing and through provincial offences enforcement. We believe, as a matter of best practice, that those who are involved in the enforcement of standards should also be directly involved in the development of the standards to ensure that they are appropriate and enforceable.

#### 1350

A municipal sector standards development committee will also facilitate a focused discussion of the different issues that are unique to the municipal sector in implementing accessibility standards. A standards development committee that focuses on municipalities and is made up of representatives of different sized communities as well as persons with disabilities, the organizations they represent and appropriate ministries will be in the best position to effectively and efficiently address the issues and ensure implementation is successful.

Our second recommendation: The legislation should include definitions of the terms "accessibility" and "services" to clarify expectations, ensure long-term con-

sistency and guide the development and enforcement of standards.

Part of the difficulty in implementing the ODA is that there is not a consistent definition of what is meant by these two terms. In order to set clear expectations and ensure a consistent approach across Ontario, these terms should be clearly defined. Once the terms are defined, all standards development committees can have a common and consistent starting point to develop accessibility standards, as these definitions would serve as guiding principles. This commonality is also essential for compliance and enforcement activities under Bill 118.

Our third recommendation: The province should provide a resolution process when a person or organization is subject to more than one standard or where one organization is identified as having more than one class.

Given the broad range of programs and services administered by municipalities, it is likely that a municipality will be subject to multiple accessibility standards, particularly if the municipality is classified as belonging to multiple sectors rather than a single municipal sector. Municipalities such as York region could be responsible for implementing multiple standards in areas related to health, transit, housing, employment, construction and purchasing, to name just a few. This may result in municipalities having to implement the requirements of different standards simultaneously on a time frame set by different standards committees. A resolution process would provide flexibility for persons and organizations to meet the requirements of the standards in an effective and efficient manner that takes into account competing priorities and budget constraints.

In resolving conflicting implementation requirements, consideration should be given to the unique characteristics and challenges of municipalities such as their mandates, business scope, fiscal realities and accessibility achievements.

Our fourth recommendation: The province should recognize organizations where work is already underway to enhance accessibility by incorporating flexibility into the initial targets and timelines in the new legislation.

Unlike the private sector, municipalities are currently subject to the ODA and, as a result, have started to meet the objectives of enhanced accessibility. The provincial government must make a distinction in the implementation of the new act to recognize the work that has already been accomplished under the existing ODA. Flexibility is also necessary because of the variations within municipal government. A provincial mandatory, one-size-fits-all legislative or regulatory approach does not work for municipalities, and inflexibility may create even more barriers to real accessibility progress.

Bill 118 will also directly impact on a municipality's ability to meet the new requirements while balancing other priorities and budgets for which municipalities are accountable to their citizens. Therefore, the new legislation must give municipalities sufficient flexibility to attain accessibility targets over time, while addressing other local priorities. The legislation must also reflect the

requirements of budget and business planning within the municipal sector when setting timelines and reporting requirements. We believe that reporting cycles should coincide with the budget and business planning cycles to ensure that costs associated with the implementation of standards can be considered as part of the municipal annual budget.

Recommendation 5: The province should establish a mechanism and funding source to support municipalities in the ongoing implementation of Bill 118.

Each accessibility standard may have costs associated with it that municipalities will be responsible for to ensure that the standards are met. Implementation of a standard, or multiple standards, will require additional financial and human resources to ensure that municipalities can implement all the necessary requirements and comply with the timelines outlined in the standards and avoid fines and penalties. In addition, it is intended that the existing ODA requirements for municipalities will be phased out over time. As such, municipalities may be required to implement both the existing ODA and the new AODA simultaneously. We do not have the human or financial infrastructure to do this.

For municipalities to be able to consistently meet their requirements over the long term, the province should support the implementation of the new accessibility act by providing a source of funding that recognizes significant financial pressures on the municipal sector. With the funding mechanism and source in place, municipalities will have stable and earmarked funding to implement the new bill while ensuring other social programs and services are not impacted.

In conclusion, we believe that Bill 118 can make a truly positive difference for persons with disabilities. Our recommendations are constructive to the fine-tuning of Bill 118 and will assist municipalities greatly in their implementation of the bill and in realizing the intended goal of the AODA: to provide equity and truly allow persons with disabilities to participate socially and economically in Ontario.

We urge the standing committee on social policy to include our recommendations in its final report, and we'd be pleased to respond to any questions you may have.

**The Chair:** We have less than one minute each, and we'll start with the Liberal Party. Mr. Craitor.

**Mr. Craitor:** Just a very quick comment, then. First of all, coming off a city council after 13 years and being involved with the regional council of Niagara, I truly appreciate your comments. I was really impressed, because down in our community, especially at the regional level, they've been wrestling with how to deal with transportation throughout the region, and the existing legislation that they've had to deal with has been inadequate. One of the things that was missing—and you touched on it in your recommendations—was that this bill deals with standards which need to be set. That's not just talking about planning but having standards. The other key role is to have the municipalities and the region

as part of the group to help in setting those standards. That was a very positive comment you made in recommendation 1. Looking at the legislation, that's certainly something that wouldn't be prohibited from taking place. I just want to congratulate you on bringing that recommendation forward.

**The Chair:** Mr. Jackson.

**Mr. Jackson:** I appreciate the fact that you've acknowledged that there needs to be a bridging mechanism between the ODA and AODA, in particular because the ODA calls upon the government to set the regulations recommended by the Accessibility Advisory Council of Ontario. That couldn't occur until we heard from municipalities for the first two years through your accessibility plans.

I've stated publicly that York region has been doing an excellent job. You're one of three communities, in my view, that are doing immensely leading-edge work. But, unfortunately, that work is all going to be stopped now in terms of the ODA. So the access advisory committee is no longer going to be making recommendations to the government; therefore, there are no regulations coming forward. There have been none for a year and a half, even though the legislation calls for them. I think it's fair for you to acknowledge that there should be a bridging mechanism, but I think it's clear that the government is going to be abandoning most of the ODA and we're starting all over again. You may want to comment on that.

**The Chair:** Thank you, Mr. Jackson.

**Mr. Jackson:** I want to compliment you on the work you've done.

**The Chair:** I think the compliment will be good enough on this one. Ms. Martel, please.

**Ms. Martel:** Thank you for being here today. If I heard you correctly, you have your own accessibility plan and you felt that the region would be fully accessible by 2026, which would lead me to assume that you have done some costing for your accessibility plan as well. I'm assuming some of that, or most of it, would factor into costs that would be associated with this bill. Can you share with the committee the costs that the region has identified to be fully accessible by 2026?

**Ms. Simmons:** What we quoted from 2026 was in the vision statement of the region of York. That is the long-term goal that we keep in mind and that we're reaching and aiming for. At this point, there has not been a costing out of what all that would be, for a number of reasons. One is that we have just been starting off on this path in the past few years, even though we have committed to and have had that goal in mind for a long time. Secondly, we are now very anxiously waiting for some more detail on guidelines and directives, obviously, to see exactly where we need to go with that accessibility, particularly looking toward definitions of standards, what they are, and definitions of "accessibility." Once we have those, we can start more serious work.

**The Chair:** Thank you for coming, and have a nice afternoon.

1400

#### GREATER TORONTO HOTEL ASSOCIATION

**The Chair:** The next presentation is from the Greater Toronto Hotel Association.

Let me remind you that, as I understand it, time is limited and you all have much to say. However, it is critical to this committee that these sessions operate in an equitable and accessible manner. In order to ensure that all people are able to access the information being presented, all speakers are required to speak at a moderate pace, please. It's imperative that we do that. Please proceed.

**Mr. Sohail Saeed:** Chair and members of the committee, thank you for the opportunity to appear before you today. My name is Sohail Saeed, general manager of the Holiday Inn, Toronto-Airport East, and a member of the Greater Toronto Hotel Association board of directors. I'm here today on behalf of Rod Seiling, president of the Greater Toronto Hotel Association—which we call GTHA—who could not be here today, as he is out of the country.

The GTHA's members own and operate approximately 35,000 hotel rooms in the GTA. For over 75 years, the GTHA has been the voice of the industry in the GTA. From the outset, I can assure you that the GTHA and its members have and will continue to provide quality service to persons with disabilities. We do this not just because it is the right thing to do, but also because we believe it is good business. Our members recognize that accessibility, as it relates to tourism, is a prerequisite to a healthy tourism industry.

It has been the stated policy objective of the tourism industry for some time to make Toronto the destination of choice for persons with disabilities. There are over 100 million persons with disabilities in the United States, Europe and Canada, Toronto's prime tourism markets. About 25% of persons with disabilities travel on a regular basis for business and/or leisure. Estimates have pegged the spending power of Canadians with disabilities at over \$25 billion. Americans are estimated to have spending power corresponding to \$175 billion. That \$200 billion is a powerful incentive for our industry and is one in which we have decided we want to be market leaders.

As indicated earlier, the GTHA and its members have been leaders, as it relates to accessibility, for some time. To that end, we partnered with the Ministry of Citizenship over the years to develop programs that have been designed to provide better service and facilities for persons with disabilities.

In 1999, the GTHA launched Guest Services that Work for Everyone, a sensitivity training program that provides hotel employees with a better understanding of the needs of persons with disabilities. Based on a train-the-trainer concept, the program is now incorporated into

the basic training programs of the members. That program was followed up by the Hospitality Checklist program, an innovative on-line program that allows hoteliers to self-assess their respective properties as it relates to accessibility and provides assistance as to improving accessibility.

The program launch was followed up by a commitment from the industry to become Americans with Disabilities Act—ADA—equivalent. This was to be accomplished within an identified three-year time frame that it wanted to work with the government in implementing.

The GTHA also launched our HELP—hotel employment leadership program—for youth. This program was directed toward young people with disabilities and youth receiving social assistance benefits, and graduated these individuals straight into jobs in the hotel industry. The program, which was a partnership between the Ontario Ministry of Social Services, the city of Toronto, the Ontario Tourism Education Corporation, Goodwill Toronto and the Greater Toronto Hotel Association, did meet its objectives, but we had to close it down because of the disastrous impacts of 9/11 and SARS.

With the aforementioned in mind, the GTHA and its members are on record supporting the principles of Bill 118, An Act respecting the development, implementation and enforcement of standards relating to accessibility with respect to goods, services, facilities, employment, accommodation, buildings and all other things specified in the Act for persons with disabilities. To that end, we will continue to work with the government. We as an association have already had discussions on the rollout of the bill once it receives proclamation, and have identified nominees to sit on the sectoral council. It is in the development of the details contained in the regulation that will accompany Bill 118 that we suggest the real work resides.

We have a number of questions and suggestions as this process moves forward. Some of them are as follows:

—Businesses should not be overly burdened with red tape, nor should government create a costly bureaucratic structure. Efficiency and effectiveness should be pre-eminent.

—Accessibility standards must recognize levels of best practice.

—Standards must recognize the difference between new builds and existing structures in some instances.

—The act must identify a means to coordinate with the Ontario building code, including the fire code.

—The process for standard development must be inclusive and not weighted.

—Membership on standard development committees must be representative but must recognize the need to include progressive thinkers.

—Enforcement must be seen to be fair and reasonable and not just perceived as a means for harassment.

—The enforcement process should not be the development means for a new cottage industry, as was the case in the USA.

—Enticements should be considered in the form of assessment reductions or direct payments for those who meet or exceed the standards ahead of time.

—Fines and penalties should be viewed as a means of reinforcement, not as a stick.

—How will compliance with the act ensure that complaints cannot be brought forward under the guise of other legislation?

On an annual basis, Toronto in a normal year will host almost 20 million visitors. About 50% of them stay overnight as guests in hotels. We believe we can increase this number by making Toronto and Ontario the destination of choice for persons with disabilities, and Bill 118 can be a catalyst. It is incumbent on all of us to see it is implemented fairly and with reason of purpose. Thank you.

**The Chair:** Thank you for your presentation. We have about six minutes, so two minutes each. I believe we start with the Conservatives this time, then the NDP and Liberals.

**Mr. Jackson:** Thank you very much. I'm very pleased to have you make a presentation. Earlier today, the minister indicated that you were going to be the first private sector group of businesses to be affected and that you were going to get your own standards development committee. You've indicated in your brief that you are wishing to become ADA-equivalent. I've had several meetings with members of your organization as tourism minister and I know there were some concerns about the difference between the ADA and what your expectations may be here in Ontario. Do you have any comment about any distinct differences?

**Mr. Saeed:** The ADA, the Americans with Disabilities Act, took many years to come into place to the level it is at right now. We believe it is the right direction, eventually, down the road. Going back to the work that was done in the past years, we were looking at access standards in Canada. There were levels one, two, three and four. So a lot of hotels have been working with the Hotel Association of Canada, along with that.

I work for the Holiday Inn. Some Holiday Inns all over the USA have adopted ADA, and they have given us a slightly gentler version of ADA in Canada. As a Holiday Inn, I'm in compliance with that at all times. We also have the Opening Doors program in place.

So to answer your question, yes, we would like to be there. The timeline has to be defined.

**1410**

**Ms. Martel:** Thank you very much. I have two questions from your page 4. First, you said, "The process for standard development must be inclusive and not weighted." Can you tell me what you mean by that?

**Mr. Saeed:** For the people who are involved in doing the research and making the decisions, there should not in any way be any bias. It has to be equal opportunity for all the people. The people we want, the people who are

disabled, have to be in on the decision-making process and businesses have to be in on the process. I believe what you're doing here today, and hearing it from all the public sector, is the right direction.

**Ms. Martel:** So you mean that the committee should not have a majority representation of persons with disabilities; is that what you mean?

**Mr. Saeed:** It has to be weighted evenly; not a majority. Every sector has to speak for itself.

**Ms. Martel:** So equal representation from every sector.

**Mr. Saeed:** Equal representation; yes.

**Ms. Martel:** OK. My second question was on, "The enforcement process should not be the development means for a new cottage industry, as was the case in the USA."

**Mr. Saeed:** Some of the elements of construction are in there; there are the elements of product—it could be the lifts, the wheelchairs. A lot of industry out there can benefit from this—elevators for the pools. We are saying, please do not go in a direction that it becomes such that somebody is harbouring part of the business and making a majority out of it.

I'll give you one common example: It could be the strobe lights that we already have. In the USA, when those came in, initially the businesses that make strobe lights were involved in the decision-making process. That was not a fair practice; it should be done for the purpose: why we need strobe lights and why we need to help with certain disabilities, not because it is the thing to do, and then somebody will get some benefit out of it and make an industry out of it. That's the only part—

**The Chair:** Thank you, sir. To the government side.

**Ms. Wynne:** I just have a very quick question and I know my colleague has a quick question. In the context of your industry, what are progressive thinkers? You've said that membership on standard development committees must be representative, but progressive. Can you just define that?

**Mr. Saeed:** In my vocabulary, somebody who is progressive is keeping up with the pace of time and the needs. A common example would be wheelchairs, which are now motorized; what are the next steps? We need to make sure that everybody's needs are met. Again, the showers—every day there's a new development.

**Ms. Wynne:** So somebody who's on top of the needs of the disability community.

**Mr. Saeed:** Exactly.

**Ms. Wynne:** Thank you.

**Mr. Parsons:** Under the previous bill tabled by Minister Jackson, there was no involvement of private industry whatsoever. We were told that there couldn't be enforcement, there couldn't be standards and that the high costs weren't surmountable to business. So I appreciate your presentation.

As I read it on your page 3, I just want to summarize that you see the enforcement of standards as a good thing for your industry.

**Mr. Saeed:** Yes; absolutely.

**Mr. Parsons:** Thank you. Back to the board to make revisions.

**Mr. Saeed:** Yes. Enforcement has to be law, but not as a stick.

**The Chair:** Thank you very much for coming here, sir.

#### ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

**The Chair:** The next presentation is from the Ontario English Catholic Teachers' Association. Are you here?

As you take your seat, I want to remind you to please keep in mind that if you can moderate the pace of your presentation, everybody will be able to appreciate it.

**Ms. Elaine MacNeil:** I'd like to thank the committee for the opportunity to present today. My name is Elaine MacNeil. I'm first vice-president with the Ontario English Catholic Teachers' Association. My colleague, Brenda Carrigan, is department head of our contract services department. It is that department at our provincial office that deals with many of the issues that will be identified or addressed through our presentation. We represent 36,000 men and women who have chosen teaching careers in Catholic schools in Ontario.

We'd first like to compliment the government on the introduction of Bill 118. It's a bill that's long overdue, and goes a great distance toward correcting the deficiencies in the former legislation, so we certainly acknowledge the progress that has been made.

There are several aspects in particular, as we note in section 1.02. I won't speak to those, as you'll have the opportunity to read them. There are a couple of areas of concern, however, that we would like to bring to your attention. The first is the involvement of labour in the whole aspect of creating accessibility plans and, in fact, the standards. We believe there is a place for labour to sit at the table when addressing the issues of accessibility plans and the standards. You might also be aware that under the Human Rights Code, unions have a responsibility as well—in a sense, equal to the employer's—to provide for the accommodation issues that our members face in the workplace, particularly, in our case, when returning from long-term disability or extended leaves of absence due to illness. We take that responsibility strongly, and we also feel that in constructing accessibility plans and creating standards, we have an important part to play as an advocate for the employee.

Likewise, perhaps unlike other presenters you will hear, in addition to serving employees we also have a vested interest in the students in the schools of Ontario. Certainly, accessibility is another issue that governs their work environment on a day-to-day basis. We're looking not only at what the situation is today in our schools but certainly down the road on issues of disability and how we integrate children into our schools, how we make our schools accessible for them in particular.

The second area that concerns us is with respect to the timelines in the legislation. I know that advocates for

disabled persons in Ontario are pleased to see the legislation, but I am concerned about the timelines. Perhaps you might want to consider something a little bit more firm in terms of defined timelines in the legislation.

The final issue we have is around the implementation and goes to an issue that I heard represented earlier by a couple of different groups, and that's the issue of funding. I believe we're all aware that many good ideas die on the table because there isn't sufficient funding to properly implement them. In Ontario schools, we're well aware of what effect funding has on our buildings. Our structures are crumbling and are perhaps not meeting the demands of our students. Certainly in Toronto the state of our schools is an ongoing issue in the media. If we add one more thing to the plate, as it were, of school boards, without the proper funding to do that, this is a wonderful piece of legislation that will fall by the wayside. We think it's extremely important that the issue of funding is clearly laid out, and how that will be addressed by the government.

We'd like to bring to your attention a couple of additional issues that are not mentioned in the brief itself. To give you an example of one particular case, a student unable to take classes with her peers because the school elevator is broken and the budget does not allow for immediate repair: In this case, one student was left to spend her day in the special education resource room while her teachers had other students deliver her work. Imagine the possible self-esteem issues for this student. One of the things under the Human Rights Code when dealing with discriminatory conduct related to people with disabilities is that any plan we implement or come up with has to allow for dealing with individuals in a way that ensures their dignity. I think that's something we can't afford to lose sight of.

We also deal with situations where employers may look at an employee with that expression, "You look OK to me, so you can't really be disabled." That goes to the area of what is visible and what is "invisible," as it were, and I say that in quotation marks. There is also that requirement. We have faced situations where employers are looking for too much information around disabilities from employees, and we have to be careful in that area as well.

When we're looking at addressing the issues related to disability and disabled workers in Ontario, we have to recognize that it's as much an attitudinal issue as it is an accessibility issue and that you're not going to change the attitude in a lot of workplaces, in a lot of sectors, unless you address the educational issues around persons with disabilities. We need to address how we're going to educate the public, how we're going to change society's attitudes and the culture around persons with disabilities. We need to be highlighting the accomplishments of people with disabilities, and we need to be promoting that kind of inclusion in a variety of different areas.

1420

**Ms. Brenda Carrigan:** I am just going to speak briefly on Elaine's comments about involving labour in

accessibility plans. In the brief, our recommendation is to have a section of the act which would mirror the Pay Equity Act of 1987 very closely.

In the Catholic school boards of Ontario, we bargained our pay equity plans. We bargained them from a position of (a) having experience in bargaining with our employers and (b) having experience in the types of needs that our members had. We feel that this would be a perfect position for labour: to bargain accessibility plans, which of course would then have to meet the standards set by the standards committees when those standards are set. But we could get a real head start in many of our workplaces in the province by bargaining plans. In our case, we were very fortunate; although there were tribunal situations set up under the pay equity plan, we did not have one place that had to go to tribunal. We were successful, either on our own in bargaining or with the assistance of the pay equity officers of the time, in bargaining plans that met the needs of our members. We feel that this is the perfect opportunity to involve labour.

**Ms. MacNeil:** I believe that concludes our presentation.

**The Chair:** We have nine minutes left, so we'll have three minutes for each party. Can the NDP start, please?

**Ms. Martel:** Thank you for being here today. I'm going to follow up on the point you just ended on, which is to do this across the sector through collective bargaining. It is also in the OFL brief, and we heard it earlier from OPSEU. I'm quite supportive of it. It did work for the Pay Equity Act, and it's a model we should follow.

My concern is that the government might say, "Well, this will be duplication. You will have accessibility plans collectively bargained in a number of workplaces, public and private, and then you will have a standards development committee that will come in after the fact and develop standards, and they might not be the same." Are you in a position to respond—I'm not saying the government will do that—to that possible criticism that might come from the government, in terms of doing that?

**Ms. Carrigan:** We certainly considered that possibility, but the way we see it working is that if a go-ahead was given for labour to bargain plans, or, in workplaces where there is no union, for employers to come up with a plan that they would post à la pay equity, we see that as the first step—and then to build in a process of reviewing and re-looking at the plan as the sector standards come down. We see it almost as a process, going forward, almost as if it was a timeline. Accessibility plans come first, then the sector standards plans will come down, then the accessibility plans will be reviewed to meet the sector standards, and then the new plan, if there needs to be a new plan, will be created. So we do see a flow, rather than the necessity for a conflict.

**Ms. Martel:** That should mean that those trade unions collectively bargaining the plans should also be part and parcel of the committees. The minister talked about the composition of the committees this morning and alluded to representatives of the industry or sector involved, provincial ministries and people with disabilities. When I

hear about representatives from the industry, I think “employer.” I don’t think the trade union is representing those employees. It’s my view that we should be putting forward an amendment that says that another party to these proceedings should be the unions that are representing the workers in those industries, either in the public or private sector. What do you think about that?

**Ms. Carrigan:** I believe we’ve included that in our brief as well. From our point of view, it would be a real mistake not to involve a group of organizations that deal with these issues on a daily basis.

**Mr. Ramal:** Thank you for the presentation. It was well worked out.

I have a question. You were talking about the time frame not being defined. What do you mean, that the 20 years and the increment of five years is not enough, or more or less? What do you mean by “time frame”?

**Ms. MacNeil:** I think the time frame is attached to the—the five years is once the committee is established, as I read it. Is there a timeline, for example, for establishment of those committees? Is it going to take several years to get those in place, to get the standards up and running? It’s still a long way out if we’re looking at five, six, seven years down the road. So the first timeline that I see is within five years of the establishment of the committee, I believe. That’s still fairly far out, from our perspective.

**Ms. Carrigan:** We also looked at the aspect of various sectors needing different timelines. We feel that the public sector should be ahead of, for example, small businesses. So the timelines should be flexible but they should be stated for various sectors, because they don’t all have to be the same.

**Mr. Ramal:** I think that from this morning, the minister assured all the people in this province and the disabled community that she’s going to work it out as soon as possible and it’s not going to take a long time to be implemented. I believe she will do this as soon as possible, when we’ve listened to all the consultation across the province and also conduct more information about this bill and the views about this bill. I want to comment in terms of the union. I think there is nothing said in the bill about the union not to be represented or consulted. I believe one of the elements of our society—hopefully your vision and your recommendations will be well taken.

**Mr. Jackson:** Thank you for your presentation. I had raised the concern you had earlier about timelines and in fact share your view that the public sector, which has access to more tax dollars, should be required to conform sooner than an organization that doesn’t receive any public dollars at all. That was contained in the original Bill 125 and that’s why school boards are required to file their accessibility plans for the first two years and then the act called for regulations to be put in place. That would then drive further investments into the educational system to make it accessible both in terms of programs for students and teachers in order for them to move around within that system. Are you aware that the current

legislation eliminates the need for accessibility plans for school boards in the province?

**Ms. Carrigan:** Yes.

**Mr. Jackson:** OK. The second question you raised was also raised this morning, both by Ms. Martel and myself, about where we would begin with these access standards committees. The minister indicated both in a press conference outside and before this House that her priorities to start were with the hotel, hospitality and transportation sectors. My concern was that we’re going to start with the private sector and we’re not starting with the public sector, which was the complete opposite. In fact, the bill that I brought in didn’t even address the private sector until the public sector got its act together and we had standards in place that we could then impose. So any comment about your concern about education, if it should have its own committee; and secondly, how soon that should occur.

**Ms. MacNeil:** We were unaware, certainly, of the minister’s comments until you just made us aware of those comments. But as my colleague stated earlier, it would be our expectation that the private sector would be leading the charge, as it were, on this because of the connection to the funding.

**Mr. Jackson:** That’s not what she just said, but that’s fine. You two can agree to disagree.

**Ms. MacNeil:** I think, for us, education is a priority because we deal with students in an integrated fashion on an ongoing basis and have been for a number of years. Do we think education should be a priority? We wouldn’t be here if we didn’t feel that way. We’re certainly concerned about society in general but we have specific areas of concern.

**Mr. Jackson:** You would support putting back in the requirement of school boards to file accessibility plans with their unions, the public and with the government?

**Ms. Carrigan:** I think our members would probably tell you, if they were all here, that the school systems should lead the way in that the school systems look to the future of the province and they would be very loath to think that there could be a whole new generation of students go through the entire schools systems before accessibility was fully implemented.

**The Chair:** Thank you for your presentation.

1430

## COMMUNITY LIVING ONTARIO

**The Chair:** The next presentation will be Community Living Ontario.

If you could take a seat, please, I would like to remind you that it will be appreciated if your presentation could be made with a moderate pace so that everyone will be able to hear. You do have 15 minutes in total. If you choose not to speak for 15 minutes, the balance will be allocated to the various members for questions. Thank you. Please proceed.

**Mr. Orville Endicott:** My name is Orville Endicott. I am legal counsel for Community Living Ontario. We are

very pleased to have this opportunity to be present with you this afternoon on your first day of public hearings. I'm also very pleased to have with me two colleagues. On my right is Bonnie Johnston, who is a former board member of Community Living Ontario and works in a very interesting federally funded project called It Takes a Village ... Where All People Belong. On my left is Tony Carella, a member of the city council of the city of Vaughan and the immediate past president of our local association for community living in York south.

I'm going to turn to Bonnie first, who will tell you about some of the barriers that she has encountered in her life.

**Ms. Bonnie Johnston:** I have a list of barriers.

**School:** few accommodations to enable me to realize my choice of education.

**Affordable housing:** not available for five years. It was necessary for me to live in housing arrangements that were not necessarily my choice.

**Transportation that is not affordable:** out-of-town appointments and education opportunities not accommodating.

**Hours of operation:** do not enable involvement in independence after hours.

**Hearing impairment:** There have often been occasions when accommodations to hear properly in order to participate have not been available.

ODSP will go up at the end of February, but it's the first increase in 10 years and I'm still living on an income that is below the poverty level. ODSP is a barrier to employment because of the risk of being denied ODSP if there is a loss of employment, and it's linked to the welfare system in trying to get my education. In the past I have been warned that if I go off ODSP I may not be able to go back on. So I'm having to make decisions based on fear.

**Who I am:** I am a person who has intellectual disabilities, cerebral palsy, vision and hearing impairment who has had to self-advocate and overcome many barriers in order to fulfill what I was wanting to realize in life. I have been successful because of my persistence and strong support from family and friends.

Are there any questions?

**Mr. Endicott:** Let's have the questions at the end. I think they'll certainly have some.

**The Chair:** Thank you for your presentation. Of course, we have about—please go ahead.

**Mr. Tony Carella:** As Orville indicated, my name is Tony Carella. While I'm a member of the council of the city of Vaughan, I appear today in my capacity as immediate past president of the York South Association for Community Living, a non-profit agency serving 969 individuals in Vaughan, Richmond Hill, Markham and Whitchurch-Stouffville.

**The Chair:** Mr. Carella, can you just slow down a little, please.

**Mr. Carella:** Sure.

**The Chair:** We still have over 10 minutes.

**Mr. Carella:** We've all heard the opinion that the problem with government is that it is not run like a business. The assumption underlying the complaint is that since efficiently run businesses produce profits, if government were run in a businesslike fashion, it would serve its customers or clients well and still turn a profit or, in the case of government, generate a surplus of revenue over expenses.

So how do businesses do it? Well, it really is quite simple. Businesses exist to provide not just goods or services, but goods or services that turn a profit, and one way to do so is for business people to make choices, such as avoiding goods and services that promise only marginal profits and promoting those that are highly profitable.

Customers and clients make choices as well. If I don't like the shoes sold in one store, I can always go down the street to another store. If I don't like the way my insurance agent is handling my account, I can always take my business to another agency. But if we reflect for a moment, we begin to see the fallacy inherent in the notion that government should be run like a business.

Governments don't have customers who can take their business elsewhere; they have citizens. Businesses, customers and clients can all make choices. That is their right. Citizens have rights, too, but little choice if their government refuses to acknowledge those rights, whether intentionally or unintentionally, by failing to remove systemic barriers to the enjoyment of those rights.

Imagine, if you will, a rather impressive one-and-a-half storey building in a small Ontario town, designed in the classical revival style popular at the start of the 20th century, with large windows to let in natural light and broad stairs leading to two solid oak doors above which, chiselled into a stone arch, are the words "public library." How those words welcome one and all.

But what is wrong with this picture? Not so long ago, if you were wheelchair-bound, that couldn't be your library, because without a ramp, there was no way for you to get in. That this is no longer the case is a tribute to our evolving understanding of how equality, as embodied in the word "Public" in "public library," depends on accessibility. To put it plainly, to fail to ensure accessibility to public services—and by that I include all services provided by the government or by others, subject to government regulation—is to deny those same services.

That is what is at issue here. Bill 118 is intended to achieve a barrier-free Ontario, and I hope it does. But make no mistake: To the degree the bill, as drafted, falls short of achieving that goal, it will constitute a denial of equality to a sector of the population who, because they are citizens, not customers or clients who can choose to go elsewhere, are entitled to the same things available to everyone else.

I have seen photographs of the shore of the Bay of Fundy at low tide and at high tide. While a few boats float on the water at low tide, most lie on the shore—some close to the water, others on higher ground. But when the tide comes in, all boats rise to the same level.

To achieve genuine equality in our society, more must be done for some people than for others, because some people have to travel further to enjoy what most of us take for granted. It shouldn't be that way, and ensuring that it isn't so, once and for all, and within a reasonable time frame, is your job. On behalf of the nearly 1,000 people served by the York South Association for Community Living, I commend you to that task. Thank you.

**Mr. Endicott:** Thank you very much, Tony.

What I would like to do is tell you what you can expect to see when you turn to our brief, rather than read any of the text of the brief itself. I'm going to begin by saying that we believe Bill 118 has goals that are a very good fit with the goals of Community Living Ontario. Accessibility is what we are all about and what this bill is all about.

I want to tell you as well that Community Living Ontario has for some years been an active member of the Ontarians with Disabilities Act committee. I know you're going to be hearing from the ODA committee tomorrow and, undoubtedly, from its inspiring and amazing Chair, David Lepofsky. I want to plant in your mind the possibility that you invite Mr. Lepofsky back after the public hearings are completed to assist you with your clause-by-clause study, because I can't think of anybody who is better qualified than he.

1440

In our brief, you're going to find that we are pleased that Bill 118 has maintained the positive steps that were initiated under the ODA, particularly that it does focus on systemic change and on public participation. The ODA created the Accessibility Advisory Council of Ontario and accessibility advisory committees in the municipalities. I think this is the seedbed from which the accessibility standards committees are going to find their most active and useful membership.

In our brief, you'll also find a few words about concerns we have about this kind of legislation. As the primary organization in the province of Ontario concerned with the well-being of people with intellectual disabilities, we are always concerned that there is a risk that accessibility and barriers tend to be identified in terms of what stands in the way of people with mobility or sensory impairments. We know that you agree with us that it has to be more than that. It takes imagination, your imagination as well as the imagination of those who will be developing standards, to make sure that those barriers are overcome as well.

We're concerned that there may be a focus on economic concerns. There's nothing wrong with that focus as long as two things are understood. One is that when people are denied participation in the benefits of society that the rest of us enjoy, it's a mistake to count the cost of rectifying that imbalance. Secondly, and probably as important, as already pointed out to you, the implementation of this bill may, in fact, not cost more than is being done right now, for example, in maintaining institutionalization for people with intellectual disabilities rather than community living.

I think we have a few minutes, maybe one for each party, for questions.

**The Chair:** Thank you. Exactly one minute each: We'll start with the Liberals, then go to the PCs and then to the NDP.

**Mr. Fonseca:** Thank you for your presentation. I loved your analogy with regards to the Bay of Fundy. We've been in quite a drought here in this province for the last 10 years under the previous government, without increasing ODSP payments for 10 long years, something that was definitely needed. Also, with this legislation, as we're bringing it forward—I know that the previous legislation under Mr. Jackson had no teeth to it. It was really empty words and empty promises that really didn't get us to where we wanted to go. With this legislation bringing forward standards and implementation and enforcement, do you feel that that will take us to bringing up that tide and putting everybody on the same playing field that we want everybody to be on here in Ontario?

**The Chair:** A quick answer, please.

**Mr. Endicott:** I guess the answer is, absolutely. When I was commending the former government, and you'll find this in our brief, we recognize that this legislation addresses the weaknesses of the ODA as well as builds on its strengths.

**Mr. Jackson:** Thank you very much, Orville. It's good to see you again.

My concern would be with what's been taken out of this bill. Have you done any analysis on what's been removed from this bill and from your first effort at an Ontarians with Disabilities Act, which you helped work on?

**Mr. Endicott:** Well, I did hear you mention during the previous presentation that reporting of accessibility plans has been taken out. I think it's more important that reporting of accessibility achievements has been put in, and not only achievements but achievements that are in compliance with standards that have been set by stakeholders, including people with intellectual disabilities and other disabilities as well.

**Mr. Jackson:** And given the fact—

**The Chair:** Thank you. Ms. Martel, one minute.

**Ms. Martel:** I'm pleased to note that you have pointed out that persons with intellectual disabilities who participate on the committees are going to need support. I raised that this morning and asked the minister to consider both remuneration as individuals and also payment of any other costs that may be associated. Of course, you'd be looking at support workers; that would be required.

I'm interested, though, on page 7 when you talk about whether or not the five-year timeline for achieving each new stage of accessibility is longer than it has to be. Frankly, I said this morning that it should not be five years, it should be three years, and that the completion of the bill should be a shorter time frame than 20 or 25 years. I wonder if you have some comments about the timelines in this bill.

**Mr. Endicott:** I think we're uniformly inclined to agree with you that 20 years, particularly when you get to

be my age, seems like forever. I'm certainly hoping—I don't think the bill rules out speedier implementation, but perhaps it's attempting to be more realistic than they needed to be. Our concern, and this is in the brief, is that momentum can be lost if you go that long.

Does Bonnie have an opportunity to say something about your first point about support?

**The Chair:** Quickly. I will give you another 30 seconds.

**Ms. Johnston:** The supports need to be there. Five years even can be a long time to wait on a waiting list if you're running out of money and food and you don't have the support to get it or the means to get yourself to the grocery store because you don't have enough financial support, as well as personal support in other ways. I think that's a very important thing.

**Mr. Endicott:** Bonnie has demonstrated that a person's support does grow into not needing as much support as was originally needed.

**The Chair:** Thank you again for coming here. Have a good afternoon.

#### FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

**The Chair:** The next presentation will be the Federation of Rental-housing Providers of Ontario. Are they present?

Please have a seat, sir. You have 15 minutes in total. I would ask that you control your pace when you make the presentation so that everybody will be able to appreciate it. You can proceed whenever you're ready.

**Mr. Allan Weinbaum:** Good afternoon, Mr. Chair and fellow committee members. My name is Allan Weinbaum, and I am chair of the legislation and regulations committee of the Federation of Rental-housing Providers of Ontario, formerly the Fair Rental Policy Organization of Ontario. I sit on FRPO's board and I am also a rental housing provider. I am accompanied today by Utilia Amaral, FRPO's director of communications.

FRPO is the largest association in Ontario representing those who own, manage, build and finance residential rental real estate properties. With more than 800 members from across Ontario, from small landlords to the largest property management firms and everything in between, FRPO represents the full spectrum of the industry in this province. The implementation of Bill 118 will affect every rental housing provider in Ontario. As such, we appreciate the opportunity to share our views with the committee.

We understand that the intention of the bill is to establish accessibility standards that would complement the remedies available to the disabled through the complaints-driven process under the Ontario Human Rights Code. Our members support initiatives designed to improve accessibility for the disabled. We consider achieving this objective to be a social responsibility shared by all.

Ours is a highly regulated industry. We are affected by many different pieces of legislation, and right now many of them are being amended or repealed, including the Tenant Protection Act. This leaves our industry in a state of uncertainty and flux. We hope that the ministries responsible for the various pieces of legislation will consult with each other in their development, and we will continue to participate with policy-makers to assist them to do so.

The establishment of reasonable standards has potential advantages for our industry. Reasonable standards provide us with predictability and certainty in operating our businesses. Reasonable standards allow us sufficient time to plan and implement measures that eliminate barriers. Finally, reasonable standards create a more level playing field within the industry, as opposed to a complaints-driven system that cannot regulate an entire industry.

We support the bill's pragmatic 20-year timeline for full implementation. Of course, we believe that many measures can and will be implemented much sooner. A pragmatic approach to full implementation will give our industry some predictability and certainty in operating our businesses. Reasonable timelines allow us to plan and implement changes that eliminate barriers.

#### 1450

There are, however, many other aspects of the bill which we find troubling. I will share them with you in the interests of improving the bill and enhancing its effectiveness.

In brief, our concerns relate to the vagueness of key terms and concepts within the bill, as well as the makeup and procedure of the standards development committees and the operation of certain enforcement provisions of the bill.

The bill contains goals but it lacks substance and specific direction. It is vague. We are particularly concerned about the lack of clear guidelines provided to the standards development committees regarding the criteria to consider for developing the standards. What will be considered reasonable? Will standards be developed regardless of cost, regardless of the likely utility? If standards development is to be left to committees, they require this type of direction before they begin their work. We want to see the legislation spell out clearly that standards will be reasonable with reference to specific limiting criteria. Look at the Ontario Human Rights Code, which uses "undue hardship" as a defining guideline with respect to notions of reasonableness in accommodation. We believe that similar guidelines for the standards development committees will help to avoid an unfortunate patchwork of different definitions affecting various sectors in a potentially unfair manner.

We recommend that the bill be amended to include specific principles to assist the committees to determine reasonable standards and measures. The allowance for different classes with different standards within the same industry contained in subsection 6(6) is the closest the bill comes to an acknowledgement that there will be

limiting, contextual factors which must be considered when standards are developed. The bill should contain an explicit acknowledgement and articulation of these factors.

For example, committees should be required to review and consider sources of financing, including the availability of subsidies, tax credits or deductions, as part of determining standards. Committees should also be required to explore the technical feasibility of a proposed standard. In some cases a proposed standard may simply not work because of technical issues, such as where a proposed alteration to a building would require removing or altering a load-bearing wall that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification.

There should be a general principle requiring all measures to be reasonable. We need to ask ourselves, first, does the measure impose an undue financial and administrative burden on the housing provider? Second, would implementing the measure require a fundamental alteration in the nature of the provider's operations? There are limits to what can be accomplished in older buildings.

These are policy decisions that should be made now and enacted in the bill and accompanying regulations. This should not be the work of individual committees. The failure to address these important issues now, as part of the legislation, will result in an inappropriate burden or power being placed in the hands of the committees. Not only would this increase and delay their work but it would give rise to different standards and approaches across the committees. The bill speaks of the minister communicating ideals to the committees through the terms of reference. Let us see at least that general policy included in the legislation now for public comment and debate.

We assume that, while important, the goals of full accessibility are not to be achieved at any cost. What is the cost which the government will consider acceptable? What is the cost which our industry is being asked to bear?

Of similar concern, the definitions of "disability" and "barriers" are too broad and appear to be open-ended. For example, the definition of "attitudinal barriers" should be developed to ensure that the standards are dealing with behaviour as opposed to personal thought. It is far from clear what is meant by an "attitudinal barrier" in the present bill.

We recommend that the government continue to work with all stakeholders to reach realistic definitions. This is crucial to the success of this bill. These definitions form the backbone of this legislation; let's make sure they are comprehensible and fair to all.

We commend the government for its consultative and inclusive approach in developing standards. We are, however, unclear as to how members for the standards development committees will actually be selected. This is a critical point because of the significant work burden placed upon these committees regardless of how much

guidance they receive. They will be responsible for putting the practical substance into this legislation. As far as the accommodation sector is concerned, we strongly urge the minister to select individuals who are competent, skilled and experienced in property management, design and construction. We look forward to providing the minister with ongoing advice and guidance on this matter.

The bill does not deal with the internal procedures and pressures of the committees. These procedures must be developed. Given the disparate makeup of the committees, one cannot assume that committees will reach a consensus on any issue. What if they can't reach a consensus? Will they need a quorum to make decisions? Will the minister act as a referee? Will the committee hold hearings or work in camera? How will the committee communicate with the members of a proposed class? While section 10 provides for public feedback on draft standards, interested parties need to be able to communicate with the committee before it develops its drafts.

We also believe that continuity will be an ongoing challenge, both for committee members and ministry staff. Turnover will hamper and delay the work of the committees. Steps must be taken to reduce and delineate the tasks of the committees to reduce turnover as much as possible.

As mentioned earlier, these committees must have clear and consistent guiding principles given to them. Absent this assistance, the committees will have to develop these criteria themselves. We cannot ask the committees to do all the heavy lifting in terms of resolving difficult policy issues before they even have a chance to do their main job of dealing with accessibility. In these circumstances, there is a risk that decisions will be made under pressure to meet guidelines and that the quality of those decisions will suffer.

We will now explain our concerns about some of the bill's enforcement provisions. We are concerned about the bill's potential overlap with the Ontario Human Rights Code. It would be unfair, unduly burdensome and inefficient for a rental housing provider to have to respond to more than one tribunal simultaneously on the same issues or to have to re-litigate the same issues. There should be a rebuttable presumption in the bill that compliance with a standard implies compliance with the code. At the very least, a concerted effort should be made by policymakers now to articulate how the two pieces of legislation will interact, practically speaking.

The requirement for annual compliance reports that will be made available to the public is excessive and unnecessary. Smaller rental housing providers may have difficulties fulfilling these obligations, which are particularly intimidating in light of their public nature. Many smaller rental housing providers have only one or two properties that generate supplementary income. This bill, if implemented, may be yet another incentive for abandoning the business of providing the most affordable housing in Ontario.

In closing, I want to reiterate that we support the intention of the bill. A clear set of standards will benefit

our industry by providing us with consistency and predictability. We are, however, concerned about the manner in which the objectives of the bill are being fulfilled. We will be providing you with a detailed written submission and we look forward to being involved in future deliberations and consultations.

Thank you for the opportunity to address you today. We would be pleased to answer any questions you may have.

**The Chair:** There is no time for questions, but we thank you for your presentation. It's limited to 15 minutes.

#### CANADIAN NATIONAL INSTITUTE FOR THE BLIND

**The Chair:** The next presentation is from the Canadian National Institute for the Blind. You have 15 minutes for your total presentation and questions and answers, if any.

**Mr. Bill Laidlaw:** It's good to be back here. Good afternoon. My name is Bill Laidlaw. I'm the manager of government relations for the Canadian National Institute for the Blind. With me is my associate, Chris McLean, who will assist me with questions on my presentation. I'd like to acknowledge the fact that Leslie MacDonald, who is CNIB's accessibility expert, cannot be here today. She is currently in Sweden, representing CNIB on a universal access design standard program.

I would like to start out by commending the minister and the government of Ontario for its quick and decisive actions that led to Bill 118, tabled early in the government's mandate. We are also pleased that the government has invited the public to review and propose amendments to the Accessibility for Ontarians with Disabilities Act. And we commend the government for keeping its promise to have open and transparent discussions about the bill.

#### 1500

Here's a little background about the CNIB, if you're not already familiar with it. As you know, it is a national agency providing services to individuals across Canada for whom loss of vision presents problems for normal functioning. The CNIB also acts as a consultant and resource to professionals working in the field of vision health as well as social services, educators, government departments and the private sector.

The aim of the CNIB is to help blind and visually impaired people cope with their vision loss and help them lead satisfying and independent lives.

We believe that Bill 118 is good legislation and that it will help achieve the objective of removing barriers for persons who are blind or visually impaired, allowing all persons to fully participate in society.

The CNIB has been involved in discussions about accessibility legislation in Ontario since 1994. We have been a member of the ODA committee since its inception.

**The Chair:** Excuse me, Mr. Laidlaw. Could you please slow down a little bit?

**Mr. Laidlaw:** That's fine. Thank you.

The CNIB has provided support, both administratively and vocally, to the implementation of a strong and effective accessibility act.

The CNIB endorses the 11 principles of the ODA committee, which were unanimously accepted by all three parties in the Legislative Assembly in 1998.

We believe that Bill 118 provides definite improvements to the current Ontarians with Disabilities Act, 2001, and we are pleased that all parties voted in favour of Bill 118 in principle.

Our recommendations: The CNIB has reviewed Bill 118 in its entirety, and we support the objectives and content of the proposed legislation. We have identified a number of specific areas where we feel that amendments would be appropriate to help the bill meet its objectives or where clarification is required.

First, timelines: The CNIB attended the readings of Bill 118 at Queen's Park and realizes that there was considerable debate over the 20-year time frame to have full accessibility in Ontario.

We recognize that it would be desirable for the full benefits of Bill 118 to be realized within a reduced time frame. We also acknowledge that making Ontario truly accessible to all persons with disabilities will require considerable planning, time and investment. As well, the attitudinal and cultural shift that must also be accomplished will be a huge undertaking. Therefore, our organization can accept the long-term time frame proposed by the government. However, there must also be guarantees that real, measurable progress toward achieving the objectives of the AODA is made expeditiously.

It is reasonable for the legislation to mandate short-term goals and deliverables. For instance, it is recommended that the legislation be amended to create short-term time frames requiring the fulfillment of the following actions required by the AODA: (1) timelines for the appointment of standards committees; (2) mandated time limits for the government to respond to and act upon the recommendations of a standards committee; (3) deadlines for the filing of accessibility reports, based on a reasonable time frame following the enactment of legislation; (4) time frames for the implementation of enforcement mechanisms created under the act, such as the hiring of inspectors and creation of tribunals; (5) time frames for the filing of regulations under the act.

To ensure that the effectiveness of the AODA is preserved within this long-term 20-year implementation framework, the CNIB also recommends that a mandatory review process be established to monitor the progress of the legislation, measure its effectiveness and review its timelines. We recommend that the appointment of a committee or officer be legislated for this purpose of producing an independent review of AODA progress on a regular basis.

Second, private sector application: The CNIB supports and applauds the government's expansion of the appli-

cation of mandatory standards to the private sector. We understand that the intention of the bill is that accessibility standards should apply to all public and private institutions, including private business. Therefore, we believe that the act should specify that manufacturers and other industrial sectors are included in the act, as is the case for retailers and service providers.

Third, standards committees: We support the principle of appointing standards committees to conduct the work of developing accessibility standards by sector. We are further pleased that representation from all affected stakeholders will be required on these committees. It is extremely important that persons with disabilities and agencies with specific expertise are able to participate in this process. CNIB is pleased to offer its expertise and knowledge in the development of accessibility standards, particularly as they relate to blindness and visual impairment.

To ensure that the full scope of the bill is open to public scrutiny, it is desirable that the specific sectors for which standards committees will be appointed are defined, if not in the legislation, then certainly by regulation. Such designation of sectors is currently absent from the bill.

It is also in the public interest that the specific procedure for the development of terms of reference for the committees' memberships, appointment processes, mandates and decision-making procedures be legislated. Currently, it is only required that the minister create a procedure.

Following the excellent example set by the government in creating the bill, we recommend that the work performed by these standard committees be open and transparent to the public and that the legislation require these committees to publish reports on at least an annual basis. Currently, it is required that only the minister be provided with periodic progress reports. "Periodic" is not defined.

We feel strongly that there is no need for standards committees to reinvent the wheel when developing sector accessibility standards. There are already many examples of universally accepted standards that can be adopted and applied to the Ontario marketplace. Examples of such standards are:

—World Wide Web Consortium accessibility initiative standards for Web site accessibility;

—Voluntary standards for customer service developed by the Canadian Standards Association could also be implemented quickly and with relatively few costs to the private sector;

—Canadian Standards Association barrier-free design standards for built environments addressing sensory disabilities;

—International Federation of Library Associations standards for the provision of library services for people who cannot read print due to disability.

Standards for the production of alternative format materials should be adhered to in order to ensure equitable access to services. For example:

—Digital Accessibility Information System—that's DAISY—is an internationally recognized standard used in the production of audio materials;

—The Braille Authority of North America is recognized as the standard for Braille production.

—There are additional industry standards for large-print and electronic text production. There are additional examples that apply to other sectors. Using agreed-upon existing models for accessibility standards as a basis for the work performed by these committees will expedite the removal of accessibility barriers.

Fourth, uniformity: The CNIB believes that it is in the public interest for there to be only one legal standard for accessibility. Professional guidelines and standards should not contradict or obstruct the application of AODA standards. There should be no confusion for businesses, municipalities and consumers in this regard.

To this end, we recommend that the other legislation affecting accessibility be harmonized with the AODA. Bill 118 should specify that accessibility standards developed under the AODA take precedence over other legislation, such as the Ontario building code and the Planning Act.

Exemptions: We wish to receive clarification of the intent of sections of the legislation that empower government to draft regulations to create exemptions to the act. Obviously, there are concerns about the implications of how such an exemption might be applied. For instance, would exemptions apply only as incentives for organizations that exceed standards, or would there be other circumstances under which an exemption could be granted? It would be beneficial to receive examples of circumstances under which an exception might be granted.

Transition: Bill 118 prescribes the repeal of the existing ODA. While we certainly support this objective as a long-term goal, we do not desire a potential situation where Ontario would be left without any accessibility standards in the short term while the AODA is gradually implemented. Therefore, we endorse the development of a transitional plan allowing for the eventual phasing in of the AODA as short-term objectives are achieved.

In conclusion, the CNIB would like to thank the standing committee on social policy for the opportunity to provide our perspectives on Bill 118. The CNIB commends the government of Ontario, the Ministry of Citizenship and Immigration and in particular the minister for their hard work over the past year in bringing this important piece of legislation forward. We continue to support Bill 118, and we offer our help in advancing the principles of this legislation in the years to come. Thank you very much.

**The Chair:** Thank you. We have a minute and a half for each party. The PC Party will start.

**1510**

**Mr. Jackson:** Bill, thank you for being here today. I'll explain my absence. I'm trying to organize my father-in-law's access to a long-term-care bed and I've been chasing a doctor all day. If I don't stay on him, my father-in-law is going to languish in a hospital.

**Mr. Laidlaw:** I understand.

**Mr. Jackson:** That's what I've been doing, but I wouldn't slight one of my constituents, nor the CNIB.

You have a very thoughtful brief, and we had to listen intently because we didn't have it in front of us. We do now. I'm pleased you raised the issue of the transitional plan requirements. One of the reasons is that today we found out through the ministry and the minister that there are no regulations being planned or implemented, no review, no standards being set or sought, as required under the ODA, which empowered the Accessibility Advisory Council to do that.

Even more of an indictment is the fact that all references to the government of Ontario and its accountability for the act have been removed. There isn't even anything tying the Ontario government's ministries specifically to the access plans—just the exemption, as you say.

Are you concerned that we no longer require ministries to report accessibility plans in the province, which the minister confirmed is the case?

**Mr. Laidlaw:** Well, it's the first time I've heard about it, so we'd like to give it some more thought. But upfront, it does sound like a concern and it's something we'd like to discuss with the minister.

**The Chair:** Ms. Martel.

**Ms. Martel:** Thank you for being here today. This is twice in about two weeks. As the New Democratic Party has said, we were concerned about the timelines, so we'll have to agree to disagree about the long-term one. Someone raised with me earlier today that there should be a timeline for the filing of the regulations around the standards and the actual implementation of the standards themselves so that it's very clear that they don't just become regulations but there's a time frame within which the work has to start to occur. Do you agree with that?

**Mr. Laidlaw:** Chris, do you want to handle that?

**Mr. Chris McLean:** I believe the CNIB, when we were reviewing it, were concerned that there is an absence of short-term timelines in the bill. I think, as part of accepting the long-term goals and the long-term timelines of this bill, that there needs to be something in place to keep things moving along, that the enforcement mechanisms are there to enforce the bill, that the standards committees are there to set the standards, and currently those are absent from the bill. I do believe there should be some room for amendments for putting those short-term deliverables in place.

**The Chair:** Ms. Wynne.

**Ms. Wynne:** Thanks for coming today. I just wanted to make a comment, first of all, on the issue of the reporting requirements. Regulations that are in place are not being repealed, so the requirement of government and the public sector to continue to implement changes and to be more accessible will stay in place. Those—

**Mr. Jackson:** Point of order, Chair.

**Ms. Wynne:** In fact, we are not—

**The Chair:** Excuse me. A point of order has precedence. What is the point of order?

**Mr. Jackson:** If the member is responding to the question that I raised, I said the legislation is being re-

pealed. There are no regulations. I just want to clarify that.

**Ms. Wynne:** OK. The legislation is not being repealed in one fell swoop. As the AODA comes in place, then the ODA is repealed.

Bill, you talked about the need for the wheel not to be reinvented and that we draw on the community and the standards that are already being developed. Is there anything that either of you sees in the legislation to suggest that that's not going to happen? My understanding is that the input from folks like you, who really understand accessibility, is exactly what we're drawing on.

**Mr. Laidlaw:** Chris, do you want to handle that?

**Mr. McLean:** There is nothing specifically in the legislation that suggests that won't take place. We're trying to make sure the government does proceed in that fashion. We believe that to achieve the short-term goals, the government should be using the expertise that's already out there, and we're encouraging you to look to those existing guidelines and standards that have had a lot of work done on them already as a guidepost for the works of the standing committee.

**Ms. Wynne:** I just want to reassure you that the reason we've got the sector on those committees talking about the standards is just that, so that we take as little time as possible to develop those standards.

**Mr. McLean:** The CNIB would love to be a part of that process as well.

**Ms. Wynne:** And the CNIB, I'm sure, will be.

**The Chair:** Thank you very much for your presentation and for your comments. Have a good afternoon.

#### CANADIAN MENTAL HEALTH ASSOCIATION, ONTARIO

**The Chair:** The next presentation is from the Canadian Mental Health Association. Are they present?

Please have a seat, sir. You have 15 minutes in total. I would ask that you make your presentation as slowly as possible so all of us will be able to appreciate it. Please proceed.

**Mr. Neil McGregor:** Thank you. My name is Neil McGregor and I'm a volunteer with and the president of the Canadian Mental Health Association, Ontario. Here with me is Mary Ann Baynton, director of Mental Health Works, an initiative of CMHA Ontario. We appreciate the opportunity to speak with you today.

CMHA Ontario, a registered charity incorporated in 1952, is committed to improving services and support for people with mental illness and their families and to the promotion of mental health in Ontario. CMHA Ontario is active in advocating for appropriate community-based mental health services, housing, income and employment supports for people with mental illness and their families.

An initiative of CMHA Ontario, Mental Health Works is concerned with supporting people with mental illnesses, such as depression or anxiety, in their workplace, as well as supporting their colleagues and employers. This support particularly focuses on helping employers

and employees to identify and remove barriers to people with mental illness and improving their workplace performance.

CMHA Ontario and Mental Health Works applaud the leadership of the Ministry of Citizenship and Immigration and strongly support the Accessibility for Ontarians with Disabilities Act. This is an excellent step toward full accessibility for all Ontarians, and the minister and her staff are to be commended for their hard work and perseverance.

Our purpose in preparing this presentation is to draw attention to mental illness as an invisible disability. In some ways, mental health problems present a unique challenge to this act. Barriers to people with mental illness are both attitudinal and environmental, and for this reason can be difficult both to identify and to rectify. However, barriers can be overcome. At CMHA Ontario, we are committed to a recovery model which focuses on potential for people with mental illness to lead full, productive and engaged lives in their homes, workplaces and communities.

To understand how significant it is that mental health issues are reflected in this legislation, it is important to understand the extent of mental illness in Ontario. One in five Ontarians will experience a mental illness in their lifetime. One in eight will be hospitalized for mental illness at least once in their life, more than are hospitalized for cancer and heart disease. These illnesses include depression, anxiety and phobias, and are very common. Depression will rank second only to heart disease as the leading cause of disability worldwide by the year 2020. Most people with depression are diagnosed in their prime working years, between the ages of 18 and 64.

Mental illness is in some ways a unique form of disability. Because it is invisible, it is often easy to overlook the associated barriers. Yet we know that thousands of Ontarians are currently experiencing mental illness and the limitations on their full participation which are often the result.

Mary Ann will pick it up from here.

**Ms. Mary Ann Baynton:** Thank you. Mental Health Works actually exists because of the Ministry of Citizenship and Immigration, which financed the research and development of this program. It really is because in most workplaces, issues around mental health, including depression or anxiety, are often mistaken for personality defects or character flaws or poor attitudes. When we present, it's almost inevitable that people line up afterwards and tell us about their experiences and their fear of talking about these issues in their own workplace. They fear the stigma, they fear the discrimination, and they fear job loss. They think they need to push themselves through this illness instead of getting the help and support they need.

We know that these types of illnesses—depression and anxiety—often affect the brightest of the workers in the workforce and that there are ways to support them. The accommodations that we put forward for people with mental illness cost on average less than \$500 a year, and

yet the cost of not addressing these issues is in the billions.

**1520**

So what we want to put forward—we have seven recommendations, but what they really boil down to is, first of all, to debunk the myths and the stereotypes around mental illness, that we're not talking in the workplace about severe mental psychosis. We're often talking about illnesses that we could all be subjected to at any time. We want to make explicit what is implicit in the act.

The other issue is workplace accommodation training. You'll see we made an analogy to WHMIS, the workplace hazardous materials training, that the training that's necessary for people to open up discussion and address this properly should be mandatory, in the same way that workplace hazardous materials training became mandatory.

It wasn't that long ago—and I know, because I remember it—that the word “cancer” was so stigmatized that they called it the C-word. People wouldn't tell their bosses that they had it because they were afraid of job loss. Mental illness is still that way today. People are afraid that they'd be overlooked for promotion, for training opportunities, for involvement in projects. Our hope is that we can change this, that we can bring it out of the darkness and into the light, and that this so-called invisible disability—again, I say that because it's often confused with other things—can be discussed openly.

**The Chair:** Thank you for your presentation. We have about nine minutes, about three minutes each. I believe it's the Liberals now. The Liberal Party, the PCs and the NDP—three minutes each, please.

**Mr. Parsons:** Thank you for coming here today. Individuals with mental illness face an awful lot of barriers, but certainly, in my community, when we talk about making accommodations accessible, we tend to think of mobility issues. Yet I think society's afraid of individuals with mental illness. It's not a dislike; it's a fear because of lack of understanding. We can overcome the barriers for accessibility, from the viewpoint of mobility. How do we overcome the barriers for accommodation, for rental housing, for individuals with mental illness?

**Ms. Baynton:** Thank you for that question. The issue is not bricks and mortar, as you've alluded to. The issue is in communication, in understanding, and in the workplaces, it's effective performance management to help someone get a job done in spite of a mental illness. It really is about a new understanding. One of the things that we do is, when I go out to do talks to workplaces, I bring people who have lived and worked with mental illness. It's always interesting because the reaction is, “Well, you look like me. You look like a ‘normal person.’” It helps people to break through that stereotype to see that it is an illness that is episodic and can affect people and that they can get well again.

The other issue—and it's to do with the fear—is for people to understand that people with mental illness are no more likely to be violent than the general population.

It is unfortunate that every time someone is violent, we say, “Well, they must have been mentally ill,” and it’s not true.

**Mr. Jackson:** Thank you very much for your presentation. Earlier, the teachers’ federation was here, and they talked about collective bargaining the rights issues. I didn’t quite get all of it. I thought they were talking about children. I now realize they were talking about teachers, and as someone who’s bargained teachers’ salaries for 10 years, I remember putting in all sorts of benefit packages to protect teachers to ensure that they weren’t shown the door because they had depression and so on.

So you have suggested in your brief that you’d like a sectoral standards committee established for mental health. Have you had any feedback from the government that they’d be willing to consider that?

**Ms. Baynton:** From several different departments in every level of government, that they’re very interested in—

**Mr. Jackson:** That’s not what I asked you. Have you had any feedback that they would be willing to give you the concession that there would be a—we know from the minister that the first one she’s going to designate is hospitality to deal with McDonald’s and Burger King, the second one is going to be hotels and the third one is transportation. There isn’t a whole lot of mental health in there. I’m asking you, have you had any confirmation or consideration? If not, would you like us to put that in the legislation so that mental health concerns are protected?

**Ms. Baynton:** Sure. Go for it.

**Mr. Jackson:** You may want to comment. I met with the Human Rights Commissioner, Mr. Norton. We were discussing specifically those employment issues around mental health and discrimination that he has a large number of cases on. He has written this publicly, so I’m not doing this out of turn: His concern was that there’s no real appeal mechanism or mechanism by which you can pursue that—in this case, in a non-unionized environment—where your union will protect you through their collective agreement.

**Ms. Baynton:** Exactly. Yes, that’s what we were talking about. We’d like to make it explicit. We’d like to have that committee, because there isn’t a lot of knowledge about how to accommodate people with mental disabilities. We have that knowledge, and we’d like to share it.

**Mr. Jackson:** But you want an arbitration or mediation process that doesn’t throw you into the Human Rights Commission for two and a half years; you’re looking for something that says, “Here’s what the AODA says. This isn’t being done. Here are our remedies. Here’s how you can get either compensation, which is what happens with the Human Rights Commission, or go to the Labour Board, where you’ve been wronged and it’s a form of discrimination.”

**The Chair:** Can you quickly answer and then I’ll move on, please?

**Ms. Baynton:** All of that, but most importantly, that we can find a way for the workplace to change to accommodate that person to be productive.

**Ms. Martel:** Thank you for being here today. I have a couple of questions. Point number 4: You talked about being able to ensure that people with mental illness are able to participate fully in the process and that the government should consider travel, child care and days away from work as costs that should be covered to participate. That’s correct?

**Ms. Baynton:** Yes.

**Ms. Martel:** I raised that this morning, and I hope that the government will consider that. I think that the work that’s going to be going on, especially if it goes for five years—and I hope it’s not that long—is a substantial commitment, and people should be compensated and the supports put in place to allow them to participate.

Point number 5: “To accelerate the time frame to barrier removal and ensure there is an interim system by which barriers to people with mental illness can begin to be identified...” Can you tell the committee what you mean by that? Are you concerned with the 2025 time frame?

**Ms. Baynton:** There are a lot of people who looked at that and panicked, but we think that there are many standards and barrier removals that are cost-effective or cost-free that could be implemented sooner. That’s really what we’re asking: where it’s possible, to implement as soon as these are recognized and identified.

**Ms. Martel:** Can you give the committee some examples, please?

**Ms. Baynton:** For instance, they know that the way that workplaces do mediation for people with mental health problems does not provide a level playing field. It’s an intimidating process. We have developed a way to do the accommodation, mediation that levels the playing field for people with mental health issues. That could be introduced right away, instead of in five years.

**Ms. Martel:** Into workplaces?

**Ms. Baynton:** Right.

**The Chair:** Thank you very much for coming. Have a good afternoon.

#### BEYOND ABILITY INTERNATIONAL

**The Chair:** The next presentation will be from Beyond Ability International. Are they present?

Please have a seat. Could I remind you to pace your presentation so that we can all appreciate your presentation? Thank you.

**Mr. Gerald Parker:** I have a laptop here with the presentation on it that the clerk is aware of.

**The Chair:** Proceed any time you are ready, sir.

**Mr. Parker:** Would this not be able to be put up on the screen?

**The Chair:** Madam Clerk, could you assist the gentleman?

You have 15 minutes total. Whenever you are ready, just go ahead.

1530

**Mr. Parker:** First of all, I will do a quick introduction. My name is Gerald Parker. I’m the president and CEO of Beyond Ability International. I have had the

pleasure of working with some of the best and brightest out there, including many municipalities across Ontario, during the course—

**The Chair:** Sir, could you just slow down a little, please?

**Mr. Parker:** Sure. I've had the pleasure of working with many municipalities across the province during the implementation of the Ontarians with Disabilities Act. I was involved in the Helios project with the European Commission over 14 years ago now. I have also worked with some of the brightest out there: the American Automobile Association, the largest travel facilitator and publicist in the world, with 8.3 million members who have declared disabilities. I understand the demographics of the maturing of our population, and as a Canadian and a person who headquarters here in Ontario, I'm glad to say that we, as Ontarians, are moving into a new era as it pertains to people with disabilities.

There is a lot we can learn, however, and not only from what we have done during the course of the last two years, with accessibility plans being required and being written and developed by the various municipalities and other required sectors. There is also legislation in its existing form that needs to be brought into context as it pertains to the education of technical professionals and policy-makers, to the education of our children in schools and also as it pertains to the education of those involved in the building of our buildings and the provision of our services. There are a lot of very good examples we can learn from that.

About four years ago, I did some work with the city of Guelph. As anyone knows, the city of Guelph is without a doubt one of the best and brightest in providing accessibility to its citizens. We worked with the council in order to reduce what were perceived myths of costs that were well beyond \$10 million.

One of the issues we have to contend with is that we have to learn from the Americans with Disabilities Act and its primary failure; that is, there were not professionals in place—whether it be an architect, a planner or someone purchasing IT equipment—to make good decisions and to spend money wisely. The process or the capacity was not there. We can learn from that experience. What Guelph brings out is that, indeed, with competent people with the right information, good decisions can be made, money can be saved and more people can be served.

I'm here to talk about primarily four things today: education, technical and legislative congruency, funding, and empowerment to change.

Education: As we well know, we're here with the ODA and the AODA before us because this government considers people with disabilities and our maturing population a very significant consideration.

**The Chair:** Mr. Parker, please slow down a little in your presentation. Thank you.

**Mr. Parker:** OK. It's such a short time, though. I've got so much to talk about.

**The Chair:** You have 15 minutes in total.

**Mr. Parker:** I learned a long time ago, as a friend told me, that legislation does not necessarily change minds; it just constrains the heartless. I think, as it comes down to human rights issues and understanding the fact that we do have a Charter of Rights, which was implemented in 1982, and the Human Rights Code, that what should be governing our jurisdictions and our activities now has not necessarily been adhered to. So we have to learn that lesson and understand that minimum standards, whether under regulation or otherwise, are not working. We need to understand that, as we are here to improve the reality for people with disabilities and to improve the identification and prevention and removal of barriers for people with disabilities, certainly we are here to know what those barriers are all about. I'm going to give you some examples right now of how existing legislation, even in its proposed form, will play out and continue to create new barriers.

This is a newly leased municipal facility bound by the ODA in its rental and its provision of services. Its interior has been completely gutted and renovated. Unfortunately, as the arrows on this picture at the front of the building illustrate, there is between a three-inch and an eight-inch threshold—that is the building code versus the Planning Act, building permits and what's governed by that. You have a perfectly accessible building being utilized by a mandated sector, but unfortunately the result, due to the lack of process, appreciation and education on these issues, is a continued barrier that is built. This, ironically, is the primary location for all parks and rec program sign-ups.

Architectural barriers right now within a building or coming to a building: the parking; the curb cuts; everything that leads to that building—the path to travel to it and through it, the entrances, the width of the doors, the weight of the doors, the timing of the doors. You can go into the area where perhaps grandma and grandpa, as an increasing part of our maturing population, would like to sit and watch their grandkids play hockey, but they can't at this time because that's not being considered.

Change rooms that need to provide for increased accessibility considerations—this is for most of us, as by the year 2040, 40% of our population will have some degree of accessibility consideration.

Pool lifts are not mandated, but in a demographically maturing population where hydrotherapy is one of the primary means of rehabilitation and preventive maintenance, that's not covered off. I could continue on that one for a long time.

Informational barriers: We've got a picture here of a Leafs fan who is a skeleton, waiting for the Stanley Cup to arrive—apparently, he may be there a little longer. The point here is memos, the way we conduct our business, the clerk's office, alternative formats, the formatting on a Web site, which was referred to before by the CNIB in regard to proper scripting and platforms.

Communicational barriers: We in this room today are communicating through a sign-language interpreter. Others may require other forms of interpretation, closed-

captioning etc. The good people at the Legislative Building have provided that for us, but I challenge you to go to most council hearings across the province. You will not find the benefit of these provisions.

Here is a great sign. It's all properly tactile, contrasted and raised, but it's right at the back of a door. A person who is looking at that sign and who requires the use of it will have a door opening into their present position. Liabilities are at stake as well.

Attitudinal barriers: It doesn't matter how accessible your location is if people are not educated in providing proficient, effective and cost-effective servicing. The person behind this desk could simply get up with a clipboard and walk to the fore and be able to provide a very important yet interim solution to a long-standing problem.

Technological barriers: TTYs that perhaps enabled someone to talk to the good clerk in coming here; listening systems that perhaps we may be employing today, FM or infrared listening systems for people who are deaf and/or hard of hearing; reading and illustration devices; entrance and security devices—automated doors and card swipes. All these kinds of things are not covered by existing legislation.

Emergency notification devices—strobes and that kind of stuff, emergency traffic controls and sensors: This has been a pretty hot topic recently around folks in my circle. What do we do when an emergency vehicle comes to an intersection where we've put in sensors and remote controls to enable them to get through that intersection at a higher rate, obviously to help someone, yet someone who is deaf or hard of hearing, perhaps even blind, may not hear or see that vehicle coming and, I hate to say, it being too late. These are competing interests that we have to consider.

Policies and practices: There are a lot of them, and I'm going to show you one example, one particular topic where policies and practices come into play. Give me one moment.

#### 1540

In order to deal with this education, in order to advise people to be able to provide for our professional persons—architects, planners etc.—to be in the know, we have to start with our children and include that within the curriculum of our school systems more actively than we are now. Post-secondary professional degrees and accreditations must integrate accessibility planning and policy content into curriculum and accreditation requirements.

Is anyone here an architect? Anyone in the building an architect? Do you know how long an architect spends on going through barrier-free design during the course of their post-secondary education? Eight hours of instruction for what is presently almost 20% of our population. That is woefully inadequate. We need to enable people to think around these problems and provide cost-effective solutions.

Public services or service industries must have industry-specific educational programs and resources provided and actively engaged. They have to be specific

to their industry. Public services bound by the AODA must engage and integrate accessibility training into employee orientation, much like my former colleague from CNIB and I think Canadian Mental Health also said, much like the health and safety act. We need to do that. We need to enable people as they walk in the door of new employment in the public sector; that's what this is all about. We need to require public facilities and operations to have a posted accessibility policy, much like our Human Rights Code etc. We also need to ensure that all of these means are being communicated effectively through accessible formats and means.

This is the most important discussion in this entire presentation. Technical and legislative congruency has been a point of contention and a point of much discussion by myself and many of my colleagues, who have been at this for a long time. I've personally been at this for 18 years, and we still haven't found a perfect solution, but we can learn from others' experiences to be able to bring forward some amazing resolutions or solutions. Technical and legislative congruency between the building code, the Planning Act, the Highway Traffic Act, the Municipal Act and now Bill 145—and I would encourage those who are not familiar with it, although I don't have the time now, that you very much need to get up to speed on it, because it's going to change the context and the liability as is perceived to any injury that is undertaken or a result of a lack of governmental action.

This is one topic, by name and by profession, perhaps—my mom used to be a traffic cop, my last name is Parker, and my father is a judge. I understand that parking for people with disabilities is probably one of the most contentious issues from so many perspectives. Here we have the Highway Traffic Act that requires signage under regulation 581. We also have the Planning Act, perhaps, and other acts that say we should have curb cuts and other amenities in place. The reality is, that parking spot has been put in devoid of other considerations, rendering it a hazard because this person literally has to go almost one block down a very busy street to find a sidewalk they can even get up on. So there's that consideration. When you're dealing with off-street parking, where it's provided, how it's provided, the dimensions that it's provided with, what it's connected to and the signage being in place are all important elements.

As a member of the AMO task force on municipal parking programs back in the early 1990s, we came up with a couple of really intuitive and pretty important ideas. This little sign that I'm showing you right now was implemented in the city of Brampton and is now being endorsed by Mississauga, Cambridge and a number of other municipalities that we've worked with. This states the maximum fine rather than a set fine; \$5,000 is a bigger number to be fearful of as a deterrent than \$300 or perhaps, as was the case with that past picture, \$50. Having an enforcement number in this day of cellular phones and very responsive and very appreciative, sensitive, trained staff put the time of this individual getting tagged out at approximately one and a half

minutes. They take their job very seriously in Brampton, and rightfully so. This sign here, innovative thinking, can move over a lot of these issues.

Proper maintenance, snow removal: When these parking lots are demarked and then changed out for whatever reason, we need to ensure that.

Lawfully signed: I know from the AMO task force that every property that is governed by the Municipal Act was required to have accessible signage in place no later than November 1, 1991. It's 2005, folks. Why are we still having this discussion? These are existing pieces of legislation. Ironically, to the left of this sign, it tells you how to defend that very spot.

We have to consider this in context of how we can overcome some of these existing issues. I want to very quickly go to my last slide, if you don't mind, if I may beg the Chair's indulgence.

**The Chair:** Thirty seconds, please.

**Mr. Parker:** We have to:

(1) Get a development charges amendment in place, as AMO has put forward. We also need to clarify within the bill and publicize that accessibility is a constitutional right and a transcending obligation. We need to clarify and buttress the economic impact and penalties of non-compliance. Our tourism industry has suffered enormously as a result of these inadequacies.

(2) Require proactive engagement of the standards development committees, the Accessibility Standards Advisory Council and the accessibility committee. Talk to these people before it's too late, or lots of mistakes will continue to happen.

(3) Develop and require primary, post-secondary and industry education programs, content and criteria pertaining to accessibility.

(4) Require all public operations to prominently post an accessibility plan.

(5) Amend the Development Charges Act to fund accessibility and factor it into all new infrastructure—this is an incredibly innovative and revenue-neutral means of dealing with it—and fund this where it should be: in the infrastructure, not as an afterthought.

(6) The last point is that we need to fully integrate the conventional public transit systems, regional specialized services versus municipal services—a \$24 ride versus a \$2.50 ride, and increased dependency upon a door-to-door ride when it's not necessary. We need to give the municipalities the funding to integrate their conventional systems.

(7) The very last point is to seek technical and legislative congruency between the Highway Traffic Act, the OBC, the Planning Act, the Municipal Act and now Bill 145.

**The Chair:** Thank you, Mr. Parker, for your presentation.

#### NATIONAL BROADCAST READING SERVICE

**The Chair:** The next presentation is from the National Broadcast Reading Service. Are they here?

Sir, when you start the presentation, you will have a total of 15 minutes. I would ask that you keep in mind that we have some people here with disabilities, so could you speak a little slower so everybody will be able to appreciate your presentation. Please proceed whenever you're ready.

**Mr. Bob Trimbee:** Good afternoon. We wish to thank the committee for this opportunity to present our views on Bill 118, legislation we would like to see become a model for all provinces. In the coming days, you will be privy to the views and suggestions of many individuals and organizations. While we are supportive of much of what they say, our comments today flow from our ongoing and specific activities. For that reason, I am here today as the president of the National Broadcast Reading Service.

NBRS is a unique, non-profit organization set up 15 years ago to, as our vision statement says, reduce media barriers faced by vision- and print-restricted Canadians. Included in this surprisingly large but underserved demographic are people who are blind, who have low vision or who have a physical or learning disability. A significant percentage became vision- or print-restricted due to diseases and impairments associated with aging, such as diabetes and strokes.

#### 1550

My five NBRS associates this afternoon: on my far right is Katita Stark, chair of our volunteer board of directors. Next to Katita is Geoff Eden, former NBRS vice-chair. Beside Geoff is Arlene Patterson, NBRS general executive. By Arlene is Stephen Trumper, NBRS ombudsman. On my immediate right is Anne Musgrave, an NBRS board member.

**Ms. Arlene Patterson:** Good afternoon. I'd like to start by saying that NBRS supports the principle and purpose of Bill 118: the elimination of barriers to accessibility across Ontario. We would, though, like to draw your attention to a barrier that is often overlooked—a communications barrier; specifically, the barrier that prevents up to two million Ontarians from enjoying and independently accessing current information from such sources as newspapers, magazines, Web sites, and, yes, even government documents such as the ones that have been and will be produced by this committee.

If Bill 118 is to make Ontario a truly accessible place, then the information needs of all Ontarians must be met.

As a Senate report on the media stated last year, "News matters. No real democracy can operate without informing people about the way their society works, what is going well and, perhaps more important, what's not going well and needs to be improved."

There is no argument; information impacts every decision citizens make.

Since 1990, our enterprise has been Canada's leading provider of published news and information for, according to Stats Canada, 3.2 million Canadians who cannot independently access printed materials. That is why in licensing an independent audio reading service, the CRTC described its action to be "not only in the public interest but a matter of national importance."

VoicePrint, a division of the National Broadcast Reading Service, reaches eight million Canadian homes, almost half of which are in Ontario. The content, read by hundreds of dedicated volunteers, is primarily comprised of full-text versions of articles published by English-language newspapers, both daily and community, as well as magazines and specialty periodicals. Increasingly, VoicePrint is offering its help to governments and corporations which engage us to read and distribute important printed information that needs to be available to all citizens. For example, within the last two years, Elections Ontario, Elections Canada, Indian Affairs and the Royal Bank have contracted us to broadcast essential information on our round-the-clock audio service.

**Ms. Anne Musgrave:** I'd like to move on to what Mr. Trimbee spoke to earlier: our thoughts regarding Bill 118.

(1) We believe there should be a provision that ensures that all efforts to provide accessibility for persons with disabilities in Ontario should respect and be sensitive to the particular disabilities themselves. For example, expecting that notices of proposed standards be posted on Web sites is not meaningful to most persons who cannot access print. Therefore, regulations yet to be established should clearly place the government in a leadership role in making sure all communications to the public will be accessible instantly to persons with disabilities. We urge that proactive communications standards be immediately implemented to enable and maximize participation by persons with disabilities, especially those who are print-restricted.

(2) We believe there should be a provision that where services are required to facilitate accessibility under the bill and more than one person or company offers to provide such services, services provided by persons with disabilities or companies that employ the services of persons with disabilities should be given preference so long as they are provided on a competitive basis. It is only through such an approach that the legislation will endure as a meaningful expression of the need to encourage Ontarians to work toward true accessibility.

(3) We are concerned that section 33 of the bill provides for incentives where persons or companies can get into agreements whereby they would not be required to give an accessibility report or submit information, documents or other reports. We urge that great care be taken to ensure this is not construed to mean that persons or organizations entering into such agreements are in any way exempt from any accessibility undertakings. As well, they must be required to communicate their accessibility activities to the public, including those unable to access print or visual media. It is our view that no municipal or provincial government, agency or commission should be permitted to enter into any exempt agreement.

(4) We note that the bill applies to both the public and private sectors and it specifically applies to the provincial government. Therefore, it applies to TVOntario. We would like to point out that commercial broadcasters are required by the CRTC to provide what is called "de-

scribed programming"; however, TVO does not. This situation can be remedied as early as tomorrow morning without the need to undertake costly technical upgrades. To those on the committee unfamiliar with this term, video description does for people who are blind or low-vision what captioning does for people who are deaf; that is, make on-screen entertainment and information more accessible. AudioVision Canada, a division of NBRS, is a leading provider of video description services, having done description for such productions as *To Kill a Mockingbird* and *The Greatest Canadian* series.

We've left an example of how educational and children's programming can be enhanced through video descriptions.

Thank you. Now, Stephen Trumper.

**Mr. Stephen Trumper:** We'd like to offer two suggestions on how NBRS can assist in the discussion and implementation of the goals articulated in Bill 118.

(1) We note that the bill provides for the involvement of persons with disabilities, the government of Ontario and representatives of industries and various sectors of the economy in the development of accessibility standards. However, there is no guarantee that the information will be made instantly accessible to people who are vision- or print-restricted, the very people who must know about such accessibility standards. We suggest that the committee consider making use of voice print to communicate information to vision- and print-restricted Ontarians, something we can do both on our broadcast channel and through our growing network of Internet-based local broadcast centres.

(2) We note that under section 12 of the bill "the minister may retain, appoint or request experts to provide advice to a standards development committee." NBRS is ready to provide expert assistance on an ongoing basis to each SDC. We could, for example, provide advice and help on how information relating to each committee's activities might be communicated to persons who cannot access print or cannot access film and TV messages. Thank you.

**Mr. Geoff Eden:** Good afternoon. We live in a complex society. In that society, every decision we make rests very strongly upon the quality of information we have at hand. Each day we make 100 or more decisions and look for different choices based upon information. I put to you, can you imagine choosing a meal in a restaurant without being able to see or read the menu? For some people, a short trip might require having good knowledge about the pathway to a location, whether that path is clear and safe and whether the location itself is accessible.

The other issue we have to deal with is the fundamental needs of our democracy. Many of us who wish to participate in democracy need to know whether the polling booth is accessible. We need to know whether the process is accessible. We need to know about the candidates. We need to know about the points of view of the parties in order to participate fully in that process. It is our opinion that any legislation and regulations that

come out of Bill 118 have to address some of these issues in order that we assist those people who operate now in their attempts to try to overcome and deal with this horrendous information deficit.

1600

**Ms. Katita Stark:** As chair of the volunteer board of directors, I'd like to thank you for the opportunity to present today our opinions on the bill. I'd also like to reaffirm our mandate, which is to partner with public and private entities to reduce barriers to information. Are there any questions?

**The Chair:** I thank you for coming down and staying within the time. Thanks very much for your presentation.

#### HÉLÈNE MOGYORODI

**The Chair:** The next presentation will be from Héléne Mogyorodi.

Ms. Mogyorodi, you will have a total of 15 minutes for your presentation. I would ask that you make your presentation in a way that everybody can appreciate it.

**Ms. Héléne Mogyorodi:** Absolutely; thank you. My name is Héléne Mogyorodi. I'm here to talk about autism and a mother's viewpoint. Do you have copies of my presentation?

**The Chair:** Yes, we all got it.

**Ms. Mogyorodi:** On the front cover, there's a good reason why there's a clock and some paperwork. I feel like the clock is ticking and our children are in deep trouble. We're buried in legislative arguments and arguments with teachers and school boards and Ontario human rights.

The content is: why I'm here, what autism is—I don't think people understand it—and what I think the impacts on our families and society are today and in the future. Then I'd like to talk a little bit about Bill 118. I did see Norrah this morning. She doesn't believe that Bill 118 has the teeth to help our kids. I'm not a legislator; I'm a parent. I hope to God that somebody puts the teeth in there to help our children.

Let me go to what I'm here for: my seven-year-old son. His name is Sam. He's got an excellent prognosis with the right support and therapies.

I'm going to do a really brief description of what autism is. On the left-hand side you see Webster's description, which is, "A psychiatric disorder"—I believe it's a neurological disorder; I disagree with Webster's—"of childhood characterized by marked deficits in communication." It's not a childhood illness. It lives with you for life. It is found in childhood.

Another difference is the preoccupation with fantasy. How do we know these kids are preoccupied with fantasy? I don't believe that either. I live with my child and I wish he did fantasize.

Something I've added is obsessive compulsive behaviour, another thing that we have to live with. It is not usually associated with intellectual impairment; it is sometimes associated with mental impairment. Approximately 50% of children have absolutely wonderful brains that are being wasted.

I don't know if you know who the person on the left-hand side is. The right-hand side is obviously Sam, but the left-hand side is Helen Keller. I wanted to bring this to your lives. Everybody has seen the Helen Keller movie. She was born more than a century before my son and when she was born, she was a totally normal child, just like my son. At about the age of 19 months, she developed an illness and became deaf and blind. At about two and a half, my child developed an illness of some kind, and it was gradual. Although he can physically see and he can physically hear, he cannot comprehend what he's seeing and hearing.

We go to the wild thing, next. This is a little bit emotional for me. At the age of three and a half, Sam was so violent and self-abusive, he had a permanent bruise on his forehead from beating his head on hard objects, including concrete floors. He was exceedingly violent toward me. I had scars from bite marks, my nose was cracked when he head-butted me, and he would jump at me from the top of the stairs. This is not easy to live with, and I knew that if I didn't do something, he would be institutionalized by age seven, which would break my heart.

Luckily, I got my diagnosis—and I really wanted that diagnosis. I knew there was something wrong. I put him on a casein- and gluten-free diet. It's something I could do. I saw very good results from that diet, but it wasn't enough. We had to bring him back from the wild thing. We were lucky enough and I pushed hard enough to get ABA therapy, which was partially funded through the direct funding mechanism. The first thing, just like Helen Keller—we have two wild things: obedience first and next he got toilet trained. He was age four and a half, learning how to speak—he had lost his ability to speak—learning how to listen, learning how to socialize. Now today, he can read, believe it or not. Did the schools do that? No. I had to put him in a reading program.

Sam is a beautiful child. The thing that I think is the biggest parallel here is that miracles can happen. We have 100 years difference. If we had Helen Keller today, what would we do with her? I think this is very similar. We know what to do with these kids.

Here are some fast facts: ABA therapy is the only proven thing that works with these kids. More than 1,200 children are on waiting lists for ABA therapy today, but not my child because he's fallen off the waiting list because he's over six. Most children fall off the waiting list before getting anything, and they're like my child. I can't tell you how heart-rending that is.

School systems: I'm at war with the school systems. They don't like the word "ABA." It's the only way he can learn. We need to bring that therapy, those techniques, and integrate them into the school system. My child is being babysat at school today. I teach him at home through ABA and professionals teach him at home.

I'm lucky. Most parents have to pay \$50,000-plus a year after tax. I had to do that. My ex-husband and I dug into our home equities and paid for two years, about six

months of which I had to fully fund because he was over six years old.

This should be really alarming. There is a silent epidemic going on. It used to be that one in 5,000 children were diagnosed with autism; now more than one in 200—or maybe it's one in 250, it doesn't matter; it's staggering. By the time kids get to kindergarten—and you can talk to teachers, they are coming in in droves. What to do with them?

The Ontario government approach right now is going to try to target the more severely impaired. I would argue with that. I think we need help for everybody, but the best help can come from that 50% up. Those kids can be total stand-alone kids. Autism is one of the few disabilities that you can almost reverse. It's as if you were blind and you can make people see, or you were a quadriplegic and now you can walk. That is absolutely true. There are people out in the world today—Temple Grandin—who do fantastic things for our communities and our society.

1610

I'm going to take you through this for two minutes. This is a growth trajectory. The black line is a chronological age typical of developing peers, one to one, one year old, one-year development. My child is the yellow. An autistic without treatment is the purple colour. You can see that the prognosis for that purple colour, the Randy Mogridges of the world, the people who will be institutionalized, they are going to hover between the ages of three and four for the rest of their lives, and they will live a long life unless of course something happens to them. You can see the yellow line. We flatlined between the ages of six and seven. That's when the ABA therapy was removed from my child because I couldn't afford it. I put my trust in the school system, that they would help me out.

In February, the teacher called me saying that everybody in the school was afraid of my son. I brought the Behaviour Institute in, spent many thousands of dollars to bring that under control, and that was the resurgence of the ABA therapy for my son today. He was in a reading program starting October 1, 2004. By December, he was reading. Today he is spelling. That's my son. I want to thank Dr. Joel Hundert and Dr. Nicole Walton-Allen. They saved my life. They saved my family's life.

I want to talk about costs, and I'm going to take one more minute. I'll leave this with you. I've had many of those family costs myself, but I want to take you to one more slide. This is the Ipsos-Reid survey. This is a slide—and I'm not an actuary. We did a quick study. What does it cost to institutionalize a child? You have the details—with no support, about \$29 million. This is the kind of support given to a child until he is six, if you happen to get support: \$26 million. If you can bring along ABA therapy for these children, even in a limited fashion, and integrate it with the schools, the full support on the right-hand side is where you're going to end up. It's going to cost you about \$644K per child for his lifetime. These are estimates from people who work with autistic people.

We all need a hand. I can't tell you. I don't care where it comes from—the department of social services or whatever it's called today, the school system—it doesn't matter. Can we stop fighting? Can we get the help we need?

I want to thank you for your time.

**The Chair:** Thank you for your presentation. I believe there is a minute or so. I will recognize the PCs if you have any questions. Just one minute.

**Mr. Jackson:** Hélène, thank you for your powerful and passionate appeal to this committee. Do you want this legislation to specifically address autism and ABA? Short answer.

**Ms. Mogyorodi:** Absolutely.

**Mr. Jackson:** Do you concur that if ABA is medically valid in this province for children from infancy to age six, it should be deemed equally as valid for a seven-, eight- and nine-year-old etc.?

**Ms. Mogyorodi:** Absolutely. It should be under the psychologist's determination of that person's needs. My child doesn't need as much as he did when he was direct, one on one; he needs less.

**Mr. Jackson:** Finally, do you believe there should be an education standards committee that includes implementing ABA as one of the requirements in this legislation?

**Ms. Mogyorodi:** Absolutely.

**The Chair:** Thank you very much for your presentation.

#### YORK UNIVERSITY FACULTY ASSOCIATION

**The Chair:** The next presentation is from York University Faculty Association.

You have 15 minutes. Please proceed whenever you're ready.

**Ms. Ruthanna Dyer:** Thank you. I believe the secretary to the committee is distributing the presentation.

York University Faculty Association is the collective bargaining agent for 1,250 full-time professors and librarians who work at York University. We welcome the opportunity to respond to the committee on Bill 118.

I am the convenor of the disability caucus within YUFA, which is composed of about 2% of our membership of the association who have identified themselves as workers with a disability or workers interested in disability issues. I do not have the precise number of individuals with disabilities who are working on the faculty at York, because it is a matter of personal choice whether they declare that information.

Attitudes are the greatest barrier—you've heard that earlier today. Unapparent disabilities such as mine should not be ignored in the establishment of standards. Funding should be earmarked for consultation and training with respect to mental, cognitive and metabolic disabilities, such as diabetes, heart disease and other disorders, which require adapted work or adapted workplaces.

Procedures to seek accommodation should be transparent and accessible to the worker working with a disability. We've heard about issues around print material, Web site material, etc. and accessibility. You would believe that probably in an educational institution, particularly one of our primary post-secondary institutions in this province, it would be fairly easy for professors, all of whom have a Ph.D. and research skills, to figure out how to acquire an accommodation protocol. It is a maze. We are currently working on clarifying that and cleaning that up, but that is not the current standard. That's why this really is not something that can be minimized.

We have an aging demographic in the workforce. The average age of post-secondary educators in North America is close to 50 years. Thirty-five per cent of post-secondary educators who were working in Ontario in the year 2000 will retire by 2007. That's from an ACAATO study that was done for CAATs. Increased age is associated with increased incidence of chronic illness and of partial or total disability. But most disabled faculty can work if accommodation and an accessible workplace are available.

Our post-secondary institutions are aging infrastructure and constitute significant barriers. Many of our buildings were built well over 50 years ago, even at York, which is one of the newer universities in the province. Renovations often meet newer codes with lower accessibility standards, resulting in a loss of accessibility. Construction presents obstructions of narrow and uneven walkways—we have nine buildings under construction this year. Prior best standards should be retained where they have been in place, even if not required by newer code.

Equally important, newer technology can present new barriers. Buildings with wireless communications, such as the one that I teach in and work in, have interfered with assistive hearing devices. The wireless net has a damper, for security purposes, that damps cell phones in the area and security radios for the university security force, but our students with hearing disabilities and our faculty with hearing problems can't use assistive devices in that building. All our computer labs for computer programming are located in that building. I may be able to relocate a history class, but I can't relocate a computer programming course.

Technology-equipped classrooms are designed for a lecturer who stands. Thus, technology is not available for a lecturer in a chair. New glass wall designs inside our buildings are beautiful, but the doors are too heavy to open and current code doesn't require internal touch plates.

1620

YUFA asks you to include workers' organizations as you move through implementing Bill 118. We support the Ontario Federation of Labour amendments. Workers' groups should be recognized as stakeholders in the setting of standards for specialized and local workplaces and in reporting and evaluation of local application of standards. The Ontario Occupational Health and Safety

Act can be used as a template for such joint activity in the workplace. It was interesting to hear other groups address you with this suggestion. Bill 118 and the Occupational Health and Safety Act have a similar structure of regulations, inspections and fines. They're familiar to employee relations and human resources departments as well as labour organizations. YUFA would urge you to give priority to disabled workers as inspectors, once the regulations and standards are in place.

Finally, we believe that 20 years is too long. There is much prior work that has been done and can be used to provide more efficient implementation. We would encourage the committee to reduce the waiting and costs of inaccessible workplaces and places of learning. The cost to society for this long wait should not be acceptable in this era of scarce social, health and educational resources.

I have left you our contact information on the last page. Thank you very much for this opportunity.

**The Chair:** We have six minutes—two minutes each—and we'll start with Ms. Martel.

**Ms. Martel:** Thank you for being here today. I appreciate that you have put in bold print and increased the size of "20 years is too long." As you can imagine, there have been some very mixed views about whether we can do something bolder in Ontario in less time or whether we really do have to drag this on for 20 years and see a whole generation pass.

I was interested in your "newer technology can present new barriers." How is that York could go ahead and make these kinds of changes and not take into consideration the impact they would have on students and faculty who have specific needs for learning? How did this happen?

**Ms. Dyer:** Very simply, the buildings were designed without any negotiation, consultation or input from the faculty association and the disability caucus in that association. York has been a leader in accessibility for students. On the original campus, built in 1969, the older buildings are far more accessible than the newer buildings. When issues were raised after the fact, the answer was, "They meet current code."

**Ms. Martel:** You talked about the Occupational Health and Safety Act, and one of the examples or models that both OECTA and the Ontario Federation of Labour in its brief have put forward is the pay equity legislation, which also sets out a process of bargaining pay equity in the workplace. Would you be supportive of bargaining disability issues in the workplace, and to do that as soon as possible, because you'd be in the best position right now to know what is needed for students and also for faculty who need to get back to work?

**Ms. Dyer:** Yes, very definitely, and I'm currently involved on the task force on bargaining accommodation for faculty at York University, so I see this as a collective agreement issue and a labour issue as well.

**The Chair:** Thank you. Mr Craitor, please.

**Mr. Craitor:** Thank you for the presentation. As well, thank you for the large print. I left my glasses upstairs, so that was really good.

Your whole presentation was excellent, but there was one section here that really caught my attention, and it was mentioned, I think, by one or two groups already. That's to do with workers' groups being recognized as stakeholders.

**Ms. Dyer:** Workplace groups being recognized?

**Mr. Craitor:** Yes. In my former life, before being elected, I was president of a labour council, and president of two unions as well. So I think there is an opportunity for labour to play a role in this, and the bill doesn't preclude that from happening. But my question is, just to get a perspective from you, how do you see workers being involved in the process?

**Ms. Dyer:** One of the templates that you might look at is the current collective agreement that was bargained with the CAATs, the community colleges of Ontario. They have new language around disability and accommodation, where each local workplace bargains and negotiates their own solution but the principles are laid out in contract language. That is what I would suggest, because I think each individual disability and each accommodation protocol is different, and each workplace differs and each job description differs. So local standards within a context of principles that are negotiated at the bargaining table would be what we would foresee as an appropriate approach.

**Mr. Craitor:** Thank you very much.

**Mr. Arnott:** Thank you for your presentation. You've outlined a lot of the practical problems that I think all universities will be struggling with in the coming years as this legislation moves forward. I'm very impressed that York University Faculty Association has what you call a disability caucus. Do all post-secondary institutions take the same kind of proactive approach that you've taken, to the best of your knowledge, or do we have a first here in that respect as well?

**Ms. Dyer:** I think it varies very dramatically. In the colleges, disability issues are addressed much more proactively. I should tell you that I spent 30 years at Seneca College before I went to York University, so that's where the reference is coming from. I think university faculty associations are beginning to address these issues. In terms of access for students, York and many of the universities have been extremely proactive. It's very frustrating, as a worker with a disability, to work in an environment where students and clients are supposed to be accommodated but the workers are not equally accommodated. So that's part of my frustration.

**The Chair:** Thank you very much for coming here today.

**Ms. Dyer:** Thank you for the opportunity to address the committee.

#### TRANSPORTATION ACTION NOW

**The Chair:** The next presentation will be from Transportation Action Now. Is Mr. Brose here?

Please come forward. We have your material already. Proceed whenever you're ready, sir.

**Mr. Mark Brose:** My name is Mark Brose. I'm president and chair of Transportation Action Now. I'd like to congratulate the committee for creating this very progressive bill. It is not yet perfect, but we fully support this government in its goal to remove the barriers that still exist for so many people.

**1630**

TAN supports other submissions which are being made to this committee. Specifically, we support the Ontarians with Disabilities Act Committee's recommendations for changes to Bill 118. We are also in support of the recommendations that are being made by Janice Tait and Toronto city councillor Joe Mihevc.

Transportation Action Now Inc. is a non-profit volunteer organization dedicated to the promotion of, education on and advocacy of accessible transportation for seniors and people with disabilities.

TAN was founded in 1985 as the Trans-Action Coalition, a non-profit coalition of over 100 organizations dedicated to the research, advocacy and promotion of accessible transportation for all people in Ontario.

We believe that it is important to broaden awareness on the part of individuals and organizations about the need for accessible transportation for all people not now served by our public transit services. We work to accelerate the integration of all people with disabilities into the mainstream of provincial life through promotion of the accessibility of public transportation.

Over the last 20 years, TAN has developed a substantial body of knowledge. Research has been a large component of TAN throughout the lifetime of this organization. Throughout the years, we have continued to perform in-depth studies and have provided critical comment on a wide range of issues related to disability and transportation. We continue to research and publish comprehensive studies, the most recent focusing on low-floor streetcars as well as the accessibility of Toronto's subway. TAN is uniquely positioned to take a leadership role in the process following proclamation of the AODA.

Our recommendations:

(1) In Ontario, there is not very much transportation under direct provincial jurisdiction. Most responsibilities for transportation have been downloaded onto the municipalities. Examples which fall under provincial jurisdiction would be entities like the Ontario Northland train, GO Transit and Ontario's intercity bus service. Municipal responsibilities cover entities such as paratransit, buses, streetcars, subways and taxis. At this time, standards are not compatible with what is presently under provincial-municipal and provincial-federal jurisdiction. We want to see Bill 118 speak directly to provincial-municipal as well as federal-provincial co-operation, with the goal of ensuring a strong future for paratransit across Ontario.

(2) We would like to see a provincial commitment to better fund transit, which has been suffering in a downward spiral for the last decade.

(3) We would like a standard created which would define what paratransit in Ontario should look like. At

this time, there is no consistency in what or how municipalities deliver paratransit service.

(4) We want to see accessibility improvements happen per mode of transportation; that transportation authorities are required to recognize that it is important to bring accessibility into all components of their transportation services as soon as possible.

In conclusion, the Accessibility for Ontarians with Disabilities Act defines a barrier as “anything that prevents a person with a disability from fully participating in all aspects of society.” Transit, both public and private, as it exists in Ontario today, is far from allowing people with disabilities full participation in our communities. As the Ontario Human Rights Commission has recently written, “Equal access by persons with disabilities” to public transportation “is a right protected under the Ontario Human Rights Code.” Equal access to transit services is not a reality for many citizens of the province, and despite its importance in our daily lives, barriers to public transit services remain.

**The Chair:** We have three minutes for each party. I’ll start with the Liberals. Any questions?

**Mr. Ramal:** Thank you for your presentation and your recommendations.

I think I read something here about how Bill 118 won’t be applied in the municipalities. Why do you have this concern about it?

**Mr. Brose:** Pardon?

**Mr. Ramal:** You mentioned that this bill only applied in a provincial jurisdiction and will be excluded in the municipalities. Why do you have this concern?

**Mr. Brose:** It’s not excluded in municipalities, but since municipalities are in charge of delivery of most of the transit systems and transit services, things like funding of paratransit services, the province can tell Toronto to go ahead and make an accessible transit system. But if the municipality does not have the money—

**Mr. Ramal:** OK. You don’t think the gas tax that we give the municipality will help the municipality to update their transit system, what they’re trying to do across the province, which is part of our support for the transit system of this province, in order to revamp their fleet and within 20 years hopefully all of them will be accessible for disabled people?

**Mr. Brose:** It’s certainly a help. I don’t know if that would be the full answer. When downloading happened a decade ago, 75% of every bus was funded by the province. That was a huge amount of money for those transit authorities to depend upon. Now we’ve got a situation where paratransit services exist. Their service is fully accessible by the nature of what they do, but they aren’t accessible in that it’s really damned hard to get a ride, say, in Toronto on Wheel-Trans, and you certainly can’t get it in a timely manner. Any one of you can put your finger in the air and get a cab immediately. Any one of you can go to a bus stop and expect a bus in 20 minutes. We who are dealing with paratransit services, for both of those situations, if we want a vehicle, we have to book a day in advance. A system that maintains that inequality is wrong.

**Mr. Ramal:** That’s why I think the Minister of Citizenship and Immigration proposed Bill 118, to revamp the 2001 bill, which has no enforcement teeth to it. That’s why we came up with Bill 118, in order to have an enforcement mechanism to apply in all sectors of our society.

**The Chair:** I think it was a statement, and I thank you. I’ll go to the Conservatives, please.

**Mr. Jackson:** Mark, when I was working on Bill 125, transit was a particularly difficult one because we have a patchwork arrangement in the province. I remember a W5 show that was really powerful. It compared the city of Vancouver with the city of Toronto. You’re smiling; you recognize the one. That was an amazing insight for me. So could I just get a short feedback from you, because I always ask this question whenever I meet people: If we had it to do over again, would you do a fully integrated transit system that some municipalities are doing, or would you do the stand-alone paratransit infrastructure that Toronto pioneered and worked with, or would you look at some balance in between? It doesn’t have anything to do with this bill, but you did raise the question about not defining what constitutes good transit for disabled in the province as a standard.

**Mr. Brose:** I’m not sure if I’m answering your question, but I think that minimum standards should be brought to all municipalities in the province. As it stands now, it’s so open to interpretation, and lack of budget allows authorities to give really poor service—lack of weekend service and very difficult times for paratransit service to be operating in.

I start smiling when you mention Vancouver, because Vancouver has had an accessible taxi running around on its streets for 10 years now. Toronto has accessible taxis, but none of us has ever seen them because they are all committed to service for Wheel-Trans. We don’t actually get to phone for a cab.

1640

**Mr. Jackson:** I wanted to ask you another question about that. We were working with changing the regulation for rear-entry vans for making it pedestrian-accessible, low-cost access. We understand that those are still languishing in the minister’s desk. But you fully support that kind of thinking out of the box in order to get more affordable taxi services—rear-entry is one—and to modify the standards to get that?

**Mr. Brose:** I did talk to some people about rear-entry and I had conflicting opinions come to me. Some people who use large mobility equipment see a difficulty in, say, getting off a curb from a rear-entry—

**Mr. Jackson:** Finally, the last question, in the interests of time: The current legislation that guides the province identifies transit as a priority and asks the accessibility advisory committee to set those standards for the government. We’re now moving, under this legislation, to put all interests at the table—the manufacturers, the municipalities; everybody at the table—as opposed to just the government being held accountable to change those. Would you support an amendment to this bill that

says that from a certain day forward, only low-floor buses can be purchased by municipalities so that what limited dollars they do have only go toward low-floor buses? That's something Burlington, my community, did when I identified it and encouraged them to do it. It's something I couldn't get in the legislation, but I currently have an amendment in the House asking the government to do that. Would you support that kind of forward step immediately?

**Mr. Brose:** Absolutely. In relation to that, one of my points talks about different modes. Toronto is on the cusp of making renovations to their streetcars, which are all high-floor and completely inaccessible. They have the opportunity, in the next few years, to introduce low-floor as opposed to upgrading the existing non-accessible streetcars. Right now, the question is out there. We don't know what Toronto intends to do. Absolutely—all vehicles.

**Ms. Martel:** Thank you for being here today. On your page 2, you said, "We want to see Bill 118 speak directly to provincial/municipal as well as federal/provincial co-operation with the goal of ensuring a strong future for paratransit...." Can you tell the committee what you mean by that? What are some examples?

**Mr. Brose:** Specifically for provincial and municipal, I think about the situation of the GTA, which has a number of transit authorities covering the GTA. If you start a ride in a Wheel-Trans bus and go to somewhere outside the strict borders of Toronto, you get to that border and you have to get off the bus; you have to have a second booking; you have to wait; you get on another bus and you keep going. If the province talked to the municipalities and decided that it was OK for this Wheel-Trans bus to go to its ultimate destination and return, it would—the process, as it stands now, adds hours to every trip for someone who uses transit, and there's absolutely no need for that, that the Wheel-Trans bus must stop at the border. That's one example of how things could be improved.

**The Chair:** Thank you very much for coming.

**Mr. Jackson:** Mr Chair, just a quick request while the next group is setting up. The previous deputant raised a very good point about the federal government. I wonder if we could get a small research paper done for this committee. One of the problems is that for all federally regulated transit, Ontario has absolutely no jurisdiction whatsoever. As one person put it to me, "We can get paratransit to get me to the airport, but the minute I arrive at the airport, it's a federal jurisdiction and I'm lost." Is it possible to get some kind of comment or some research or something that helps us better understand? This deputant has raised a question about the relationship with the federal government, and that's not in our jurisdiction, yet there are some real problems there.

**The Chair:** You're asking for some material, and I think we're going to get it, hopefully as soon as possible.

**Ms Wynne:** Mr Chair, I don't actually understand the question Mr. Jackson is asking. What's the question that the research is to answer?

**Mr Jackson:** The question is a request for a certain amount of data that will identify for this committee those aspects of national transit and rail that our province has no jurisdiction over. I would like to make sure that every member of the committee understands that there's no sense talking about fixing CN Rail and those kinds of things if they're not—just to have a small briefing paper so that we understand the limitations we have. This is not a slight against the government. It's just a jurisdictional issue. I don't want to mislead deputants into thinking that we have the authority to go in that area, and I'm loath to say we don't until we've got something that confirms it. That's what I happen to believe from my time as minister, but I think it would be helpful to the committee to understand that. That's all I'm asking, for a little bit of information to share with the committee.

**The Chair:** Mr. Jackson, I believe it's understood. If there are no other questions, we'll move to the next presenter. That will come to us as soon as possible.

#### CANADIAN HEARING SOCIETY

**The Chair:** The next presentation is from the Canadian Hearing Society. If you are ready, please proceed, sir.

**Mr. Gary Malkowski (Interpretation):** Thank you, Mr Chair and committee members. I would like to introduce Sunshine Lezard, a George Brown College placement student interning with me. He's seated to my right. My name is Gary Malkowski. I'm the vice-president of consumer, government and corporate relations. I'm really pleased to participate in the standing committee and make my presentation. I have two documents that have been distributed to you. These are my briefing notes.

There's one thing, to remind you—the Americans with Disabilities Act required industries, government, and companies to incorporate captioning chips in their television sets, but the problem with the ADA, or the Americans with Disabilities Act, is that it does not require television programs to be captioned.

Another example is Bill 4 here in Ontario. It was passed, and recognized the acceptance of American Sign Language and Quebec Sign Language as languages of instruction in the classroom. That was back in 1993. Fifteen years later, though, it's still running without regulations. That never happened. When we talk about Bill 118, the Accessibility for Ontarians with Disabilities Act, one of the top issues has to do with employment. The issue, though, is that this does not require an expansion of accommodation opportunities. For example, the pool of available sign language interpreters: There's no regulation for that. Employers may say, "OK, great. You want me to provide interpreting services," but there's no regulation to expand the actual pool of interpreters available to employers who wish to provide the service. I'm here to assist you to close the gaps.

What we recommend is:

—Accessibility standards be developed by the year 2020. That's the goal. We're looking at 15 years to implement this, not 20.

—The establishment of ways to enforce the legislation by making amendments to include opportunities for low-budget and non-profit organizations or municipalities that have limited budgets to enforce the provision of services to consumers who are deaf, deafened and hard of hearing; compliance fines; accommodation resource development; quality assurance for accommodation service providers; to provide for anti-autism and anti-discrimination practices and education.

**1650**

There must be mandatory accommodation provision for offices for MPPs such as yourself, as well as for the Speaker's and the Clerk's office and the offices of agencies, boards and commissions. What's interesting is that as a former MPP myself, back between 1990 and 1995, TTYs were installed, and then when the PCs were voted into government, they removed TTYs from constituency offices. Therefore, these constituency offices were not accessible to the consumers who required them. I'm sure each of you doesn't have a TTY in your office, so I would strongly encourage you to become accessible to your deaf, deafened and hard-of-hearing constituents.

*Interjection.*

**Mr. Malkowski (Interpretation):** I know; it's about time.

**Mr. Jackson:** Five years I've been asking.

**Mr. Malkowski (Interpretation):** We need to strengthen provisions to ensure that any new legislation, including proposed government bills, research, private members' bills and resolutions, do not introduce new barriers and that they are fully compliant with Bill 118.

We need to establish a truly effective consultative and inclusive process for setting accommodation standards, to ensure that the disabled community, including deaf, deafened and hard-of-hearing people, have a voice when important legislation is introduced, and not just regulations of Bill 118. The amendments we're talking about have got to be included in the bill. Regulations can change very easily, depending on who the government of the day is, and they can be fairly weak. This kind of enforcement etc. has got to be in the bill, not just in the regulations, in the form of an amendment.

Bill 118 should require that barriers be removed from the Ontario public service, municipalities, constituency offices, MPP offices, and boards and commissions. For example, the Municipal Elections Act was silent about requiring accommodation for candidates who wish to run for municipal elections. It was voluntary. No accommodations were provided to volunteers who wished to participate in the campaign process. There was no requirement there. It was absent from the legislation. We need to ensure that this is included in Bill 118.

Look at our experiences with Bill 4. Even today, teachers of the deaf cannot teach deaf children who require American Sign Language or LSQ. They don't have the appropriate skills in American Sign Language. The provincial schools for the deaf and school boards have no standards in place that would require competency in American Sign Language by their teachers. Could you

imagine if you were a francophone and it is all right for someone who has taken a French 101 course to teach you within the French school system? I mean, that's not acceptable. The same applies to our experiences with many of our deaf children. They don't have access. There are no ASL courses available for the children. There is no LSQ regulation in Bill 4.

We are asking you that Bill 118 should include requirements to establish standards for the Ontario College of Teachers, provincial schools for the deaf and school boards. They've got to establish standards and competency in American Sign Language, which will provide access to information for deaf children. It's also a health and safety issue.

I know I don't have much time left. I'm going to jump down a little bit here.

I think it's important for Bill 118 to include specialized career support for deaf, deafened and hard-of-hearing high school and post-secondary students to ensure that they are eligible to receive career and employment services provided by the Canadian Hearing Society. Most colleges and universities have career and employment placement centres, but they are not accessible to our consumer groups. A nearly completed degree costs almost the same as a degree that is accomplished; however, the economic value for both the student and the province of Ontario is severely limited if someone doesn't graduate. So they need that kind of support in career placement. I think it would be a wise investment of resources.

Lastly, I'd like to speak to the pyramid that I have attached with my speaking notes. If you look at the bottom, the foundation: If you wish to help things to become accessible, if your goal is to encourage economic independence, accessibility is the foundation. Without access, you cannot have economic independence, and it will cost society in the long run. If you have accessibility, then you're looking at employment improvement, people going through the post-secondary setting, ultimately graduating and then being gainfully employed, which will ultimately better the province of Ontario.

I have a question, though, for the Liberal government, if I may. What is the budget line for this fiscal year and next year for the Accessibility for Ontarians with Disabilities Act and its implementation? What is your budget line for this?

**The Chair:** If there is no objection, I will have the Liberals answer the question.

**Mr. Ramal:** At the present time, we have no budget set for it. Whatever it takes to implement it, we're going to do it. So the money is not an issue. The issue is that when we establish the rules and regulations and standards of this bill, of course whatever it takes to do it, we are willing to provide the money needed for the implementation.

**The Chair:** Thank you. That takes care of the 15 minutes. Thank you again for your presentation.

**Mr. Jackson:** While they're setting up, I'd like to make a further request for some information from the Ministry of Community and Social Services regarding

access to deaf and deaf-blind client services for those receiving Ontario disability supports so that the community can better understand meeting the needs that have been referred to by this deputant.

**The Chair:** Is that directed to the ministry or to the clerk?

**Mr. Jackson:** Well, to the clerk to secure it from the ministry.

**The Chair:** His office will procure it.

1700

#### ENVIRONMENTAL HEALTH CLINIC

**The Chair:** We'll go to the next presentation, from the Environmental Health Clinic.

Thank you for coming, and you can start any time you're ready. There is 15 minutes in total for your presentation. If there is time left, there will be questions for either of the two of you.

**Dr. Lynn Marshall:** Thank you very much. I'd like to introduce Lynn Kaye, who is a lawyer who has been working with us at the Environmental Health Clinic on a research project looking at the legal needs of our patients. I'm Lynn Marshall. I'm a medical doctor. I'm the medical director of the Environmental Health Clinic.

We would like to express our appreciation for the opportunity to bring this information to this committee. We're encouraged by the government's stated intention of enforcing the creation of accessibility plans in the public and private sectors to end barriers that prevent Ontarians with disabilities from participating equally in society. We also express our thanks to the Ontarians with Disabilities Act Committee, whose extensive briefing notes have been of great assistance, and to ARCH for their excellent recommendations for improvement of Bill 118. We endorse their recommendations and adopt them as our own. They are in appendix A.

Furthermore, with respect to the accessibility standards committee, we recommend, in addition to fixed terms, that a system of overlapping appointments be introduced from a roster of people elected by stakeholder groups. It is important that the rule-making functions be transparent, with support for participation and public comment.

In addition, we believe it is crucial that this committee ensure that a smooth transition from the ODA to the AODA take place. Part XI of the bill does not reflect a planned transition or guarantee of continuous protection. This section could include amendments to other legislation and funding guarantees to support the participation of community groups.

Now I'd like to turn it over to Lynn Kaye.

**M<sup>me</sup> Lynn Kaye:** Les objectifs de notre présentation aujourd'hui sont les suivants :

(1) Vous informer des conditions potentiellement sévères des personnes handicapées vues à l'Environmental Health Clinic, programme provincial à Toronto.

(2) Décrire les barrières à la participation des personnes avec des maladies liées à l'environnement en

ce qui concerne la pauvreté, les symptômes, les attitudes et la qualité de l'air.

(3) Recommander à ce comité qu'il s'assure que les représentants et les représentantes des personnes avec les maladies liées à l'environnement soient inclus dans chaque étape de la mise en œuvre de cette loi pour assurer que les barrières qui les affectent sont adressées dans les plans d'accessibilité et, à la fin, sont terminées.

(4) Recommander que ce comité s'assure de l'harmonisation avec le Code des droits de la personne de l'Ontario.

**Dr. Marshall:** Thank you, Lynn.

I'm just going to tell you a little bit about the Environmental Health Clinic. It is situated at the Women's College Ambulatory Care Centre, part of Sunnybrook and Women's College Health Sciences Centre. It's a unique multidisciplinary clinic, academically affiliated with the University of Toronto. It was established in 1996 by the Ontario Ministry of Health and Long-Term Care to be a provincial resource in promoting environmental health and to improve health care for people with emerging environment-linked conditions, especially environmental sensitivities or intolerances, sometimes called multiple chemical sensitivities; myalgic encephalomyelitis or chronic fatigue syndrome; and fibromyalgia. Patients who come to this clinic may also have other, more common chronic environment-linked conditions such as allergies and asthma, and sometimes other conditions such as heavy metal toxicity etc.

I think it's important to note that there has been a huge increase in asthma prevalence, a fourfold increase over 20 years. The reasons have been unclear, although recent research is showing known links to environmental tobacco smoke, dust mites, cat dander, moulds and smog.

The prevalence of multiple chemical sensitivities, chronic fatigue syndrome and fibromyalgia has been thought to be quite small, but a Canadian community health survey found that actually from 0.8% to 1.8% have been diagnosed with these conditions. Diagnosis, however, is likely to be very low, considering the number of people who may be less affected by the conditions or who were not recognized. Some long-term and large prevalence surveys are actually showing prevalence rates of people who self-identify as being chemically sensitive as being between 16% and 33% of the population.

There is a variation in age, and this is very important as well.

One of the things that we've noticed at the Environmental Health Clinic and one of the reasons for the Environmental Health Clinic is that people with emerging diseases often suffer from an attitudinal barrier: a culture of disbelief. For example, asthma has been a poorly understood condition in the past, particularly with respect to mechanisms and causes. For example, for many years prior to improved lung function tests and electron microscopy, asthma was thought to be primarily caused by emotional dysfunction. Now it's recognized that while emotional stress plays a role, as it does with most conditions, exposure to environmental factors is key both in initiating asthma and in triggering attacks.

People with symptom patterns that are suggestive of these three main conditions we see at the clinic often have difficulty getting their conditions diagnosed because there are no consistently abnormal laboratory tests that would confirm a diagnosis. But now we do have published case criteria upon which international consensus has been reached for each of these conditions.

It's also sobering to consider that scientists are increasingly reporting that environmental toxins are affecting fertility and can damage our offspring. This is a source of disability in our children that can be stopped if adequate regulation and enforcement is legislated. Prevention is the highest manifestation of care for future generations. In the province of Quebec, legislation provides for the right of pregnant or breast-feeding workers to be reassigned without losing income. This can serve as a model for practical policies at work and in institutions elsewhere.

If people in institutions, public places and at home become aware of preventive policies and how to apply the precautionary principle in our daily lives, we can prevent exposure to toxins and the damage such exposure causes. Accessibility plans are an ideal vehicle to implement such preventive and forward-looking thinking and practices and to remove the barriers that prevent people disabled by environmental illness from participating in all segments and institutions of daily life.

**Ms. Kaye:** Environment-linked conditions: A first and most important requirement is that it be clear from the definition of "disability" in the AODA that persons disabled by environment-linked conditions and diseases are covered by the act. Although the AODA uses the same definition as the Ontario Human Rights Code in section 2, we have some concerns because the definition is narrow and it has been expanded by the Ontario Human Rights Commission, by case law and interpretation. This broad and liberal interpretation must be guaranteed in the AODA. We recommend that the definition of "disability" under the AODA and the Ontario Human Rights Code be harmonized to the current broad, liberal interpretation.

**Poverty:** We are concerned that when people are affected by non-evident disabilities, there seems to be a downward spiral into poverty because they often do not get income support. So we recommend: that related legislation be amended, as part of the enactment of the AODA, which would increase the ODSP pension to restore the loss of purchasing power; that indexation be introduced; and that eligibility requirements under the ODSP be amended to ensure that people with long-term chronic conditions and diseases, especially those that wax and wane, are included.

There is a need to protect the income of people who get relegated to part-time positions in order for them to continue to participate with their disabilities. They should be ensured full-time benefits using the Employment Standards Act and the Workplace Safety and Insurance Act.

A key provision would be supportive housing services, where smoke-free and scent-free units are part of an

integrated approach. It's really important that in any tenancy situation a person has the right to know the chemicals that are being used by landlords in hallways and for cleaning and insect control. These pesticides can be toxic and can have considerable adverse health effects.

Secondly, symptoms: Programs that increase awareness of barriers for persons with disabilities and validate persons with so-called non-evident or invisible disabilities should be specified as included items under any section that prescribes what accessibility plans must include. We recommend that such programs aim to increase understanding of conditions that wax and wane, and promote acceptance of limitations with dignity.

#### 1710

The culture of disbelief that we've already referred to can be a significant attitudinal barrier for many persons afflicted with environment-linked conditions. We recommend that the standing committee on social policy promote education programs to increase awareness of the published consensus case criteria for multiple chemical sensitivities, chronic fatigue syndrome and fibromyalgia.

The third priority is indoor air quality. We recommend that the initial sectors designated be schools and hospitals. The substantial number of children affected by multiple chemical sensitivities is an indicator that a cleanup of contaminants in schools is essential if we are to preserve the health and well-being of our future citizens. We recommend that accessibility plans include ways of improving indoor air quality, such as scent-free policies and ventilation systems that bring in sufficient fresh air, and that leaks are immediately treated to prevent mould and fungi.

It's important for employers, landlords, health care facilities and public institutions to review building materials used in new construction or renovations to minimize off-gassing contaminants.

Attention needs to be focused on the timing of painting and renovations, replacement of carpets, choice of flooring or carpets, and care of the ventilation system. The best plans include the right to know, and this includes posting of information so that affected persons can avoid exposure. The technology is there today to do waxing and cleaning and all levels of maintenance with non-toxic chemicals.

Accessibility plans should be defined in the act to include the requirement to survey practices to identify use of highly toxic substances and find alternatives. They should include the requirement to improve ventilation systems and avoid inhalation exposures. They should include a mandatory listing of off-gassing materials and a search for the least toxic alternatives.

There is a potential for great cost savings with proper design and prevention. All renovation and maintenance plans should be reviewed from the point of view of immediate health consequences and health problems in the future. Saving costs by allowing contamination in the present can result in a higher price paid in the future; for example, in medical costs. Saving costs by allowing contamination in the present, believing that those in the future can pay the price, is unfair.

We'd also like to comment that since the ODA will coexist—it's unclear about how the timelines are being coordinated—we recommend that the generic guide for completing the ODA accessibility plans, published by the disabilities directorate, be amended to reflect the broad, general interpretation of the definition of disability, which is in effect under the Ontario Human Rights Act through case law and interpretation, and that examples include cases of chronic fatigue, fibromyalgia and multiple chemical sensitivities.

**Dr. Marshall:** In conclusion, we would like to recommend that the committee make certain that people with multiple chemical sensitivity and other environment-linked conditions, often overlapping, such as chronic fatigue syndrome, fibromyalgia, allergies and asthma, are represented on all accessibility advisory committees under the Accessibility for Ontarians with Disabilities Act, 2004. We also recommend that barriers for persons with these conditions be identified and that plans for their removal be included in accessibility plans, with special attention being given to access to income support, flexibility in work hours, educational programs about non-evident disabilities, improvement of indoor air quality and regulation of pesticide use both indoors and out. We recommend that accessibility standards be dynamic living plans that can be adjusted and inclusive as new, emerging conditions are identified. We recommend that the rule-making function be transparent and inclusive, and open to community input.

We have enclosed some references for your interest. We have enclosed our list of recommendations in summary following that, as well as the recommendations of ARCH and an outline of the Ontario Human Rights Commission's views.

**Ms. Kaye:** There is one final thing I would like to add. We're very concerned that the infrastructure of what goes forward is responsive to leadership in the community. Token representation on advisory committees will not satisfy what's really needed to make this work. That's why we recommended elected representation from people in the community. The Ontario securities' model has a very intensive rule-making model for formal rules. It goes out to its community, and there are posted replies and comments—an opportunity for people to comment on what other participants are saying. It's a highly interactive model, and something that could be looked at for an ongoing living plan.

**The Chair:** Thank you for your presentation. There is no time for questions.

#### FAMILY SERVICE ASSOCIATION OF TORONTO

**The Chair:** The next presentation will be the Family Service Association of Toronto. You have 15 minutes in total for your presentation and for questions, as you please.

**Mr. Yves Savoie:** Thank you, Mr Chair. My name is Yves Savoie. I'm the executive director of the Family

Service Association of Toronto, and I'm here with my colleague Peter Park. We're very pleased to have an opportunity to comment on Bill 118, the Accessibility for Ontarians with Disabilities Act, 2004.

For 90 years now, the Family Service Association of Toronto has been assisting families and individuals through counselling, community development, advocacy and public education programs. We have a special interest and commitment to working with people with intellectual disabilities through the work of our Options program. Our community resource facilitators collaborate with individuals who are labelled intellectually disabled to enhance their skills and capacities, find opportunities and break down barriers to full participation in everyday life in our community.

At FSA, we begin with the belief that everyone belongs to the community, not by qualification but by right. We approach our work from an anti-oppression framework perspective, and we advocate and work for a paradigm shift from client to citizen.

**The Chair:** Excuse me, sir. Could you please slow down a little, so that everybody is able to appreciate your presentation?

**Mr. Savoie:** We believe that citizens have rights and responsibilities and that the system, not the individual, needs to be fixed. Our work is focused on helping the community be welcoming, inclusive and supportive of the aspirations of all its members. We view individuals with intellectual disabilities as equity seekers.

In this context, we want to applaud the Ontario government for the leadership you have taken in reopening the law that was just passed three years ago and responding to the public outcry regarding its deficiencies by introducing this new bill. Bill 118 represents a vast improvement, in our minds, over the legislation currently in force.

We are particularly pleased with the fact that the bill applies to the private sector. It affects both public and private sector organizations, and they will be required by law to develop, implement and enforce accessibility standards. We thought it was important for you to hear that at FSA we will be subject to the act, and we welcome that. We know that government regulation is needed because relying on voluntary action has not been effective. People with disabilities still face massive unemployment rates and systematic exclusion from education, public transit and many other components of life in the community.

We are pleased, too, to see that Ontarians with disabilities will have a role to play in the rolling out of this process. However, we have some specific concerns where we would like to see Bill 118 strengthened.

**Mr. Peter Park:** My name is Peter Park. I have been labelled as having an intellectual disability. I have worked tirelessly for many years on behalf of people with intellectual disabilities.

Our first recommendation is to ensure that, in its implementation, the law has broad implications for Ontarians with all kinds of disabilities. In the bill, the

definition of disability is encompassing, yet I believe we will need to work hard to make sure that people with intellectual disabilities can take full part in developing and implementing the accessibility standards.

**1720**

Bill 118 brings appropriate attention and focus to the physical barriers which people with physical disabilities face on a day-to-day basis. We suggest that the bill also needs to focus on the invisible barriers which people with intellectual disabilities have to surmount every day. For example, according to the Roeher Institute, only about 38% of people with intellectual disabilities are employed. In the general population, the employment rate is 76%. That's from Statistics Canada. We face barriers in attending mainstream schools. We face transportation barriers getting around on the public transit system. For example, it's difficult to get instructions on the subway at rush hour if you have a speech impairment and the official won't talk to you.

Bill 118 establishes a process to set standards to remove barriers, but the bill does not state what the desired outcomes of removing those barriers are. How can we measure the effectiveness of removing a barrier if we don't define what we are trying to achieve by that?

For example, the bill states that the purpose is to "achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, occupancy of accommodation, employment [etc.]... on or before January 1, 2025."

Then, to measure if the bill is effective in achieving accessibility, it needs to define a desired outcome. For example, an outcome could be reducing the unemployment rate for people with intellectual disabilities to 15%.

We also want to ensure that people who experience different kinds of disability are able to participate in the process of standards development. Often, government systems are designed to deal with people whose disability is permanent. People with living HIV and AIDS experience periods of low energy, and they may experience recurrent periods of reduced functioning. We want to ensure that they too can play a meaningful role in developing the accessibility standards. And we want to ensure that an inclusive Ontario is an Ontario that also welcomes people who experience disability as something that is dynamic, recurrent or episodic.

**Mr. Savoie:** Our second recommendation focuses on the need to ensure that the process for developing the standards will be designed to ensure that the input of citizens, and in particular people with disabilities, is meaningful. We invite you to consider whether the involvement of people and citizens in defining these standards should be at arm's length from government. At the minimum, we believe there should be an arm's-length review of this process to report annually on progress and to ensure that the work to make Ontario inclusive is on track.

Our third recommendation deals with enforcement. Once the bill becomes law and is implemented, it will not make a difference in the lives of people with physical and

intellectual disabilities unless the accessibility standards are enforced. We urge the ministry to commit to hiring inspectors, allocating funds to this function, and ensuring through penalties, as the act provides for, that the accessibility standards are met.

Our comments in this regard are based on our disappointing experience in the education sector. Colleagues have worked for the past 20 years to achieve inclusion of children with intellectual disabilities in the public school system, yet students with intellectual disabilities continue to face systemic and attitudinal barriers to exercising their legislated right under regulation 181 of the Education Act to be included in regular, age-appropriate classrooms in their neighbourhood schools. We believe that if this standard were strictly enforced, many of the issues which our counsellors face in their work with adults labelled with an intellectual disability, be they issues of isolation, poor mental health, attitudinal barriers or lack of participation, would disappear.

**Mr. Park:** Our fourth and final recommendation is a broad one. We challenge the government to think more broadly than Bill 118 in order to achieve a truly inclusive Ontario. Bill 118 is a good first step, but implementing it will not mean that Ontario will have achieved full inclusion for all people with disabilities.

The bill deals with public spaces to ensure accessibility. It does not address private spaces, nor does it speak to the very critical need for home care supports for people with disabilities living in their own homes. It does not address the detailed strategies that must be put in place to ensure access to the labour market, enforcement of standards, incentives, on-the-job training, apprenticeships, and the broad range of issues that touch on accessibility to post-secondary education. These would begin to change our unemployment situation.

The bill does not address the need for additional government funding to support the specialized services needed by people with disabilities. At the Family Service Association of Toronto, we deliver many services which are funded by the provincial government, yet we have had to turn away clients with disabilities where we cannot provide the appropriate supports. For example, there are people who are hearing impaired who come to the Family Service Association for services, but while we receive government funding for many programs, all of those programs don't bring with them the additional funding required to deliver services through American sign language interpreters.

For a truly inclusive society, the government of Ontario must ensure that all services it delivers through transfer payment agencies are contracted in a way that brings both the resources and the flexibility to serve people with disabilities. We work from the knowledge and belief that people with disabilities are citizens on equal terms with all of us, and they have both rights and responsibilities. We urge the government of Ontario to apply that test in the delivery of its broad range of programs and services to all citizens.

The Minister of Community and Social Services recently announced a review of the developmental

services in Ontario and accelerated the date of the closure of the last remaining residential institutions in our province. This is a brilliant opportunity to take a big leap and move away from that institutional model of services that places the provider at the centre. We need to move to a system where the citizen is at the centre and the system adapts to his or her realities. Individualized funding shifts the power and control to the citizen. This is the only way that we will build a truly inclusive Ontario.

Thank you. Do you have any questions of us?

**The Chair:** Thank you for your presentation. There is only time for one question. I'll ask Ms. Martel if she has a question.

**Ms. Martel:** Yes, I do.

Thank you very much for participating today. Earlier today, I raised the possibility with the minister that funding be provided to members of the standards development committees so that they could participate: funding in terms of remuneration to replace salaries, to pay for support workers, to pay for child care, etc., so they can fully participate. What do you think of that proposal?

**Mr. Savoie:** I would say that that proposal would be very welcome and important. Just as an example, we do, at FSA, in our own work with volunteers in committees and in consultations, extend those types of supports to make sure we can have meaningful participation. I think that if you want to really reflect the range of views, those types of supports will need to be in place. I would commend you for engaging the minister in that conversation.

**The Chair:** Thank you for your presentation.

1730

#### ETHNO-RACIAL PEOPLE WITH DISABILITIES COALITION OF ONTARIO

**The Chair:** Next will be the Ethno-Racial People with Disabilities Coalition of Ontario.

You will have 15 minutes for your presentation. If there is any time left, we'll allow questions from the three parties. When you speak, please speak as slowly as you can so that everybody will be able to appreciate it. Thank you. You can start at any time.

**Mrs. Rafia Haniff-Cleofas:** Good afternoon. My name is Rafia Haniff-Cleofas. I'm the co-chair of ERDCO, the Ethno-Racial People with Disabilities Coalition of Ontario. Presenting with me is Bill McQueen. He is the other co-chair of ERDCO. We are very happy to be here.

We will skip some of the introductory remarks because we know it's late in the day. We want to get your attention; we want to get your questions too.

ERDCO's goal is to build inclusive communities by promoting access for people with disabilities and cultural awareness. It is a consumer-controlled organization committed to promoting the voice of ethno-racial people with disabilities in all aspects of society. It works within an anti-racist framework based on the conviction that people

with disabilities want to be respected, live with dignity and enjoy full participation and citizenship.

Bill will continue.

**Mr. Bill McQueen:** ERDCO is highly supportive of Bill 118. It is a significant improvement over the existing ODA because it covers all sectors of the economy, including the private sector. It will improve access to employment, customer service, communications and transportation. It will allow for the setting of accessibility standards to remove barriers and achieve full inclusion. It will also enforce timelines for compliance. As well, Bill 118 will give people with disabilities the opportunity to participate in the implementation of this legislation.

However, ERDCO has identified several issues and concerns that, if addressed, will be more inclusive of all people with disabilities and will improve the effectiveness of the proposed AODA.

**Mrs. Haniff-Cleofas:** I'll now identify the areas of concern.

The first one we have is that the intersectionality of disability is not addressed in Bill 118. Ethno-racial people with disabilities face many barriers that prevent their full and active participation in society. They face discrimination because they have a disability, in addition to being people of colour for whom racism, language barriers and other systemic obstacles interact to limit their full participation. "Intersectionality of disability" refers to an inclusive approach to multiple identities experienced by an individual, such as their race, gender, ethnicity, age, religion etc. ERDCO values the diversity and uniqueness of all people with disabilities and believes in addressing the needs, concerns and issues of the entire person, not only their disability. In Bill 118, there is no acknowledgement of the intersectionality of disability and how this affects an individual with a disability, their experiences of discrimination, and the barriers they encounter.

The personal experiences of people with disabilities are informed by and subject to one's race, ethnicity, age, gender, sexual orientation, class and other personal characteristics, in conjunction with disability. Therefore, issues of access to services are more complex for ethno-racial people with disabilities. In addition to the many barriers faced by people with disabilities generally, ethno-racial people with disabilities face additional barriers of language, culture and race in accessing services.

ERDCO acknowledges and addresses the multi-layered, complex and systemic nature of oppression, racism and ableism. ERDCO started out of an experience of an ethno-racial woman with a disability who experienced just this, and this example demonstrates our point about the intersectionality of disability. She lost her job after complaining of being sexually harassed and discriminated against due to her disability and religion. She went to different service providers, who labelled her experience as either a race issue, a gender issue, a disability issue or a labour issue, and who sent her on a roller coaster ride because they did not understand the multiple layers of barriers.

People with disabilities come from all walks of life. In recognition of this reality, ERDCO advocates for a holistic, or intersectional, approach toward service provision and community involvement. Disability, like many other aspects of a person's identity, is socially and culturally constructed. ERDCO therefore believes that a more complex and multifaceted approach to disability rights and human rights is needed and should be reflected in Bill 118. A holistic approach to individuals emphasizes society's response to an individual rather than the personal characteristics of that person. This approach recognizes that individuals have multiple identities that shape their experience of discrimination, and it acknowledges the complexity and uniqueness of individual experiences of discrimination. We also want to acknowledge that we see this legislation as anti-discrimination legislation. Therefore, we recommend that Bill 118 incorporate an intersectional approach to disability.

The second area of concern we'd like to address is that barriers must incorporate a cross-disability perspective. For this bill to achieve its goal, it must effectively address all kinds of barriers facing persons with all kinds of disabilities. Although the bill's definitions of "disability" and "barrier" appear sufficiently broad, there seems to be an emphasis on barriers in the built environment. Barriers take many forms and are experienced differently by persons with a wide range of disabilities. A proactive commitment to address all barriers fully, with a cross-disability understanding, is essential to the AODA's success. ERDCO shares the concern that it may be easier to identify and deal with some barriers than others. A concerted effort is needed, particularly with respect to attitudinal barriers and communication barriers.

I just want to relate to you the story of Maria from my personal experience. As part of a leadership project within the disability community, I was asked to be a mentor for Maria. Maria is an immigrant who is deaf-blind. She needs an intervener to communicate. Interveners are the eyes and ears of people who are deaf and blind. Maria does not get any kind of government funding for interveners. One of the main obstacles to accessing services in the community is related to the unavailability of sufficient intervention services. Due to this shortage of interveners, we were unable to meet and interact like the other participants in the project. The end result: Maria missed out on an excellent opportunity to benefit from a mentor and develop her leadership skills. Therefore, we are recommending that a concerted effort is needed, particularly with respect to attitudinal barriers and communication barriers.

I'll now turn it over to Bill.

**Mr. McQueen:** Our third point is that 20 years as a timeline for achieving full accessibility in Ontario is too long. We are concerned with this timeline for achieving full accessibility in Ontario for persons with disabilities. We recognize that the task of making Ontario fully barrier-free for all persons with disabilities is a major undertaking and will not happen overnight. However, we

would like to see the 20-year period reduced to 15 years. Some measures can be implemented quickly; others will take longer. It is essential that as much as possible be accomplished as soon as possible, in the first decade of the AODA's life. Therefore, we recommend that the accessibility standards be fully developed by 2020.

The bill does not provide a mechanism for a member of the public to raise concerns about the implementation or enforcement of the AODA through a formal complaints process, nor does it have a complaints system whereby persons affected can complain and have their concern adjudicated. It contains no independent review mechanism permitting persons with disabilities to complain about failures to comply with the AODA or the accessibility standards. We feel that a complaints mechanism will complement the AODA in reaching its goal of full accessibility in Ontario by 2020.

**1740**

Presumably, complaints by persons with disabilities may still be brought under the Human Rights Code. However, there is no clear indication within Bill 118 that this is the protocol that could or should be taken or that there will be a process by which one may file a grievance under the existing legislation.

We all know of the lengthy process with the OHRC. We know that this is not working for us.

We know of one case in regard to access at the Ontario College of Art that took over 10 years to be heard by the OHRC. This isn't acceptable, so we would suggest a two-year maximum period to hear the case and a five-year cap for filing the claim.

We recommend that Bill 118 incorporate a complaint mechanism whereby persons affected can complain and have their concerns adjudicated.

Participation of people with disabilities on the standards development committee is outlined here in our recommendations.

We recommend that financial support for individuals and the organizations that are supporting their contributions must be clarified at the outset. This support should be established in the text of Bill 118.

Shorten implementation stages from five-year to three-year stages for standards development and appointments: ERDCO believes that the target dates of five years set by the standards development committee for each stage is too long. We recommend that each stage of the process be reduced from five years to three years.

We recommend that the terms for those appointed to the committee should be the same length as the stages of development of the proposed standards.

We've also submitted some appendices, which we will give you a bit later, in printed form. We've submitted a video which we produced a year or two ago on the experience of one of our members, who participated in ERDCO's founding 11 years ago.

We'd invite any questions. There are a few minutes left.

**The Chair:** There are two minutes. We'll allow the PCs to ask questions first, and then the NDP.

**Mr. Jackson:** Really?

**The Chair:** I jumped the last time, because both parties had asked one question and the NDP hadn't. That's why I went there. So I'll go back to the PCs, if it's OK—a minute.

**Mr. Jackson:** First of all, thank you for your presentation.

Had you given much consideration to how the bill might incorporate a complaints and an enforcement section? Right now, the bill suggests that a civil servant, known as the director, would be responsible for dealing with non-compliance. That's the only area where it's dealt with. Did you see some sort of structure or a committee? Some people have come forward and said things like the Ontario Securities Commission profile. Have you given some thought as to how that might work?

**Mr. McQueen:** My own reaction is that it is really notorious in the disability community. I emphasize that it's notorious how long it takes for a complaint to be processed. We would be willing to discuss what sort of complaints process might be viable, but the primary complaint is—and that's the reason we say it needs to be heard within two years. It cannot be carried on as it is in the human rights commission.

**Ms. Martel:** Thank you for being here today. You mentioned that you support ARCH's brief. ARCH said very clearly that the purpose of the act should very clearly state that this is anti-discrimination legislation. I'd like to ask why you think it would be important for that to be right in the purpose clause, because it isn't now.

**Mrs. Haniff-Cleofas:** Because it addresses a systemic issue that we face as people with disabilities. It is anti-discriminatory, so we should call it that. It would make the bill more inclusive of all people with disabilities.

**The Chair:** Thank you very much for your presentation.

#### YORK, SOUTH SIMCOE TRAINING AND ADJUSTMENT BOARD

**The Chair:** The last presentation for the evening is from the York, South Simcoe Training and Adjustment Board.

Sir, you will also have 15 minutes. If there's time for questions, we'll start with the Liberals. Please, when you speak, speak slowly, if you can, so that everybody will be able to appreciate your presentation.

**Mr. Gerald Fox:** I'll do my best. Thank you, Chair, and good afternoon, committee members. My name is Gerald Fox. I'm a volunteer director of York, South Simcoe Training and Adjustment Board, a not-for-profit group that monitors labour market issues in south Simcoe county and throughout York region.

My particular concern is in promoting the interests of persons with disabilities, insofar as they relate to seeking, obtaining and maintaining employment. What follows are my own personal views.

When Bill 118 was first announced, I was struck by the emphasis being placed by the media on the removal

of physical barriers preventing access to restaurants and retail businesses. It seemed to me that very little attention was being paid to the attitudinal barriers that cause so many persons with disabilities to remain unemployed or, what is even worse, remain outside of the workforce all together. So I thought I might come here today and tell you about attitudinal barriers.

My take is that Bill 118 is about process. The real power in this bill is going to be found in the regulations once the standards development committees have done their jobs. I'd like you to consider the likely makeup of these standards development committees. The way I see it, business, labour, persons with disabilities and government are the principal actors. My principal concern is with the relative disparity of resources for persons with disabilities on these standards development committees. Given the long history of marginalization of persons with disabilities, there can be no doubt that persons with disabilities will be at a distinct disadvantage in commissioning studies and paying for expert advice. They simply won't have the funds.

So what will help? I say that openness will help, and I'll give you an example. In preparing for today's appearance, I e-mailed the accessibility directorate. You can see the message in my written submission. I asked for the opportunity to review any background papers that might have been prepared in connection with the bill. To my great surprise, I received the response—and you have it before you—"Any background materials that may have been prepared regarding Bill 118 are for internal ministry use only." Personally, I don't call that openness. It causes me to ask, what is there to hide? Taxpayers have paid for these materials; why can't taxpayers see them?

My recommendation, then, is that whenever this committee comes to a point in its deliberations—and I'm sure there will be many such points—where it has the opportunity to require government to lay its cards on the table, to be transparent—we've heard that word before, earlier today—then this committee should do it. Please remember the disparity of resources—especially between government and persons with disabilities—and go for openness every time. Lack of openness is an attitudinal barrier. Thank you.

**The Chair:** Thank you for your presentation. We have 10 minutes, and we'll start with Mr. Ramal.

**Mr. Ramal:** Thank you for your presentation. I just have a couple of questions for you. You talk about attitudinal barriers and also about openness. You said that Bill 118 wasn't available for you when you asked for it. As a matter of fact, it was publicly open on the government Web site and had been discussed in the Legislature for a length of time. We have nothing to hide; actually, we're proud of it and talk about it whenever we get a chance.

**1750**

**Mr. Fox:** I'm not talking about Bill 118. I've easily downloaded a copy of the bill. It's the background papers. I'd like to know where the government is coming from in connection with this bill. I'm certain that docu-

ments exist. For the life of me, I don't understand why those documents wouldn't be available to taxpayers.

**Mr. Ramal:** What exactly would you want: the whole background information of Bill 118?

**Mr. Fox:** When you think about reports of the Ontario Law Reform Commission, for instance, where they laid out their thinking into legislation, that was in the cards. You could easily obtain that sort of information. You simply went to a law library, for instance, and asked for a report of the Ontario Law Reform Commission. As I said, I asked in a polite fashion if I could have such material, but they told me it was for internal purposes only.

**The Chair:** I believe Ms. Wynne has a question.

**Ms. Wynne:** Yes. You're with the training board in South Simcoe; is that right?

**Mr. Fox:** South Simcoe county, and York region is the area that we cover.

**Ms. Wynne:** I wanted to get your take on the bill. I know you were dealing with some of the openness issues, but I wanted to ask you in general, given the way the staff put it this morning, that we're moving from a regime of planning to a regime of standards, if you think that's a good thing. What we're trying to do in this bill is set standards for which there will then be enforcement mechanisms and penalties if they're not implemented. Do you think that's a good thing? Do you think the direction we're going in is a positive one?

**Mr. Fox:** I think it's just fine. I shouldn't say 100% fine; I'm sure there'll be some tinkering and some fine-tuning. But as it stands, yes, I do think that is the direction to go in.

**Ms. Wynne:** So you're in general agreement with what the bill is setting out?

**Mr. Fox:** Absolutely.

**Ms. Wynne:** Terrific. Thank you.

**The Chair:** Mr. Jackson, three minutes.

**Mr. Jackson:** Gerald, thank you for your presentation. I concur with your concerns. In fact, on November 19, I filed a request under the Freedom of Information and Protection of Privacy Act. I asked for the following: a copy of ministry cost projections with respect to Bill 118, including but not limited to MB20 proposals from the ministry; staffing projection costs etc., including but not limited to ministry costs; the costs of setting up the tribunal; the expected annual cost of inspectors and so forth. Secondly, I asked for the projected and/or forecasting models that indicate the cost of implementing the provisions of Bill 118, including but not limited to the Ontario government, the private sector, the broader public sector and any other sector which may not have been mentioned above, inclusion of any ministry examples of what these costs incurred might in fact be. I asked a further question about polling and the amount of money the government was spending on polling in this department.

The bottom line is that the ministry refuses to provide this, even for us as MPPs, so you weren't personally slighted by the lack of information and the abrupt response by the government. They're treating all of us

the same way. But it's difficult. As the former minister, my responsibility was to do commission reports and to do cost projections. We were not allowed to present anything to cabinet unless we had cost projections. So we do know they exist. We know what they were under the old bill, and we should know what they are in the new bill. I want to thank you for specifically coming forward today to make that request, so that we'll understand just what the expectations for government are in implementing regulations that we won't see until years after this bill is passed.

**Mr. Fox:** That's gratifying to hear. Thank you.

**Ms. Martel:** Thank you for coming today. You said you were concerned that people with disabilities are marginalized, and they are; many financially, for example. They would have a distinct disadvantage if they were asked, for example, to do research on some of the standards development committees. My concern is not even their being asked to do research but their being able to come and sit at the table, especially if the development of some of these standards can go from three to five years, which is the projection in the bill. I don't think that people with disabilities are going to be able to participate fully in these committees without some financial support. They won't be able to afford to.

Furthermore, for any of them who need supports to be able to participate—whether those be support workers etc.—if those costs aren't covered, how are they going to be at the table? I'm wondering if you have any sense of what we should be doing. Should we be covering, for example, the costs—looking at both remuneration and costs for devices, or for assistance to allow people to participate—in order to be sure the standards development committees do have people with disabilities represented and that they can participate fully over the life of the development of those standards?

**Mr. Fox:** There is no doubt in my mind that some sort of allowance should be in place for this. You simply will not get the input from persons with disabilities, persons like myself, who have to travel from Newmarket. I don't drive, I'm not talking about transportation issues, but it's time-consuming and it's relatively expensive, if you're not working, to travel a distance to come, for instance, to Toronto to a hearing like this. Those people who will be on these committees are going to have to meet many, many times, and it's going to be a financial burden to persons with disabilities. Regardless of whether they're working or not, it'll be a burden, but to those who are not working it'll be a substantial burden.

**The Chair:** Thank you, Mr. Fox.

That will end the proceedings for the day. We will adjourn until tomorrow at 9 a.m. Before we adjourn, yes?

**Mr. Ramal:** Can I just talk about some information that we cannot release as the ministry due to the freedom-of-information act, FIPPA? That's why the secrecy. We cannot reveal all the names. Sometimes it can include names and all this stuff; that's why. But as a matter of fact—

**Mr. Jackson:** That's not factually correct.

**The Chair:** Excuse me. I will allow you, Mr. Jackson, to correct, if you don't mind. Can you please proceed?

**Mr. Ramal:** That's why we are open, we are travelling the province, and we wanted to have more than six days of hearings. We wanted to have eight and nine, but the other members opposed that. That's why we're talking about openness and sharing of information, to establish and conduct more information on how we can deal with the accessibility bill in the future.

**The Chair:** Mr. Ramal, thank you. I will allow Mr. Jackson, if there is a correction to be made, and then we'll adjourn the meeting.

**Mr. Jackson:** I'd like to correct—

**The Chair:** It was a lovely meeting; let's finish properly. Thank you.

**Mr. Jackson:** Then it shouldn't leave on a note that misleads either the public watching here today—

**The Chair:** Mr. Jackson, just go ahead.

**Mr. Jackson:** I will get to the point. I'll take exactly the same amount of time as Mr. Ramal. The fact of the matter is that an FOI request was not denied because of

personalities and protecting people's names; it was a trick used by the government to deny access to costing because they said it's a matter before cabinet. Having been a member of the Privy Council, as has Ms. Martel, I can tell you that there are a lot of documents, the costing projections, which should have been made public. They're not. We're going to appeal that, and we will get them, and we will prove, as we have on several other occasions with this government, that they're unnecessarily withholding information. But we're not protecting people's names, by any stretch of the imagination. The gentleman asked for some simple information and was told that they cannot provide it. That was a directive, a political directive.

**The Chair:** Thank you, Mr. Jackson.

Can I at this time adjourn the meeting until tomorrow morning at 9. I thank you all. Could the members wait for a moment? There is an update I will have to provide for tomorrow. Thank you, everyone.

*The committee adjourned at 1800.*





*Continued from overleaf*

Ms. H��l��ne Mogyorodi .....	SP-507
York University Faculty Association .....	SP-508
Ms. Ruthanna Dyer	
Transportation Action Now .....	SP-510
Mr. Mark Brose	
Canadian Hearing Society .....	SP-512
Mr. Gary Malkowski	
Environmental Health Clinic .....	SP-514
Dr. Lynn Marshall	
M <sup>me</sup> Lynn Kaye	
Family Service Association of Ontario .....	SP-516
Mr. Yves Savoie	
Mr. Peter Park	
Ethno-Racial People with Disabilities Coalition of Ontario .....	SP-518
Mrs. Rafia Haniff-Cleofas	
Mr. Bill McQueen	
York, South Simcoe Training and Adjustment Board .....	SP-520
Mr. Gerald Fox	

## **STANDING COMMITTEE ON SOCIAL POLICY**

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Ms. Elaine Campbell, research officer,

Ms. Lorraine Luski, research officer,

Research and Information Services

## CONTENTS

Monday 31 January 2005

<b>Accessibility for Ontarians with Disabilities Act, 2005, Bill 118, Mrs Bountrogianni / Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario, projet de loi 118, M<sup>me</sup> Bountrogianni</b> .....	SP-457
Ministry of Citizenship and Immigration .....	SP-457
Hon. Marie Bountrogianni	
Ms. Katherine Hewson	
Ms. Cherith Muir	
Mr. David Lillico	
Ontario Public Service Employees Union .....	SP-476
Mr. Suresh Paul	
Ms. Carol McGregor	
Families for Early Autism Treatment of Ontario .....	SP-478
Ms. Norrah Whitney	
Multiple Sclerosis Society of Canada, Ontario Division.....	SP-481
Mrs. Kris McDonald	
Mr. Don Weitz.....	SP-483
Arthritis Society, Ontario Division.....	SP-485
Ms. Jo-Anne Sobie	
Ms. June Henderson	
Regional Municipality of York.....	SP-486
Ms. Joann Simmons	
Ms. Joy Hulton	
Greater Toronto Hotel Association .....	SP-489
Mr. Sohail Saeed	
Ontario English Catholic Teachers' Association .....	SP-491
Ms. Elaine MacNeil	
Ms. Brenda Carrigan	
Community Living Ontario .....	SP-493
Mr. Orville Endicott	
Ms. Bonnie Johnston	
Mr. Tony Carella	
Federation of Rental-housing Providers of Ontario .....	SP-496
Mr. Allan Weinbaum	
Canadian National Institute for the Blind .....	SP-498
Mr. Bill Laidlaw	
Canadian Mental Health Association, Ontario.....	SP-500
Mr. Neil McGregor	
Ms. Mary Ann Baynton	
Beyond Ability International.....	SP-502
Mr. Gerald Parker	
National Broadcast Reading Service .....	SP-505
Mr. Bob Trimbee	
Ms. Arlene Patterson	
Ms. Anne Musgrave	
Mr. Stephen Trumper	
Mr. Geoff Eden	
Ms. Katita Stark	

*Continued overleaf*