

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** An Application made by Hydro One Networks Inc. to the Ontario Energy Board pursuant to sections 92 and 97 of the *Ontario Energy Board Act*.

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**THE ROSS FIRM GROUP OF LANDOWNERS SUBMISSIONS ON THE  
APPLICATION**

**OCTOBER 6, 2022**

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AND TO: Interveners of Record

AND TO: Gordon M. Nettleton  
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## **I. INTRODUCTION AND BACKGROUND:**

1. On May 9, 2022 Hydro One Networks Inc. ("**Hydro One**") applied to the Ontario Energy Board ("**Board**" or "**OEB**") for leave to construct approximately 49 kilometers of 230 kV electricity transmission line facilities between Chatham Switching Station ("**SS**") and its Lakeshore Transformer Station ("**TS**") ("**Project**" or "**CxL Project**"). In addition to the relief sought pursuant to section 92 of the Ontario Energy Board Act, 1998 ("**Act**"), Hydro One also sought approvals as to the forms of the agreements offered or to be offered to affected landowners in accordance with section 97 of the Act.
2. The application before the Board follows two Lieutenant Governor in Council Orders ("**OIC**"), 1499/2020 and 876/2022. OIC 1499/2020 directed Hydro One to undertake the development of a transmission line project including all steps deemed to be necessary and desirable to seek required approvals. OIC 876/2022 purports to establish that the CxL Project is needed as a priority project and informs the public of the process contemplated by section 96.1(1) of the Act.
3. The Ross Firm Group of Landowners ("**TRF**") participated in interrogatories, requested consent to file expert evidence and brought a motion regarding the scope of evidence filed and the manner of hearing the Application.
4. The Board denied the scope of TRF proposed expert evidence. The Board tabled TRF motion and instead required TRF to submit further interrogatories on the original scoped issue list. The Board then denied TRF motion to have the Application heard in person as opposed to in writing. The Board did not seek submissions from the Applicant or Interveners when determining TRF Motion.

## **II. SUBMISSIONS:**

5. The Board has failed to discharge its jurisdiction and obligations derived from the Act. It has done so by relying on an overly broad OIC, which goes far beyond establishing as a fact, the need for the project, but defines the form of project without the benefit of appropriate regulatory testing.
6. Section 96.1 provides the Lieutenant Governor in Council the ability to do two things:
  - a. Declare a project is needed.
  - b. Declare the project a priority.
7. All consequent approvals are still required and fall within the purview of the Board.

8. At its essence, the Board may accept that the need/demand exists and must be resolved while still testing the form of project proposed.
9. When the amendments to the OEB Act resulting in s.96.1 were being debated the Hansard clearly demonstrates the intended scope of the Legislative power conferred by the section.
10. During the 3<sup>rd</sup> reading of *An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998* Bob Delaney, speaking in favour of the bill, confirmed that a priority designation would only eliminate the consideration of the 'basic principle of need'; other elements of the existing approval process would continue.<sup>1</sup>
11. A broader interpretation allowing for the entire project to be outlined both in terms of need AND form was rejected as it was perceived to give the government the ability to bypass the regulatory protections afforded to the public.<sup>2</sup>
12. Considering the bill itself (passed as *An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998*), the explanatory note to the changes to the *Ontario Energy Board Act* states that an order under s. 96.1 does not relieve a transmitter from obligations under the *Act* to seek OEB approval. The language there, combined with the clear scoping language in the Hansard record, demonstrate that the exact nature of the project is still something subject to the regulatory process – the entire details of the project cannot be presented as a *fait accompli*.
13. The legislators framing of s 96.1 intends to leave the form of the project to the Board. By failing to hear evidence regarding the form of the project or alternative methods to meet the established need, the Board declined its inherent jurisdiction.<sup>3</sup>
14. Even before the Board failed to exercise its jurisdiction, it failed to explicitly determine whether its statutory grant of power gives it the authority to decide a particular matter, despite being presented with a Motion by TRF requesting that it do so.<sup>4</sup>
15. It is the submission of TRF that the Board should reopen the proceedings to undertake its statutory duty and review the form of project and alternatives.
16. In the alternative, TRF submits that the evidence filed by the Applicant is incomplete and does not constitute the best evidence available for the

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<sup>1</sup> Ontario, *Official Report of Debates of the Legislative Assembly (Hansard)*, 41<sup>st</sup> Parl, 1<sup>st</sup> Sess, No 126 (26 November 2015) at 6730 (Mr. Bob Delaney) [See Tab 1 of these submissions].

<sup>2</sup> *Ibid* at 6733.

<sup>3</sup> *Toronto Hydro-Electric System Ltd. v. Ontario (Energy Board)*, 2010 ONCA 284, 2010 CarswellOnt 2353 at para 22 & 59 [See Tab 2 of these submissions].

<sup>4</sup> *Ibid*.

determination of price, reliability, and quality of electricity service and further that the evidence filed does not support that the mitigation costs are reasonable. To this end, we adopt and rely on the submissions of Pollution Probe, specifically those comments contained in 'Issue 1: Project Costs'.

17. Even within the evidence filed, the Applicant fails or refuses to provide cost comparisons for route alternatives reviewed in the Class EA. A review of the relative costs of the alternative routes reviewed by the Applicant clearly shows that the preferred route selected is NOT the most cost effective. Neither the Applicant nor the Board addressed this fact. The former being saved from doing so by the latter choosing not to determine if the matrix used in the Class EA which weighted cost against other socio-environmental factors was reasonable from the lens of the regulator.
18. On the one hand, the Applicant acknowledges that they have the burden of proving that the proposed project is reasonable from a cost standpoint, but then claims doing so "is not practical and imprudently burdens transmission ratepayers with costs"<sup>5</sup> when referring to the reviewed alternative routes. They are afforded this paradoxical safe space by the scope of evidence required or indeed allowed by the Board.
19. With respect to alternative technologies or construction methods TRF raised two issues in their interrogatories:
  - a. The conductor technology used.
  - b. The form of tower used.
20. It is the submission of TRF that neither response by Hydro One supports the approval of the form of conductor or tower proposed.
21. While the Applicant indeed demonstrates that ACCC have a greater initial investment cost, they make no comment on the ability for those conductors to scale up allowing for future expansion of transmission on an existing corridor. Had TRF been afforded the opportunity to submit expert evidence, models of expansion vs. new corridors could have been presented.
22. Regardless, a review of the Applicant's project costs related to the conductoring of the towers will demonstrate that a three fold increase in conductor cost at this point is still less expensive than the project as a whole and as such, future demand planning with the use of a more capable conductor (allowing for scaling up to meet new future demand) is more prudent and reasonable than limiting the line and necessitating a new transmission corridor in the future. It would be absurd to find

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<sup>5</sup> EB-2022-0140 - Hydro One Networks Inc. Chatham x Lakeshore Leave to Construct Application – Supplementary Interrogatory Responses, Filed: 2022-09-19 EB-2022-0140, Exhibit I Tab 7 Schedule 2, Page 3 of 4, at line 36.

that no increase in demand in this region of the grid is anything but inevitable. In fact, future economic growth and increased demand is the foundation upon which the Lieutenant Governor chose to exercise its s.96(1) powers to declare the proposed project a priority via OIC.

23. Finally, a review of tower construction was requested from the mandated regulator perspective. The response from the Applicant was incomplete and again somewhat short-sighted. The Applicant simply looked at the cost of the construction of the monopole towers but did not quantify the potential savings in land acquisition costs from the admittedly smaller corridor footprint monopoles offer. Given that real estate costs form one of the largest factors in the project, TRF submits that without evidence describing the potential savings in land acquisition costs as an offset to the increased cost of the monopole construction, the Board cannot make an informed decision with respect to the issue of cost regarding this component of the project.

24. In sum, TRF submits that the Application as presented should not be allowed on two grounds:

- a. By accepting the form of project set out in the overbroad OIC, the Board has declined its inherent jurisdiction and failed to discharge its regulatory burden in the public interest. While the 'need' for the project has been established by the OIC, the balance of the relevant test remains:
  - i. Is the Project needed **and have appropriate alternatives been considered?**
  - ii. Have the cost responsibility principles set out in the Transmission System Code been appropriately interpreted and applied?
  - iii. What impact will the Project have on transmission rates?
  - iv. What impact will the Project have on reliability of supply?
  - v. Have the Environmental Assessment requirements been met?
  - vi. Have the land-related matters been addressed?
  - vii. Have consultations with Aboriginal Peoples been conducted appropriately?<sup>6</sup>

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<sup>6</sup> *Hydro One Networks Inc., Re*, (2008 CarswellOnt 8806) at para 8 [See Tab 3 of these submissions].

Appropriate alternatives have NOT been considered, and to the extent they have been considered, that evidence is not before the Board.

- b. By failing to avail itself of the best evidence, or erroneously scoping the evidence required from the Applicant, the Board does not have the ability to assess whether the Application meets the required standards with respect to project cost, price, reliability and quality of the electricity service.

ALL OF WHICH IS RESPECTFULLY SUBMITTED



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## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Sched. B, as amended (the “**Act**”);

**AND IN THE MATTER OF** an Application by Hydro One Networks Inc. (“**HONI**”) pursuant to Sections 92 and 97 of the *Act*

**AND IN THE MATTER OF** Ontario Energy Board Proceeding EB 2022-0140 Procedural Order No. 4 dated September 27, 2022

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### BOOK OF AUTHORITIES OF THE ROSS FIRM GROUP OF LANDOWNERS SUBMISSIONS ON THE APPLICATION

**OCTOBER 6, 2022**

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3. Hydro One Networks Inc., Re, (2008 CarswellOnt 8806) at para 8.

**TAB 1**



Legislative Assembly  
of Ontario

First Session, 41<sup>st</sup> Parliament

Assemblée législative  
de l'Ontario

Première session, 41<sup>e</sup> législature

# Official Report of Debates (Hansard)

# Journal des débats (Hansard)

**Thursday 26 November 2015**

**Jeudi 26 novembre 2015**

Speaker  
Honourable Dave Levac

Clerk  
Deborah Deller

Président  
L'honorable Dave Levac

Greffière  
Deborah Deller

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## LEGISLATIVE ASSEMBLY OF ONTARIO

Thursday 26 November 2015

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

Jeudi 26 novembre 2015

*The House met at 0900.*

**The Speaker (Hon. Dave Levac):** Good morning. Please join me in prayer.

*Prayers.*

### ORDERS OF THE DAY

#### TIME ALLOCATION

Resuming the debate adjourned on November 25, 2015, on the motion for allocation of time on the following bill: Bill 144, An Act to implement Budget measures and to enact or amend certain other statutes / Projet de loi 144, Loi visant à mettre en oeuvre les mesures budgétaires et à édicter ou à modifier d'autres lois.

**The Speaker (Hon. Dave Levac):** Further debate?

**Mr. John Vanthof:** It's always an honour to speak in this House and to speak on behalf of the residents of Timiskaming–Cochrane, the residents of my colleagues from the NDP caucus and, I'm sure, some other residents of Ontario. But today it's not a pleasure, because we're discussing the time allocation of Bill 144.

There are those who think that time allocation would be a good thing because, you know, in general, politicians talk too much anyway.

**Interjection:** Especially those from the north.

**Mr. John Vanthof:** Thanks for that.

This is a much more serious issue, because the way our democracy is constructed—it has taken hundreds of years to do this—a government is elected, and a government, especially a majority government, has every right to put forward legislation. But in return, the opposition should have the right to criticize, to critique, to debate and try to make that legislation better. The government has every right to put forward legislation, and there is a time-honoured tradition how that is done. It has taken hundreds of years to develop this. It has had a few problems over the years, but generally that's how it is done.

In years past, one of few tools the opposition had, in a majority government situation, would be to extend debate. One of the reasons that I think time allocation—all parties have been guilty of this; this isn't a partisan thing. The time allocation tool that's being used is something that all the parties have used, and it has hurt democracy each time.

But with this one, it's not only a large bill, but there are issues in this bill. It's basically a budget bill, and on a regular budget bill, you have to at least extend the debate over 12 days. This is basically the same as a budget bill.

It has schedules in it that affect people throughout the province in every walk of life, and yet this debate is being cut off.

I'm the whip for the party. It's my job to make sure that everyone who wants to speak to a bill can get on the schedule and express the concerns of their constituents, because the way it works when you're elected is that you talk to your constituents and you talk to your stakeholders. When legislation comes on to the order paper, and usually this is a longer process, you know who will be affected, you go back and you talk to them, and you say, "Well, what are the issues you want me to bring back to the Legislature so I can talk on your behalf and bring forward your concerns and hopefully ensure your concerns are reflected in the legislation?" That is how it's supposed to work.

**Mr. Wayne Gates:** Not here.

**Mr. John Vanthof:** No, not here, and specifically not today, because in my caucus of 20, I have had three members who have had the ability to speak, only three. I can safely say that all 20 want to speak—because every one of them has constituents who are deeply impacted by the schedules of this bill. But the government has taken it upon themselves to time-allocate it to basically stop not only the members from speaking on behalf of their constituents, but they've also time-allocated the committee time. Often we hear from the government benches in their remarks, "Well, you know what? We need to get this bill through and then we'll get it to committee, and we can make the changes needed in committee."

Well, I'd like to do the search on actually how many opposition amendments get passed in committee; but in this case, they're even time-allocating the committee time on a budget bill. It's sad, actually. Time allocation is a tool. It's a tool I personally don't agree with, that our party doesn't agree with but admittedly, when we were in government, have used. But if you think of a tool as a hammer, time allocation should be used a little like a claw hammer that you use to build a desk. This government is using it like a sledgehammer to tear down our democracy, and there is a difference.

Usually a bill will come on the order paper. We've had bills on the order paper for—well, the trails act has been on the order paper for a long, long, long time. I have people in my riding asking me about the trails act and when it's going to come forward. But usually something comes on the order paper and you have time to look at it and, like I said, talk to your constituents, and this is a process of months. After six and a half hours of debate, the government can move closure, but this is a much

longer process. Usually, the bill has been on the order paper for a long time.

With this bill, the bill was put on the order paper and the boxes were still warm when the government put forward the time allocation motion. This is the most egregious use of time allocation that I have seen in my four years here. They've time-allocated not only—even the introduction of the bill. This isn't a bill about one widget or fixing one thing; this is a bill that is going to change how many parts of this province are run. It's got big, big changes for labour and huge changes also for the electricity system—the sale of Hydro One and where the money is going. Guess what, folks? It's in this bill. And how the money is going to be spent: Guess what, folks? It's in this bill.

What they're doing is, basically, within a week they are just shoving it through. The question, the big question, is why? When you are in any kind of negotiation—and basically the democratic system, our parliamentary system, is a type of negotiation. When you're in a negotiation and someone on the other side does something that just doesn't make sense for who they are representing—because the government is elected to represent the people of Ontario. It is the government of Ontario. What they are doing here doesn't make sense for the people of Ontario. You have to ask yourself why.

**0910**

There could be some plausible reason. It could be that the session is coming to an end and the government basically didn't know how to manage the session, so they're having to ram this through in the last couple of weeks. Is that a plausible reason? I don't know; I'm not in the halls on the other side. But we have a lot of contact with some of the staff on the government side, and they are very competent people. We have a very good relationship with them. When you're on the House leaders' and whips' team, you do a lot with the other parties. I don't think it's a lack of competence on the other side, not at all; not with the people we deal with. I'm happy to say they are very competent.

Another plausible reason, and I hate to even bring this up, is that someone on the other side, whoever controls this, is basically too lazy to worry about democracy. This is a tool you can use with impunity. The only impunity is pressure from the public. I don't believe that either.

The third thing it might be is that there are actually parts of this bill that the government really doesn't want people to talk about and this is actually an effort to hide the true impact of some of these things from the public. The time from when this bill was put on the order paper to the time that it's going to be through the House, I think, is unprecedented. We have had no time. We've called our stakeholders. They didn't know anything about these changes, and already the bill was in time allocation. The government can say, "We've consulted all these people." Really? Well, they haven't given the opposition any time to consult anyone, and that is a huge, huge issue.

There could a fourth—am I on three or four or five?

**Interjection:** Three.

**Mr. John Vanthof:** There is a fourth thing this could be, and this is probably more dangerous: This government is so ideological that they think that everything they do shouldn't be questioned. That is extremely dangerous. And quite frankly, it's extremely disappointing, because this government was duly elected that they were going to be progressive; they were going to be open; they were going to be transparent. Do you remember—this will come back again—that they were so transparent that they were going to release the mandate letters from the Premier to the ministers? That's how transparent—never been done before. It's being done again federally. That was their demonstration: "We're releasing more information than any other government has done. We're flooding you with information." But at the same time they're doing that, they are ramming legislation through this House that is going to make a huge difference to Ontario, and they're basically not allowing the people to have any comment time on it. That is a danger to our democracy.

This isn't the first time it has happened. Someone will scratch their head a couple of years from now: "When did this actually—who approved this?" That has happened before with a government like the one on the other side. Take the Green Energy Act. We voted for the ideal of the Green Energy Act, but it was rammed through so quickly that there are things in the Green Energy Act that are extremely egregious.

In my riding, contractors lost hundreds of thousands of dollars specifically because of problems with the way the Green Energy Act was written. Solar farms are going up all over farmland in Ontario because of the Green Energy Act. Then the government says, "Oh, this doesn't look like a good idea. Maybe we should have thought this through." So now it is not allowed on class 1, class 2 and class 3 farmland. But farmland in northern Ontario isn't classified. So, guess what? On one hand, the government says farming in Ontario is going to be one of the growth centres of the economy of Ontario. It very well could be; there is lots of potential there. But on the other hand, the best farmland in northern Ontario, as we speak, is being covered with solar farms by this very government. Why? Because they didn't take the time to actually look at the legislation they were passing, because they are always right.

They are ideologues. This legislation is going to have exactly the same impact. Are there good things in this legislation? Likely some. Are there some very bad things in this legislation—dangerous? Yes, there are. And the very fact that they are pushing this through so quickly is the proof.

I know that in my farm and in my business and everything, when I do something really well—I'm a pretty humble guy, but if I do something really well, I like people to see it. If I do a nice job painting the barn, I like it when people drive by our barn and say it. I don't try and hide it. And yet, here, they are hiding it. They're pushing it through so quickly, hoping—it is a very complicated bill. This Trillium Trust stuff, where the Hydro One money is supposed to go—this is very, very

complicated, and they are trying to get it through without anyone actually noticing it. That is not the way our democracy is supposed to work.

We are very, very disappointed in the Premier, who promised to be open and transparent and is proving to be anything but. This Hydro One sale and the way the money is going to be handled through this document is a defining moment in her career, and it certainly won't be a very good defining moment because when you try and thwart democracy, it is never a good thing for the people of Ontario, and we are all here to represent the people. In this case, by time-allocating this bill, the Premier and her government—they certainly aren't.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Ms. Sylvia Jones:** I'm going to try to loop back and do a little bit of, "Here is what the opposition does when governments present bills." This is a time allocation motion that we're debating. What is a time allocation motion? Basically, a time allocation motion is setting out that we are finishing debate on a particular piece of legislation. In this case, it's Bill 144, An Act to implement Budget measures and to enact or amend certain other statutes. I want to loop back to "implement budget measures," because that's an important part of this discussion.

Bill 144 was introduced as legislation last Thursday. It has been on the docket, shall we say, for seven days. It was introduced on Thursday afternoon at approximately 1 p.m. We don't get a copy of Bill 144 until it is bound—printed. That happens the following day. Well, of course, Fridays we don't sit in the Ontario Legislature, so the first bound copies arrived in our offices on Monday. That would be three days ago.

On Monday, we started debating Bill 144, the Budget Measures Act. As opposition members, when we get government legislation, part of our role is to reach out to the individuals, the organizations and the stakeholders who will be impacted or potentially impacted because, of course, Monday was the first opportunity for us to physically look at it and figure out what it covers.

Bill 144, the Budget Measures Act, has 23 schedules. Schedules generally will mean impacting other pieces of legislation: opening them up and modifying them. Bill 144 has 23: the Assessment Act, the City of Toronto Act, the Electricity Act, the Escheats Act, the Financial Administration Act, the Fiscal Transparency and Accountability Act, the Forfeited Corporate Property Act, the Government Advertising Act, the Horse Racing Licence Act—I could go on for the 23, but I think you get the point, Speaker. There are a number of pieces of legislation that are being opened up and impacted as a result of Bill 144.

**0920**

So then what we would do, in opposition, is reach out. We would reach out to the city of Toronto. We would reach out to the organizations like the children's treatment centres that are referenced in schedule 1 of the assessment, and we would say, "What do you think of this? What are the impacts on the ground? Is this going to help your organization or is this going to hurt it? Is this

going to help your municipality or is it going to hurt it?" That's what we do in opposition. So by the very fact that within the same seven-day period we are actually talking about time allocation and shutting down the debate on Bill 144, you have eliminated our opportunity to reach out to our constituents and to reach out to our stakeholders. It speaks to the lack of regard that the government of the day is showing for the opposition's role and what we are here to do.

I mentioned that implementing budget measures is a very important part of what I want to talk about. We have debated Bill 144, collectively, all three parties, for less than six and a half hours—so, for ease of math, six and a half hours. If you look at the standing orders—and I know a lot of us don't enjoy reading the standing orders; maybe more of us should do it. On page 32 of the standing orders, it actually references budget motions and votes and debates related to budget options, and it says "eight hours." Eight hours is what we have to do. So we could make a pretty good argument that a bill entitled An Act to implement Budget measures and to enact or amend certain other statutes is in fact a budget motion. We're not even getting the 12 hours that by our standing orders, by our parliamentary precedents, we would be afforded as parliamentarians in debate. The Liberals have spoken on why they need this time allocation motion for less than 10 minutes. It begs the question: What is the rush? What is the motivation for putting together 167 pages of budgetary motions and legislative changes and then only giving us six and a half hours to debate it?

As my colleague from the third party mentioned, we also are limiting the public part of the consultation. If you read the motion that was brought forward by the House leader, each witness—"witness" is code for "each member of the public who is interested in Bill 144"—will get all of five minutes to drive down to Toronto and talk about what they like or don't like and amendments they want for Bill 144. I think it's a real shame that we are suggesting that public members have five minutes and that that's the maximum amount of interest that we will give them.

So in that manner, I would like to suggest an amendment to the motion for the time allocation on Bill 144, An Act to implement Budget measures and to enact or amend certain other statutes. It reads:

I move that the paragraph starting "That the Standing Committee on Finance and Economic Affairs be authorized to meet" be struck out and replaced with:

"That the Standing Committee on Finance and Economic Affairs be authorized to meet on Wednesday, December 2, 2015, from 9 a.m. to 10:15 a.m. and 2 p.m. to 6 p.m., and Thursday, December 3, 2015, from 9 a.m. to 10:15 a.m. and from 2 p.m. to 6 p.m. for the purpose of public hearings on the bill; and

"That the Clerk of the Committee, in consultation with the committee Chair, be authorized to arrange the following with regard to Bill 144:

"—Notice of public hearings on the Ontario parliamentary channel, the Legislative Assembly's website and Canada NewsWire; and

“—That the deadline for requests to appear be 4 p.m. on Tuesday, December 1, 2015; and

“—That witnesses be scheduled to appear before the committee on a first-come, first-served basis; and

“—That each witness will receive up to 10 minutes for their presentation, followed by nine minutes for questions from committee members; and

“—That the deadline for written submissions be 6 p.m. on Thursday, December 3, 2015; and

“—That the deadline for filing amendments to the bill with the Clerk of the Committee shall be 12 p.m. on Friday, December 4, 2015.”

I will give that to you, Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** Ms. Jones has moved the following amendment:

“I move that the paragraph starting ‘That the Standing Committee on Finance and Economic Affairs be authorized to meet’ be struck out and replaced with:

“‘That the Standing Committee on Finance and Economic Affairs’”—

**Ms. Sylvia Jones:** Dispense.

**The Deputy Speaker (Mr. Bas Balkissoon):** Dispense. Agreed?

**Interjections:** No.

**The Deputy Speaker (Mr. Bas Balkissoon):** “‘That the Standing Committee on Finance and Economic Affairs be authorized to meet on Wednesday, December 2, 2015, from 9 a.m. to 10:15 a.m. and 2 p.m. to 6 p.m., and Thursday, December 3, 2015, from 9 a.m. to 10:15 a.m. and from 2 p.m. to 6 p.m. for the purpose of public hearings on the bill; and

“‘That the Clerk of the Committee, in consultation with the committee Chair, be authorized to arrange the following with regard to Bill 144:

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“‘—That witnesses be scheduled to appear before the committee on a first-come, first-served basis; and

“‘—That each witness will receive up to 10 minutes for their presentation, followed by nine minutes for questions from committee members; and

“‘—That the deadline for written submissions be 6 p.m. on Thursday, December 3, 2015; and

“‘—That the deadline for filing amendments to the bill with the Clerk of the Committee shall be 12 p.m. on Friday, December 4, 2015.’”

Further debate on the amendment?

**Ms. Sylvia Jones:** All I have done with that—let’s call it a friendly amendment—is to double the time from five minutes for public deputations to 10. I think it’s a reasonable request. Please support it.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate? Last call for further debate.

Mr. Bradley has moved government notice of motion number 44.

Ms. Jones has moved the following amendment:

“I move that paragraph starting ‘That the Standing Committee on Finance and Economic Affairs be authorized to meet’ be struck out and replaced with:

“‘That the Standing Committee on Finance and Economic Affairs be authorized to meet on Wednesday, December 2, 2015, from 9 a.m. to 10:15 a.m. and 2 p.m. to 6 p.m., and on Thursday, December 3, 2015, from 9 a.m. to 10:15 a.m. and from 2 p.m. to 6 p.m. for the purpose of public hearings on the bill; and

“‘That the Clerk of the Committee, in consultation with the committee Chair, be authorized to arrange the following with regard to Bill 144:

“‘—Notice of public hearings on the Ontario parliamentary channel, the Legislative Assembly’s website and Canada NewsWire; and

“‘—That the deadline for requests to appear be 4 p.m. on Tuesday, December 1, 2015; and

“‘—That witnesses be scheduled to appear before the committee on a first-come, first-served basis; and

“‘—That each witness will receive up to 10 minutes for their presentation, followed by nine minutes for questions from committee members; and

“‘—That the deadline for written submissions be 6 p.m. on Thursday, December 3, 2015; and

“‘That the deadline for filing amendments to the bill with the Clerk of the Committee shall be 12 p.m. on Friday, December 4, 2015.’”

**0930**

Is it the pleasure of the House that the amendment carry?

All those in favour of the amendment, please say “aye.”

All those opposed to the amendment will please say “nay.”

In my opinion, the ayes have it.

The vote will be deferred until after question period.

*Vote deferred.*

## STRENGTHENING CONSUMER PROTECTION AND ELECTRICITY SYSTEM OVERSIGHT ACT, 2015

## LOI DE 2015 POUR RENFORCER LA PROTECTION DES CONSOMMATEURS ET LA SURVEILLANCE DU RÉSEAU D’ÉLECTRICITÉ

Mr. Delaney, on behalf of Mr. Chiarelli, moved third reading of the following bill:

Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998 / Projet de loi 112, Loi modifiant la Loi de 2010 sur la protection des consommateurs d’énergie et la Loi de 1998 sur la Commission de l’énergie de l’Ontario.

**The Deputy Speaker (Mr. Bas Balkissoon):** The member from Mississauga–Streetsville.

**Mr. Bob Delaney:** I’m just going to spend a few minutes here at third reading to cover the provisions of Bill 112 and explain some of the benefits of it. This is a bill that’s aimed at strengthening and enhancing the capabil-

ities of the Ontario Energy Board to further protect electricity ratepayers by boosting consumer protection and improving the ability to ensure the continuity of service.

One of the important things that Bill 112 does is to propose legislative enhancements to the Ontario Energy Board Act, which I'll call the OEBA, and the Energy Consumer Protection Act. These enhancements include some very key elements that consumers have been asking for and that very clearly showed up as being needed. I think the most important one is increasing consumer protection by amending the Energy Consumer Protection Act to include the banning of door-to-door energy sales.

As well, Bill 112 improves consumer advocacy through processes that give consumers a direct voice in Ontario Energy Board proceedings, including enabling cabinet to set requirements. Another thing that Bill 112 does is to reinforce the Ontario Energy Board's ability to ensure reliability and continuity of service to all consumers in Ontario in the event of a failing transmitter or distributor. Bill 112 also enhances the Ontario Energy Board's ability to levy penalties for non-compliant activities. It strengthens the Ontario Energy Board's oversight of utility transactions and structures. It lends clarity to relationships among local distribution companies and their affiliates, and it provides tools to cabinet to ensure that critical transmission infrastructure gets built.

The focus of this is and always has been putting energy consumers first. The legislation strengthens and enhances the Ontario Energy Board's role, as I've just described, and ensures that it has a robust series of measures and procedures in order to regulate the energy sector effectively and to provide consumer protection.

If passed, these changes would provide the Ontario Energy Board with stronger compliance and enforcement powers by increasing the penalties that could be levied against companies that are not complying with the OEB's legislation, rules and directions. In short, if the Ontario Energy Board makes a ruling, we need that ruling to have teeth. It enhances the ability to ensure reliability and continuity of service if distribution or transmission companies are unable to fulfill their licence obligations. Bill 112 enhances oversight to ensure best practices on utility consolidation activities. I think the most important thing to continue to repeat on utility or local distribution company consolidation is that they are going to be love marriages among willing participants.

If passed, this legislation would enable the Ontario Energy Board to give consumers a stronger voice in Ontario Energy Board hearings and proceedings. If passed, Bill 112 would enhance consumer protection for those who sign energy retail contracts by doubling the cooling-off period to 20 days from 10 days and requiring that all contracts are subject to a verification process. In other words, when you sign up for something on the Internet or you want to make a material change, there's a little pop-up box that says, "Are you sure you want to do this?" That's the only change that this is making: It's going to make sure that consumers get that second chance—to say, "Are you sure that this is what you want to do?"

Once enacted, Bill 112 will enable the province to do something that consumers have been requesting for a long time. If passed, this legislation will ban door-to-door sales of retail electricity and gas contracts.

The proposed legislation will also enable the province to identify priority transmission projects in order to ensure that critical transmission infrastructure actually gets built in a timely manner.

Let's go into a few more of the details in the few minutes that I have left. The proposed Strengthening Consumer Protection and Electricity System Oversight Act also includes changes to the Energy Consumer Protection Act, which was passed in 2010. This would, as I mentioned earlier, prohibit electricity retailers and gas marketers from selling energy retail contracts at the consumer's home while still allowing retailers and marketers to engage in advertising activities at the door. In other words, you can hand people information but you can't close the deal at the door.

The ministry and the Ontario Energy Board are also proposing to more strictly govern door-to-door marketing activity. As members of the Legislature, we have, I'm sure, all had hands-on experience with this, where—normally at dinner time, it seems, in our neighbourhood—somebody rings the doorbell and you go to the door and there's somebody who has got a plastic laminated tag. I've looked at a few of them and I've thought to myself, "Boy, that looks suspiciously like it could be either Enersource or Ontario Power Generation or something like it," including a few who've actually had tags that say that they are with Ontario Hydro, which is an entity that hasn't existed in some 15 years.

I would listen to some of the spiels, some of which would say, "And the government is forcing us to do this." There were a few of them that I would say, "Really? I'm the government. Tell me how it is that I'm forcing you to do this." And then a lot of them would start hemming and hawing. On a few of them, I said, "I'll tell you what. Let me call the Peel Regional Police. You just stay right here. Let's wait until the police come," and—boom! most of them are gone.

So it's this stuff that's on the fringe of what's actually legal and certainly over the line in what's ethical that this act aims to stamp out once and for all. By banning sales at a consumer's home, this legislation would protect consumers from very aggressive sales tactics in which people come in and say, "Can I see your gas bill? Can I see your electric bill?" As speaker after speaker, on all sides, has said to Ontarians, "If somebody comes to the door and asks you to produce your gas bill or your electricity bill, close the door; send them packing. End the transaction right there. You know for sure that you are being had."

This would also allow for a more considered decision-making process prior to signing up for an energy contract. There were a lot of people who said, "Just ban the entire thing." Ontario has not gone that far, but what the province has said is that they can't come to the door, engage in a high-pressure scheme, have you produce your

bill, copy down the measures from your bill and then suddenly a month or two later you find that you've been signed up to a contract that you aren't sure whether or not you agreed to. That's done; that's not going to happen anymore, and if you find that it does, you're going to have measures to get out of it.

There are also a number of other proposed amendments to enhance consumer protection. For example, stricter parameters are being proposed around contract verification. You've got to make sure that you are saying yes, after the person has left, to what the contract actually is, not what they were trying to make you believe that it is. Currently, only contracts signed in person are subject to a verification process—as if there's no fraud on the Internet. Proposed enhancements would ensure that all contracts, including Internet contracts, are subject to the same process. There are also proposed amendments to extend the cooling-off period during which consumers can cancel an energy contract without penalty, moving it from 10 days after the fact to 20 days after the fact.

**0940**

As well, the legislation includes proposed changes to the Ontario Energy Board Act, 1998, which would provide the Ontario Energy Board with the ability to levy higher and more flexible penalties for contravention of its rules and legislation. What this means is that some of the companies that have people come to your door with this type of high-pressure sales tactic can say, "Well, you know, so let's do it. What are they going to do: give us a tap on the wrist? Then we just change all those phony-baloney tags our people are wearing and give them a different-coloured vest that still looks something like it and send them out again." No. This time it has got teeth. This time it gives the Ontario Energy Board the ability to say, "And we mean it."

The legislation advocates strongly for consumers by proposing legislative enhancements that would allow the Ontario Energy Board to establish measures to enhance the current representation of the interests of consumers in OEB proceedings. This would provide additional opportunities for consumers to make a representation before the Ontario Energy Board.

Currently, the legislation restricts the business activities of affiliates of municipally owned local distribution companies—for those of you who come from where I come from, this means Enersource—but it doesn't include any such restrictions on the business activities of non-municipally-owned local distribution companies. Proposed enhancements would remove the restrictions on the business activities for affiliates of municipally owned local distribution companies, putting them on the same footing as privately or provincially owned local distribution companies. In layman's terms, we want a level playing field and a fair and equitable set of rules; that's what this bill proposes.

Currently, legislation provides the Ontario Energy Board with powers to ensure that continuity of service for distribution company customers would carry on in the event of an emergency. Under the proposed legislative

enhancements, these powers would also be extended to transmission companies. In addition, some enhanced powers to help head off a potential emergency have also been introduced—again, some experience with what is happening in other jurisdictions and what we can very clearly see by being able to look at some of our experience here in Ontario.

The current legislation requires the Ontario Energy Board to examine a transaction that allows someone to gain more than 20% control of the voting securities of a transmitter or distributor. The proposed legislative enhancements reduce this to 10% to account for more widely held ownership anticipated in the future. In addition, the proposed legislative amendments would require that distributors maintain their head offices and records here in Ontario.

Currently, if a transmission project is identified as a priority project in the long-term energy plan as approved by cabinet, the Ontario Energy Board must re-evaluate the need for these projects when they apply for approval from the board, which is repetitive. The proposed enhancements would provide cabinet with the clear authority to identify priority transmission projects and eliminate the need for the Ontario Energy Board to spend further time on the basic principle of need. All other elements of the Ontario Energy Board's existing approval processes, including reviewing costs for prudence and allocation, would, however, remain in place. This measure would help to reduce the duplication of work between the Ministry of Energy and the Ontario Energy Board in moving forward in building key transmission infrastructure here in Ontario. In other words, once the work is done by one party, it's deemed to be done by the other party.

A few final remarks: The protection of Ontario's energy consumers remains the top priority of this bill. Energy consumers are better protected today than they were five years ago before the Energy Consumer Protection Act came into effect. Since the Energy Consumer Protection Act's implementation in 2011, the number of complaints against retailers has decreased significantly. In other words, the act has some teeth. We're making those teeth sharper and more numerous and more effective, and we know we're building on a track record of success from legislation five years ago.

As part of Ontario's commitment to protect electricity ratepayers, last year, in 2014, the Ministry of Energy asked the Ontario Energy Board to review the Energy Consumer Protection Act and to report back with any recommendations about opportunities to strengthen consumer protection.

Minister Chiarelli underlined the government's commitment to doing all that it can to protect Ontario energy consumers in light of an evolving retail energy sector, and that's what this bill does. That's why we hope this bill will gain speedy passage through the Legislature and be enacted: so that it can get to work, continuing to more effectively and comprehensively protect Ontario energy consumers now and into the future.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Norm Miller:** It's my pleasure to have the opportunity, on third reading, to speak to Bill 112, An Act to amend the Energy Consumer Protection Act, 2010 and the Ontario Energy Board Act, 1998.

We're in third reading now on this bill. One of the things the bill does is ban door-to-door sales of electricity and energy contracts. That's certainly something that our party supports and that I support. I think most people don't appreciate having people knock on their door to try to sell them something when they're just trying to get on with whatever it is—cooking dinner or enjoying Saturday. Too often, vulnerable people especially are open to high-pressure tactics and end up in contracts that they don't understand or they don't want or they really didn't get all the information about. This bill would ban door-to-door sales, and certainly I support that.

Where I live, out in Vankoughnet, in rural Muskoka—it's half an hour from the closest town—door-to-door sales really aren't a big issue; I've got to say that. Our driveway has a pretty good hill, and in the 10 years that we've lived there, I can't say as we've actually ever had a door-to-door salesperson come to the door.

In fact, we've hardly had any kids come on Halloween. This year, my wife and I were shopping on October 31, and I raised the question, "Should we get some candy?" My wife said, "No one ever comes to our door," so we didn't, to make a long story short. To our surprise, on Halloween night, we actually got one visitor, and then of course we had to scrounge to have anything to give to that person. Next year, we'll be better prepared for that.

The other group that probably spends more time going door to door is politicians. Usually, we're trying to sell something, but we're not trying to sell something that would cost you money, necessarily—although, in the case of this Liberal government, it usually does end up costing you a lot of money; you just don't pay it directly. But I absolutely have no problem with banning door-to-door sales.

Some other aspects of this bill—I think maybe the member from Mississauga–Streetsville had a speech for the original second reading. He hadn't revised it since committee, perhaps, because I believe I heard—maybe one of the government members can correct me. I know we had a number of amendments at committee, and one of them was to make the cooling-off period 10 days instead of 20, and that was passed. That was the one amendment that was passed. If the member looks at the most current version of the bill, he might note that the 20-day period is stroked out. Where it says, "Subsections 15(4) and 19(1) are amended in order to mandate a cooling-off period of 20 days," it is in fact stroked out. Maybe I didn't hear him correctly.

That's the one amendment that has passed. We did make a number of other suggestions that I think were quite logical. Unfortunately, the government defeated all of our other amendments, like allowing online verification or allowing commission payments. Those were defeated.

The ban on online verification: I think it's quite cumbersome, the process they've come up with that requires

a phone call. Even though you may absolutely want to buy something—it's your choice—you still have to make a phone call afterwards and verify. If you raise any questions, then the process is immediately halted; it's put on hold. If, for example, a wary consumer asked about the global adjustment charge, which most people don't understand, then the process would be stopped. So I do see problems with that.

**0950**

I also see problems with the ban on commissions. Commissions are a very, very typical part of the sales process. I have two brothers that are in the car business: my brother Larry, who has the Ford dealership in Bracebridge, Cavalcade Ford; and my brother Ross, who has Muskoka Chrysler, located quite close by to Cavalcade Ford. Obviously, commission sales are just part of the car business. It's a way of motivating people. If all the salespeople were paid the same regardless of how many cars or vehicles they sold, it just wouldn't be as efficient and effective.

Where I do have a problem with commissions is when the government starts handing out huge commissions for the Pan Am Games; that's a place where they're perhaps inappropriate. But I think that just to ban commission sales in the energy sector completely is a little heavy-handed, to say the least.

We're talking in this bill a lot about the powers of the Ontario Energy Board, and I just mentioned the question that might be raised about the global adjustment. The issue in my riding, the number one issue in Parry Sound–Muskoka that, if you have to pick one—and there is, of course, a huge variety, but the one that comes up most in my constituency offices in Parry Sound and in Bracebridge, with emails and calls and people showing up looking for help, is affordability of electricity.

That is why the question about the global adjustment would be such a good one when you phone up to verify the contract you've signed, because most people aren't aware that the actions of the government, through the Green Energy Act, have resulted in huge overpayments of the market price of electricity. As the Auditor General pointed out, between 2006 and 2015, it's some \$50 billion—that's with a B; billion dollars. Most people just don't realize that. And that's what is a huge part of the increase—the great increase—in electricity bills we've seen.

I reviewed our critic's speech back in September on this bill. He was talking about what's going to happen on November 1. Is there going to be a rollback? Is the OEB going to roll back energy prices at that point? Well, we saw what happened on November 1, and that was another 8% increase in electricity cost. I believe it's now 17 cents a kilowatt hour at peak hours. People in Parry Sound–Muskoka, especially those who are the least well off, who tend to have homes with electric baseboard heat—a lot of them heat with wood out of necessity, as well, or because they like it, but increasingly out of necessity—just can't afford to pay their hydro bills. We're getting people showing up in my constituency office who are, in



many cases, being cut off; they're being shut down. Something's happened—they've lost a job or they've injured themselves. We've had cases where people have been in hospital, and they come back from hospital and their power is being shut off. It's a reality. That's the worst thing about energy policies in this province: affordability is really hurting the average person, particularly in a riding like Parry Sound–Muskoka.

The government spins that it's the Ontario Energy Board that sets the prices, but it's the policies of the government that affect the costs in the whole sector, that determine what those prices would be. The biggest factor in driving up electricity prices is that \$7-billion-a-year global adjustment. It's a huge part of it, and that's directly a result of the Green Energy Act, a policy decision of this government.

That is a huge, huge factor in my riding of Parry Sound–Muskoka, and it's affecting not just the person trying to pay their bill, but also jobs. Energy costs are just one of the basic costs of doing business in this province. Last week, I was in Parry Sound and I stopped in for lunch at Orr's Fine Meats, or Orr meats. There's a deli there as well. Murray Orr was there. What did he want to talk about? He wanted to talk about how much his energy bill has gone up. They have to run the coolers, the freezers and all the refrigeration. They can't decide to shut it off in peak times; they've got to run it all the time when they need cooling. So they've had a huge, huge increase in their energy bills. It makes it challenging for a business like that, and it makes it challenging for big businesses. The biggest example in northern Ontario—we've seen that Xstrata Nickel, a few years ago, left Timmins and moved just across the border to Quebec, to a dirtier smelter, and 700 jobs left the province—700 jobs.

**Future mines:** The government has talked a lot about the Ring of Fire now for ages, without a lot to show for it. They thought they had a deal with Cliffs resources before they left the province, and part of that deal was a huge energy subsidy. You have to do that, because there's just not going to be mines opening in this province if they have to pay the full price of electricity. The chromite smelter that Cliffs was going to build near Sudbury would have been the single biggest energy user in the province. Without a special deal, it just wouldn't be happening here and it wouldn't be located here.

A couple of weeks ago, I toured Detour mines, located a couple of hours north of Cochrane, Ontario. I asked about their energy bills, and it's millions per month. But they also have an industrial rate, so they're paying up to about five cents a kilowatt hour, well below what the average person pays. But the billions of dollars invested in Detour Gold, and the billions of dollars being generated, wouldn't be there unless there were competitive enough electricity prices.

I worry that we won't have those future new mines and jobs because of the policies of this government that are driving up electricity prices. I would love to see affordability become something that the government is concerned about.

**Hon. Michael Gravelle:** Don't forget about NIER.

**Mr. Norm Miller:** I heard the Minister of Northern Development and Mines—I didn't hear what he said, but he was making a comment. If he wants to heckle a little louder, I'd be happy to respond.

**Hon. Michael Gravelle:** I don't want to heckle at all.

**Mr. Norm Miller:** No heckling; okay.

**Hon. Michael Gravelle:** The Northern Industrial Electricity Rate Program.

**Mr. Norm Miller:** The minister just mentioned that we have the northern electricity program, which has been extended. That's absolutely necessary, because the basic cost of electricity is becoming so uncompetitive in the province.

The problem with this program—it's a good program—is that there's not enough money in it, and the problem is it's only for big mining companies. It doesn't apply to the small company that wants to grow. So if you're small, you're paying the unaffordable electricity price, which either puts you out of business or you're not able to grow because your cost structure is so expensive. The northern electricity program applies to a few of the really big energy users, to try to make the cost of their electricity somewhat comparable.

In wrapping up on Bill 112, the ban on door-to-door sales is the part that we absolutely like. We're pleased that the government listened to our one amendment to do away with the 20-day cooling-off period and to make it 10 days.

There are some other problems that they didn't listen to. The online verification that they aren't allowing—I think this phone verification system would be cumbersome. As I mentioned, the ban on commissions, I think, is a little heavy-handed.

In closing, our big concern is just that the affordability of electricity in this province is such a big factor affecting individuals and businesses. Of course, that's not being addressed by this bill.

With that, Mr. Speaker, I will close. Thank you very much.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate? The member for Toronto–Danforth.

**Mr. Peter Tabuns:** Well put, Mr. Speaker. Yes, the member for Toronto–Danforth.

Speaker, it's a pleasure to be able to address the matter of Bill 112, the government's—and I say this with some irony—Strengthening Consumer Protection and Electricity System Oversight Act, 2015.

**1000**

As you are well aware, Speaker, this is the third and final reading of this bill. The bill, like so many others, has been time-allocated. This is not a government that actually wants to have wide-ranging debate on the issues before this province. This is a government that, frankly, seems to be more and more adopting the habits that a recently defeated federal Conservative government made part of their lives and that I think changed people's perception of what kind of party they were. I think that will happen in Ontario as well.



Speaker, this government is taking a beating on the sale of Hydro One. It has intended to try and surround that sale with as much camouflage as it possibly can. If you listen to the Minister of Energy, he speaks about the power of the Ontario Energy Board to control prices, because he well knows that this ill-fated venture to privatize utilities—and not just Hydro One, but to allow privatization of electricity utilities across Ontario; in fact, to encourage privatization of municipal utilities across Ontario—will mean much higher hydro rates. His only shield, his only argument, is that he has a regulator that can actually take action to protect consumers.

In this act, Speaker, he substantially undermines that regulator. He substantially undermines the power of the public to intervene in rate hearings. He sets back regulation quite substantially. People have to understand that when they follow the debate on this bill. The minister ignores the reality of what has happened in Ontario for the last 12 years, and he ignores the reality of what happens when you have privatized energy systems.

Speaker, there are two bills here. One presents itself as a consumer protection act, and this is clearly where the government wants to focus. The second addresses itself to the whole question of the regulator and how that regulator will operate in the future. When we look at the privatization of Hydro One, we have to understand that the government is introducing a number of measures. This bill, Bill 135, to make it a far more investor-friendly situation, wants to make sure that investors' interests are protected and that the public's interests are put to the back of the line.

This bill will give the government explicit authority to bypass the regulator when it brings forward new transmission projects. These projects could be very expensive. They could be totally cost-ineffective. They could be projects that are driven politically by a cabinet that is responding to the demands of big players in the energy sector, demands that will be delivered behind closed doors with an expectation that this government will give them whatever they want.

What we have had historically—and I move on to talk about the question of the ability of the public to have its voice heard at hearings, the ability of the public to intervene in rate hearings, the ability of the public to address substantial changes to the electricity system. I'll admit that what we've had has had its flaws, but I have to say, Speaker, the reality of an energy system where people do get the opportunity to intervene is one that at least gives people the opportunity to put officials and decision-makers on a stand and under oath to answer questions what about actually is being done to the electricity system.

That is going away. This government has decided that what's good for investors is something that Ontario will have to live with. This bill will aid this government in privatizing Hydro One and allowing the privatization of utilities across Ontario. Right now, the government has all the power it needs to initiate and champion priority transmission projects. What it is doing with this bill is giving the government the power to bypass the Ontario

Energy Board and bypass public hearings where consumer advocates and those who represent major power companies, and major manufacturing and processing companies, would no longer have the opportunity to question whether or not the project was needed in the first place. Gone. Gone. The ability to actually look at whether or not something was necessary for the electricity system will be cut out.

We have had that happen already here in Ontario. I'll get into that later when we talk about smart meters, because it is entirely relevant to the approach the government is taking with this bill. The government took an approach with a regulatory process that sidelined the Ontario Energy Board, that never had hearings on the business case for smart meters—never. That burdened us with a \$2-billion bill for smart meters that produce virtually no savings and don't allow the government to meet its target for reducing peak demands.

The government has already gone down this road. It likes the road where the public is shut out because then it can do whatever it wants. It can make its friends as happy as all get-out, because those friends who are putting forward different projects, different technologies, don't have to worry for a second that their interests are going to be questioned or challenged because the government is going to back them to the hilt. They'll override the public regulatory process—public hearings—and just deliver the goods.

This government has already shown that it can't be trusted to bring forward policies that are allowed to be tested in open hearings with people who know the field, who can question and take apart bad projects.

For instance, the Ontario Energy Board is required to review and approve private sales of transmission companies to make sure they're in the public interest. If the government was actually sincere about making sure the regulator had power, then the OEB would be reviewing the sale of Hydro One. All the decision makers would be on the stand under oath, testifying as to the reasons for this privatization; interveners would be able to demand evidence and background documents and test them in the open light of day.

Speaker, let's be very clear: I don't think this government should be privatizing Hydro One or our electricity utilities—not for a moment. But even using the government's own logic, a sale like this needs to be put into a public forum where it can be dissected, and those who propose it can actually be forced to put the numbers on the table to show that it's valid or not valid and be forced to defend their theories about how a private market works in the electricity sector. They've already ignored the regulator on that. They're now going to make sure the regulator doesn't get to decide or assess whether or not a multi-billion-dollar transmission project makes sense or not. At every point, this government—talking about the regulator defending customers—is gutting the ability of that regulator to actually assess and protect. The government wants this to go through and, after all the horses have left the barn, kick the barn door closed and say, "Well, God, we took care of that."

Last week we went through this bill clause by clause. I attempted to amend this bill to prevent some of the most serious damage that I believe it will cause. Here's what I had to say about section 18 of the bill, the bill that allows this assignment of priority to transmission projects and this exempting transmission projects from review by the Ontario Energy Board:

"Section 18 ... allows the Lieutenant Governor in Council—effectively, the cabinet—to declare that any particular transmission line is going to be a priority and that there will be no review at the OEB as to the necessity for that line, whether it's justified for the system as a whole. The OEB will only be able to actually review expenses and determine whether or not, within the framework the cabinet has set, those expenses were reasonable and prudent."

I would say, Speaker, that there are other problematic parts of that bill, but this section is the one that has the most substantive impact.

I noted in the committee, as I did a few minutes ago, that cutting the Ontario Energy Board out when it came to taking a look at smart meters was part of the reason we got stuck with a \$2-billion bill for an investment that's producing virtually no return at all.

**Mr. Wayne Gates:** How much?

**Mr. Peter Tabuns:** Some \$2 billion—\$1.9 billion and counting. The only thing it's doing is making some manufacturers of smart meters extraordinarily happy. The savings on a system that produces, say, 23,000 or 24,000 megawatts at peak capacity in mid-winter is about 200 megawatts—200. That's a fluctuation from hour to hour. Two billion bucks, Speaker: If your constituents wonder why they're having difficulty paying for their electric heating, I think it should be pointed out to them that the plan for smart meters that has loaded them with bills—loaded the whole system with bills—never went through an open review by a tribunal at the Ontario Energy Board, where the planners and the decision-making material could be tested.

**1010**

Speaker, I would say, with regard to transmission lines, that you remember the story that came out recently that Paul Bliss did for CTV about the Niagara reinforcement line, a \$100-million transmission line to nowhere. The Ontario Energy Board actually had substantial questions about that line. The government went ahead and had it built anyway. Hydro One still isn't allowed to charge higher rates for it; that's coming. But right now we, the people of Ontario, are on the hook for \$5 million a year in interest payments on this line that has never been activated. It has been there now for, what, five or 10 years? You're talking about very substantial amounts of money that are going to pay for interest for a line that's just standing there.

Imagine how many more useless lines and transmitters we'll be able to build with the Ontario Energy Board completely ruled out of the picture. Think about it, Speaker. Think about the fact that, every time Hydro One puts in a new transmission line or puts in a new transformer station, whether needed or not, they will be able

to charge the ratepayers of Ontario and get a guaranteed rate of return. It's a money machine and one whose misoperation can profoundly damage the people of this province.

Speaker, this section of the bill allows for all kinds of hanky-panky behind closed doors, an opportunity for people to demand favours and be given favours without any public assessment of the dollar impact of those decisions.

As we've seen with the Financial Accountability Officer, he tried to get at the facts around the sale of Hydro One. What happened? He was told that the studies, the background documents upon which the government had made its decision, weren't accessible. They were cabinet secrets. This section of this bill will make far more electricity planning in Ontario subject to cabinet secrecy, unverifiable by the general public and unverifiable by those who get stuck with the bills. This bill is meant to aid the privatization of Hydro One; it is not meant to protect the interests of power consumers in Ontario.

I called for a recorded vote on this section. Every single Liberal in the room voted against my motion and voted to cut the public out—to exclude the public—from future consideration of proposed power lines.

The gas plant scandal arose when a government, in the heat of an election campaign, decided that it wanted to save a number of seats. We all know what happened in terms of its impact on our bills. This government is going to make the possibility of that scandal happen far more frequently in the future because, frankly, public scrutiny is being cut out.

Bill 112 also proposes to change how consumer interests are represented at Ontario Energy Board hearings. We have to ask, because it's not spelled out in the legislation, exactly what they have in mind. Is the government getting ready to stop paying money to cover the expenses of people who intervene on the part of consumers and put in their own little government-owned watchdog? It's an open question. It's not answered in the legislation or in the numerous discussions that are taking place more widely. I moved an amendment in committee to protect the current system of interveners being able to recover their costs so that we could have independent voices at the Ontario Energy Board. We need to have those independent voices at the Ontario Energy Board. Speaker, it is critical that that independent intervention be protected. I spoke to that; the government answer was, "All's fine."

Speaker, you're indicating subtly that you may want to get up.

*Third reading debate deemed adjourned.*

**The Deputy Speaker (Mr. Bas Balkissoon):** Seeing the time on the clock, this House stands recessed until 10:30 a.m.

*The House recessed from 1015 to 1030.*

## INTRODUCTION OF VISITORS

**Hon. Jeff Leal:** I'm very pleased today that Rachael, the daughter of Pam Young, one of our employees with

OMAFRA, is one of the pages this session. On behalf of our ministry, we're very proud of this young lady being a page here during this session.

**Mr. Han Dong:** Amongst us is the chair of the Canadian Independent Music Association, Shauna de Cartier. I would like to welcome her.

Also, I have a wonderful group from COSTI in my riding visiting the Legislature as well. Welcome.

**Mr. Monte McNaughton:** I'm honoured to welcome to Queen's Park today my wife, Kate, and our 27-month-old daughter, Annie-Grace.

**Hon. Michael Coteau:** Today we have five members of the Canadian Independent Music Association here to join us. Stuart Johnston, Lisa Fiorilli, Shauna de Cartier, Chris Moncada and Juno-award-winning artist Hawksley Workman are joining us here. They are just over in the members' gallery. We know that CIMA acts as an advocacy leader for Canadian independent music, and today is their Queen's Park day.

**Mrs. Cristina Martins:** I want to introduce the page captain today from my riding, Michelle Lewis, and to welcome her mother, Nicole Knowlton, who is visiting us here today. Welcome to Queen's Park.

**Ms. Sylvia Jones:** Later on today, I have a school, Centre Dufferin District in Shelburne. I just want to welcome them before they arrive.

**Mr. Paul Miller:** We have a new resident in the province of Ontario. I'm proud to announce my first grandchild, Elliot May Traquair. It's an old Scottish name, Traquair. She was seven pounds, born early Wednesday morning.

**Mr. Yvan Baker:** I know you're going to do a formal introduction in a few minutes, but if I may, I'd just like to steal a little bit of your thunder and introduce a few people by name who are here with us.

We have a delegation from the Lviv Oblast State Administration in Ukraine: Mr. Yuriy Pidlisnyy, who is the deputy head of the Lviv Oblast; Mr. Bohdan Chechotka, who is head of the health department; Mr. Yuri Kushnir, president of the Canada-Ukraine Parliamentary Program Alumni Association; and Vitalina Kushnir, who is a director at the Institute for Child and Family Development Charitable Fund. Welcome to Queen's Park.

**The Speaker (Hon. Dave Levac):** Thank you. I appreciate the assistance on the names.

**Mr. Bill Walker:** I'd like to introduce the newest grandfather in the Legislature, Paul Miller. I'd like to congratulate him and his family. The best of health and happiness always.

**Hon. Michael Coteau:** Joining us in the Legislature today is a very special guest: Jane Wright, who is the grandmother of my press secretary, Jesse Wright. This is Jane's first time visiting Queen's Park. Welcome to Queen's Park.

**Mrs. Marie-France Lalonde:** I would like to acknowledge someone from my constituency who is receiving today the Ontario Senior Achievement Award: Mr. Gary Whitten, who is currently here today in our

Legislature. Thank you very much, and congratulations to Mr. Whitten.

**Mr. John Yakabuski:** This morning, the father of page captain Benjamin Huckabone will be visiting us. His father, Mark, will be visiting us from Pembroke, in the members' gallery. We hope he enjoys question period.

**Miss Monique Taylor:** I'd like to welcome Adam Cook, who is here today on behalf of Action Hepatitis Canada and who we enjoyed breakfast with this morning. Welcome to Queen's Park.

**Mrs. Marie-France Lalonde:** One of our colleagues is actually celebrating his birthday this Sunday, November 29. I would like to recognize the Minister of Health and our great friend Eric Hoskins, who is going to be celebrating his birthday. Congratulations and happy birthday.

**Mr. Percy Hatfield:** I have it on good authority that instead of "Grandpa," the member for Hamilton East-Stoney Creek will be called "Grumpa."

**The Speaker (Hon. Dave Levac):** I have to look in my library to find out if that's unparliamentary; I'm not sure.

Further introductions?

**Mr. Todd Smith:** Well, he's not with us yet, but he is on his way this morning. He's Canada's heavyweight boxing champ. He's a good friend of mine. I hope that he can bring his belt into the House when he arrives; I've alerted security.

Dillon "Big Country" Carman is going to be joining us for question period a little bit later on this morning.

**The Speaker (Hon. Dave Levac):** Yes, it's a big country.

We have with us today in the Speaker's gallery two delegations. We have a delegation from Turkana county of the Republic of Kenya, led by the Governor of Turkana county, the Honourable Joseph Koli Nanok. Welcome to our delegation and thank you for being with us.

We also have another delegation today in the Speaker's gallery from the Lviv province of Ukraine. Please welcome our guests, and thank you for being with us.

#### WEARING OF FOOTBALL JERSEY

**Hon. Yasir Naqvi:** Point of order, Speaker.

**The Speaker (Hon. Dave Levac):** A point of order from the government House leader.

**Hon. Yasir Naqvi:** As you and all members know, the Grey Cup is taking place this Sunday in Winnipeg between the Edmonton Eskimos and the great Ottawa Redblacks. I'm seeking unanimous consent, in recognition that the Ottawa Redblacks are Ontario's team, to wear this jersey in the chamber today.

*Interjections.*

**The Speaker (Hon. Dave Levac):** Holy mackerel, this is going to be fun.

The government House leader is seeking unanimous consent to wear the jersey of the Redblacks, Ontario's

team, today, and unanimous consent for him to get dressed. Do we agree? Agreed.

**Mr. Paul Miller:** Point of order, Speaker.

**The Speaker (Hon. Dave Levac):** Point of order, the member from Hamilton East–Stoney Creek.

**Mr. Paul Miller:** On the back of that shirt he should put “Lucky.”

**The Speaker (Hon. Dave Levac):** I don’t know what to make of this.

#### VISITOR

**The Speaker (Hon. Dave Levac):** Do you want in on it?

**Ms. Lisa MacLeod:** Actually, no, but I have something else.

**The Speaker (Hon. Dave Levac):** Okay. The member from Nepean–Carleton on a point of order.

**Ms. Lisa MacLeod:** I think that we should strike from the record whatever the member from Hamilton East–Stoney Creek said. He should withdraw that.

But in any event, I actually am introducing someone for my seatmate, who’s not in his seat right now. Ryan LaPalm, his friend from Belleville, is here. Hello, Ryan. Welcome to Queen’s Park.

1040

#### ORAL QUESTIONS

##### HEALTH CARE FUNDING

**Mr. Patrick Brown:** To the Premier: Every one of us in this Legislature knows someone who doesn’t have a family doctor. There are over 800,000 Ontarians without one. The government’s response has been to cut clinical care funding by more than 7% over the last three years. We all know someone battling addiction, whether you know it or not, and the government slashed addiction services funding by 50%.

The government ignores the struggle of these at-risk patients, the risks they face every day. These cuts target each and every community in Ontario. Will the government reconsider their health cuts before the end of the year?

**Hon. Kathleen O. Wynne:** I know that the Minister of Health and Long-Term Care is going to want to comment on the specifics, but I also know that the Leader of the Opposition understands full well that health care funding in this province goes up every year. Year over year, funding has increased. He knows full well that the needs are expanding in the province, and that’s why funding for health care continues to go up.

There are thousands of more doctors in this province, thousands of more nurses in this province since we’ve been in office, because we understand how critical it is that people have the care that they need where they need it. I think it’s more than 90% of people in this province who have access to a primary care practitioner. We’ve

made a commitment that by 2018, everyone in the province will have access to a primary care practitioner. That’s one of the reasons that funding continues to go up.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Mr. Patrick Brown:** Again to the Premier: If you take into consideration the federal transfers, the health budget actually went down. These cuts are having real effects. In Kingston, five family doctors were unable to join a local practice group. They were turned away from practising. In Peterborough, a family doctor was unable to join a family health team, leaving 750 patients stranded. In Oakville, a family doctor closed their practice, leaving 900 patients without a doctor to see. In Richmond Hill, five doctors abandoned their plans to open practices, leaving 5,000 patients waiting to find a new doctor. The government should be ashamed.

My question to the Premier is: Did the members from Kingston, Peterborough, Oakville and Richmond Hill stand up and speak for their patients, or did you ignore them? What is really happening?

**Hon. Kathleen O. Wynne:** I would say to the Leader of the Opposition: What did he say, as a member from Ontario of the federal House of Commons, when Stephen Harper cut the federal health transfer to Ontario by \$8 billion? What did the Leader of the Opposition say at that point? Because—

*Interjections.*

**The Speaker (Hon. Dave Levac):** Finish, please.

**Hon. Kathleen O. Wynne:** I can tell the Leader of the Opposition that this has been a conversation of acute interest at the Premiers’ table. We are going to be putting health care on the agenda in our conversations with the new Prime Minister, because when that \$8 billion was cut from federal transfers to Ontario, I didn’t hear any voice from the Leader of the Opposition. I didn’t hear any concern from the Leader of the Opposition, who was an Ontario member in Ottawa.

**The Speaker (Hon. Dave Levac):** Final supplementary?

**Mr. Patrick Brown:** Again to the Premier: While federal transfers continued to increase, you cut \$54 million. Those are the cold, hard facts. Right here in Toronto, a blood monitoring clinic couldn’t stay open because of the government’s last round of cuts. Those patients have seen dramatic delays in discharges, and it has resulted in longer wait times.

In Ottawa, two dermatology residency students left the province rather than set up shop here, when wait times are already far too long. In Ajax, 12 doctors aren’t able to offer flu vaccination clinics, affecting 8,000 patients. Again, all in Liberal ridings. I can tell you countless stories from our side of the aisle as well.

The Premier has either silenced her own members or ignored them. Why won’t anyone on that side of the aisle stand up to the Premier and say that the cuts to health care in your ridings are wrong?

*Interjections.*

**The Speaker (Hon. Dave Levac):** Stop the clock. Be seated, please.

*Interjections.*

**The Speaker (Hon. Dave Levac):** Order.

*Interjection.*

**The Speaker (Hon. Dave Levac):** You won't know when.

Just to remind the member to speak to the Chair. Thank you.

Premier?

**Hon. Kathleen O. Wynne:** Minister of Health and Long-Term Care.

**Hon. Eric Hoskins:** I know that the leader of the official opposition was a member of the federal government at a time when they cut off refugee health care to deserving and vulnerable people in this country. I know he was part of the federal Conservative Party when they decided to eliminate any health accord with the provinces. I'm so pleased that the new Liberal government in Ottawa has made that commitment to negotiate and partner with the provinces and the territories to actually create a health accord that has been absent for nearly the last decade.

The truth is—and the member opposite knows this—I know that the Progressive Conservative Party does have a history of being challenged when it comes to the numbers, but he knows that the figures that he's using are estimates. If he were to look at the actual numbers that are available from public accounts, he'll see that we've continued to increase the health care budget year after year and will continue to do that.

#### CLIMATE CHANGE

**Mr. Patrick Brown:** To the Premier: The Globe and Mail headline was "Ontario Long-Term Climate Strategy Short on Details...." The National Post headline reads, "Ontario Leaves Many Questions Unanswered in New Climate Change Strategy...." The Post online said, "Ontario Climate Plan Shy on Detail." A CBC headline: "Expect Climate Change Plan Details in New Year "

Was this just another example of photo-op environmentalism or do you actually plan to do something before you jet off for Paris?

**Hon. Kathleen O. Wynne:** Let me just say to the Leader of the Opposition that we have a plan. They had no plan. They don't talk about a plan. In fact, the member sitting behind him doesn't think that we should implement the plan that we have announced. So, Mr. Speaker—

*Interjections.*

**The Speaker (Hon. Dave Levac):** I'm not going to tolerate shouting people down.

**Hon. Kathleen O. Wynne:** I would suggest that the Leader of the Opposition read the stories underneath those headlines, and he will see that the outline that we have laid out is exactly what we said we were going to do. We made it very clear that we would bring out a strategy at this point. We will be bringing out a detailed five-year plan in the new year. That is consistent with the work that we've already done in terms of shutting down the coal-fired plants and the work that we are doing right now on the design of the cap-and-trade system.

There are members in his caucus who don't think we should have a plan at all and think we should scrap what we are doing.

**The Speaker (Hon. Dave Levac):** Supplementary.

**Mr. Patrick Brown:** Again to the Premier: I read those articles, and all those descriptions of your press conference said it was a news conference without news—a news conference without a plan. We need to do our part to fight climate change. We must leave Ontario a better place for generations to come.

*Interjections.*

**The Speaker (Hon. Dave Levac):** Stop the clock. It goes both ways.

Finish, please.

**Mr. Patrick Brown:** In that spirit, I ask the minister and the Premier, as they always said: What's the cost of doing nothing? By looking at the headlines, their climate change strategy did just that.

What I want to know—it's a very reasonable question—is what is the cost of doing something? Will the Premier release details today or before she leaves for Paris? What is the cost for the average household of your climate change plan, if there is a plan?

**Hon. Kathleen O. Wynne:** I'm glad that the Leader of the Opposition has gotten to the real point of what he wanted to ask, which is that he doesn't think we should do this; his environment critic doesn't think we should do this. They don't think we should have a plan because they are unwilling to acknowledge that the cost of doing nothing, the cost—

*Interjections.*

**The Speaker (Hon. Dave Levac):** I did hear something I didn't like. If I knew who it was, I would ask them to withdraw. It stops now.

Finish, please.

**Hon. Kathleen O. Wynne:** Increased insurance costs, the degradation of the environment, costs of food—all of those costs are costs that we cannot, as the human race, afford. It is imperative that we take action, along with jurisdictions around the world, to curb this development, to decrease our greenhouse gas emissions. That's why we're working to put a cap-and-trade system in place, and I know they—

**The Speaker (Hon. Dave Levac):** Thank you.

*Interjection.*

**The Speaker (Hon. Dave Levac):** The member from Prince Edward-Hastings, come to order.

Final supplementary.

**Mr. Patrick Brown:** Again to the Premier: Everyone agrees we should fight climate change. Our concern is, you had a news conference—it was a photo op. There is no plan. What we're asking for, very simply, is: Share with us your plan.

I've asked a very simple question today, but I will narrow it down further. In British Columbia, the Auditor General ensures that every dollar from the carbon tax goes back to families and businesses to help reduce emissions.

1050

Mr. Speaker, since we are still waiting for the details from the Premier, will she at least commit to us—will she commit to the Legislature—that her cap-and-trade program will have AG oversight and be revenue-neutral?

*Interjections.*

**The Speaker (Hon. Dave Levac):** Be seated, please. Thank you.

*Interjection.*

**The Speaker (Hon. Dave Levac):** The member from Renfrew–Nipissing–Pembroke, come to order.

**Hon. Kathleen O. Wynne:** Minister of the Environment and Climate Change.

**Hon. Glen R. Murray:** We just finished a five-year plan, which I don't think they've even read, which successfully reduced our emissions by 6% and had no negative impact and did not raise any prices, period.

Our intention with our next five-year plan is to achieve the same objectives. We're the only jurisdiction in North America that has actually closed coal plants and has actually achieved its objectives, save Quebec.

Mr. Speaker, the document here is quite detailed. It is more detailed than Alberta's, British Columbia's or any other's. Maybe the Leader of the Opposition should take a basic reading lesson, because it's in about grade 8 English, if he can't understand it.

Mr. Speaker, to answer his question directly, the plans that we are introducing will make life less expensive for Ontarians than inaction, and that has been demonstrated—

**The Speaker (Hon. Dave Levac):** Thank you. New question.

## ENERGY POLICIES

**Mr. Jagmeet Singh:** My question is to the Premier. Yesterday, the Premier told Ontarians that learning from other provinces where hydro rates are cheaper and they invest more in conservation is “trying to drive wedges among the provinces.”

The Premier ought to know that learning from others isn't wedge politics. The Premier knows that it's simply doing the right thing for Ontarians.

But why is the Premier so stubborn in refusing to look at other provinces? Is it because she knows that Manitoba, BC, Quebec—provinces with public hydro systems—have lower rates and invest more in conservation? Is that why?

**Hon. Kathleen O. Wynne:** Mr. Speaker, I actually have found that sitting at the table with my colleague Premiers across the country has been a very valuable experience for Ontario. In fact, the member opposite might know that we have, as a result of those conversations, forged agreements with Quebec on the exchange of energy in peak and off-peak periods for us as a province.

We have worked to write a Canadian energy strategy. There were lots of voices across the country who said, “You'll never get agreement among all of the provinces and territories, because the geography is so different and

the systems are so different.” But we did get that agreement; we got an agreement.

The Canadian Energy Strategy is a foundational document, and it's actually a document that the new Prime Minister has signed on to. As we go into the Paris summit, it's very much going to inform our position there.

**The Speaker (Hon. Dave Levac):** Supplementary.

**Mr. Jagmeet Singh:** Yesterday, the Premier suggested that Ontario had nothing to learn from our neighbouring provinces. When our neighbours invest more in conservation and have lower rates, I think we should be learning from those provinces.

Why is the Premier so determined to push ahead with selling off Hydro One when all the evidence shows that it's bad for the environment, it's bad for families who are struggling to make ends meet—

**Hon. Bob Chiarelli:** Oh, come on. That's BS.

**The Speaker (Hon. Dave Levac):** The Minister of Energy will withdraw.

**Hon. Bob Chiarelli:** Withdraw, Speaker.

**The Speaker (Hon. Dave Levac):** Thank you. Carry on.

**Mr. Jagmeet Singh:** It's bad for the environment, it's bad for families who are struggling to make ends meet, and it's bad public policy. It's simply bad for Ontarians.

**Hon. Kathleen O. Wynne:** Mr. Speaker, I would say to the member opposite that you can't have it both ways. If we look across the country, you will find examples where there are private distribution companies. In fact, you look in this province and there's a mixed distribution in terms of private and public.

The fact is, it is one of the questions, when we were having our conversations about broadening the ownership of Hydro One—I actually said that. I said, “Let's look across other jurisdictions. Show me what the impact is of having some private ownership of a distribution company.”

The fact is that if it's a well-run company, if the services are met—and that is exactly what we want to have happen with Hydro One—then there is no negative impact. In fact, there can be a positive impact.

I am absolutely determined to learn from other jurisdictions. I work with my colleague Premiers, and I will continue to do that for the benefit of the people of Ontario.

**The Speaker (Hon. Dave Levac):** Final supplementary.

**Mr. Jagmeet Singh:** We have evidence. We know that in provinces where there's public hydro, the rates are cheaper. We know that in provinces where there's private hydro, the rates are more expensive. We have the evidence. When electricity bills are cheaper in provinces with public power, we should be learning from them, not insulting them. When provinces with public power invest more in conservation, that's a lesson. When public hydro puts money into infrastructure, that's a lesson.

Instead, the Premier is committed to selling off Hydro One and putting the province into a worse financial

situation, as told by the FAO. Does the Premier really think that Ontario has nothing to learn from those neighbouring provinces?

**Hon. Kathleen O. Wynne:** Mr. Speaker, I've answered that question a number of times in terms of working with my colleague Premiers. I will continue to do that. We are in fact collaborating to an unprecedented extent with provinces across the country, and I will continue to do that.

But the fact is, what the member opposite is not talking about is the differences in geography. The reality is that there is different geography across this country. There is different water power accessible to different provinces, and we all have to operate within our own geography.

So I will continue to look for absolutely the best deal possible for the people of Ontario. That's why we're working with Quebec. That's why there are conversations with Manitoba. In the interim, I want Hydro One to be the best-run company it can be. I also know that we must make those investments in infrastructure if we're going to be competitive, not just in the country, but internationally.

#### PRIVATIZATION OF PUBLIC ASSETS

**Mr. Jagmeet Singh:** My question is to the Premier. The Liberals promised that selling Hydro One would fix transit. The fact is that the money brought in by the sale of Hydro One won't come close to delivering real help to families and cities coping with gridlock. In fact, the sell-off of Hydro One has nothing to do with building transit, and the Premier knows it.

TTC riders in Toronto are being asked to pay more for cash fares. City councils across the province are asking for support, yet transit riders everywhere are being asked to pay more for services while services are being cut. Why is the Premier failing commuters?

**Hon. Kathleen O. Wynne:** I just have to say that the magical thinking is not on this side of the House. The magical thinking is on the other side of the House in the third party, where somehow all the projects that are needed across the province—the roads, the bridges, the transit systems—can all be built without making one tough decision. The fact is, that's not the case.

I would say to the member opposite that when he goes down the list of projects that we are building, whether it's the Kitchener line, which will be partly electrified, and the weekly trips will go from 80 to 250; or the Lakeshore East line, where the annual ridership will go from 10 million to 32 million; or the billion dollars for the Hamilton LRT; or the support for SmartTrack, which is the single most important project that the mayor of Toronto wants to implement—which one of those would he cut because of his magical thinking?

**Mr. Jagmeet Singh:** The Premier knows, and her entire caucus knows, that selling off Hydro One is not the solution. There are far better solutions and far more solutions, and it's not the way to do it.

The Premier may not realize this, but people who rely on transit also pay hydro bills. Selling Hydro One off will hurt families twice: once as they continue to wait for the bus or sit in traffic on their commute, and again when they finally get home and open up their hydro bills. Does the Premier realize that selling off Hydro One actually hurts families twice?

**Hon. Kathleen O. Wynne:** What hurts families is if they don't have the roads, bridges, and transit that they need. What hurts Ontarians is if they don't have an excellent company delivering their electricity. What hurts Ontarians is if they don't have all the facts.

The reality is that there's a political campaign that the member opposite is engaged in right now with his party, to fearmonger among people about what's going to happen because we are investing in infrastructure and we're broadening the ownership of Hydro One.

The reality is that he doesn't talk to his constituents and the constituents in ridings around the province about the investments that their municipalities, their communities are going to get because of the decisions that we are taking.

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We know that there's not a municipality in this province that doesn't need infrastructure dollars. We're providing those infrastructure dollars, and we're making the tough decisions in order to do that.

**The Speaker (Hon. Dave Levac):** Final supplement-ary.

**Mr. Jagmeet Singh:** Mr. Speaker, what we know is that the vast majority of Ontarians don't want this government to sell off Hydro One. What we know is that the vast majority of municipalities don't want this government to sell off Hydro One. People are stuck in their cars or packed like sardines in transit and they're looking for some relief. Selling off Hydro One doesn't actually build transit, and according to the FAO, it could raise as little as \$1.4 billion. Selling off Hydro One is not going to build transit. The Premier knows this and her entire caucus knows this.

The TTC is Toronto's second-biggest electricity consumer, and GO electrification is going to mean more electricity consumption for GO Transit. Higher rates are going to have real impacts on these transit providers who—

*Interjections.*

**The Speaker (Hon. Dave Levac):** Thank you.

The member from Essex and the member from Eglinton–Lawrence, that's enough.

You have one sentence to wrap up, please.

**Mr. Jagmeet Singh:** Higher rates are going to impact transit providers, and that means higher fares. Will the Premier stop the sell-off before she does any more damage to this province?

**Hon. Kathleen O. Wynne:** Minister of Transportation.

**Hon. Steven Del Duca:** I thank the member for his question. This very same debate and discussion has come up several times in the Legislature over the last couple of



weeks. It's interesting, again, that the deputy leader of the NDP would ask us, or would talk about what's on the minds of our caucus on this side of the House. I said this last week, Speaker: What's on our minds is making sure that we build the province up.

What I think is important, though, is that the leader of the NDP and the deputy leader of the NDP have a conversation with backbenchers on that side of the House, because every single one of his NDP caucus colleagues has a specific request or a desire to see infrastructure projects occur in each of their ridings, whether we're talking about London, or Toronto, or Essex, or Niagara Falls, or the north. Four-laning highways—

**The Speaker (Hon. Dave Levac):** Through the Chair, please.

**Hon. Steven Del Duca:** —building up transit—in every single region of the province. Why won't you level with the people in your own—

*Interjections.*

**The Speaker (Hon. Dave Levac):** Stop the clock, please.

Questions and answers are directed to the Chair. And if it continues with anybody, I'll cut you off.

**Mr. John Yakabuski:** The Minister of Transportation is threatening to take the title away from the Minister of the Environment.

**The Speaker (Hon. Dave Levac):** Now that you've had your say, the member from Renfrew–Nipissing–Pembroke, second time.

New question.

## ECONOMIC OUTLOOK

**Mr. Victor Fedeli:** Good morning, Speaker. My question is for the Premier.

Today the government will present its fall economic statement, albeit 11 days late. Thankfully, the Financial Accountability Officer already gave us some insight into the state of Ontario's finances. He told us of the province's deteriorating economic performance, slower GDP and weaker labour market outcomes. What he said was that the government continues to miss their lofty revenue forecasts, but continues to spend the money they didn't take in. We were told that the only way to right the ship is to lower the growth outlook to 3% and spend accordingly. The Global and Mail concurred, going so far as to suggest that the government is "living in a fiscal fantasyland."

Speaker, my question is: Will we finally see the truth about the state of the finances in Ontario?

**Hon. Kathleen O. Wynne:** Let me just go through the realities that we're dealing with. Year over year, we have beaten our deficit targets, and the Financial Accountability Officer's report said that we're on track to beat our targets again this year. That's exactly what the FAO has said. We're doing that because of the plan that we have.

Our plan is to build Ontario up, including investing in people's talents and skills, including the infrastructure investments that we were just talking about in the previ-

ous question, including fostering a dynamic business climate and working with businesses so they can expand and so that they can become exporters, and including creating a secure retirement pension plan. Those are the four pillars of our plan.

We're unlocking the value of assets so that we can make that investment of over \$130 billion for roads, bridges, transit, hospitals and schools. That will support 110,000 jobs a year. Since the recession, Ontario has created more than 500,000 jobs—559,600, to be exact. Those are the fundamentals that we'll be talking about in the financial—

**The Speaker (Hon. Dave Levac):** Thank you. Supplementary?

**Mr. Victor Fedeli:** Back to the Premier: I question whether the fall economic statement will discuss the facts the government attempted to bury in order to lower their deficit this year.

On page 162 of a 167-page finance bill, there is one line that tells us exactly what the government has been up to all along. Schedule 22, section 7, item 1 authorizes the government to use the Trillium Trust money to fund or "reimburse" the crown for the construction of infrastructure. Exactly what we've been saying all along is now laid bare by their own document. The proceeds from the sale of Hydro One are not to fund transit. They're to "reimburse" the government for money that was already budgeted.

Will the Premier now confirm that this has been a transit sham all along?

**Hon. Kathleen O. Wynne:** No, we've been clear about our plan to use the Trillium Trust to build key vital infrastructure projects, transportation projects. That is what we are going to do with that money. The money is in the Trillium Trust, and it is going to go to build those projects.

I think, actually, the member opposite knows that, because he understands that there are jurisdictions all over the province, including in northeastern Ontario, that need those infrastructure investments.

But let me just talk about the track that we're on. Ontario's unemployment, at 6.8%, is under the national unemployment rate of 7%. According to the Conference Board of Canada, Ontario is on track to grow about 2% this year, outpacing the projected 1.1% GDP increase for the country. Ontario is the first in North America for foreign direct investment for the second year in a row.

The reality is that we are on track, and we're going to stay on track.

## COLLECTIVE BARGAINING

**Ms. Cindy Forster:** My question is to the Premier. Under Bill 109, which the government is about to ram through, health care workers will no longer have the democratic right to choose the union that represents them in the case of a health sector merger. Under this legislation, if 60% of health care workers are in one union,



100% of workers will lose their right to choose the union that represents them in a merger.

In a memo prepared by the Ministry of Health, obtained through freedom of information, it clearly states that “no broad-based consultation” was done before this section of the bill was tabled, and cites consultation with only one stakeholder.

Why were there no broad-based consultations done before the government decided to strip away health sector workers’ fundamental right to a democratic vote to select the union they wish to represent them in a merger?

**Hon. Kathleen O. Wynne:** Minister of Labour.

**Hon. Kevin Daniel Flynn:** Thank you to the member for the question. The Public Sector Labour Relations Transition Act provides a framework to resolve a number of labour relations issues when there’s a restructuring in the broader public service.

When there’s amalgamation of a hospital, a school, a town or a city, two unions have to amalgamate, perhaps, in that circumstance. Where one union has a large majority, what is being suggested and proposed in the legislation is that this legislation, if passed, will say that we don’t have a vote; it goes to the largest sector, to the people that represent the most.

There’s a difference of opinion within the labour movement, I’ll admit to that. Some unions think it’s a good idea; some unions have concerns with it. The bill is at committee; it’s at the social justice committee. I understand that each and every one of those stakeholders is bringing their concerns forward to the committee. I look forward to the committee work on this.

**Ms. Cindy Forster:** In fact, on what appears to be the government’s very first piece of its massive health transformation plan, they admit they’ve done no broad consultations. In the memo that we obtained through FOI from the Ministry of Health, the ministry has admitted that “this issue isn’t even a problem.” Yet, the government is stripping health care workers of their most basic democratic right: the right to choose.

Speaker, will the Premier tell hundreds of thousands of health care workers in this province why it’s willing to actually strip away their rights without even having done consultation for something the government admits isn’t even a problem?

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**Hon. Kevin Daniel Flynn:** Thank you once again to the member. As I said, there’s a variety of opinions on this, and that variety of opinions comes from within the labour movement itself. Some people have suggested that the amendments that are being put forward would reduce the potential for delay and the disruption that’s often associated with these votes. It would remove the large cost associated with it and would contribute to more harmonious labour relations.

Others have different opinions. I respect those opinions. In a very transparent way, this morning, this afternoon, those stakeholders are bringing forward their concerns. They’re addressing the committee on this issue. I suspect the committee will give this a good and true

deliberation, and will bring forward its best amendments if they’re needed.

## AMATEUR SPORT

**Mr. Chris Ballard:** My question is to the Minister of Tourism, Culture and Sport. As every member in this House is aware, the Pan/Parapan Am Games hosted here in Ontario were the largest and most successful in the history of the games. The Ministry of Tourism, Culture and Sport has previously addressed the members of the House about the success of the Pan/Parapan Am Games. Many suggested that no one would buy tickets to the games; fans bought 1.2 million tickets to the games. Many suggested that no one would cheer for the games; in fact, more than 1.4 million people attended the Pan/Parapan Am celebrations.

Mr. Speaker, Ontarians are proud of the success of these games. Through you to the minister, I’m interested in hearing more about the legacy of the Pan/Parapan Am Games, and I’m interested in learning how the legacy has benefited amateur sport in Ontario.

**Hon. Michael Coteau:** I want to thank the member from Newmarket–Aurora. I’m proud to say that not only did we host the largest and most successful games in the history of this country; we did it on time and on budget.

Because of that success, Ontarians have been left with a strong legacy of sports which will be felt for many years to come. Ontario demonstrated that we can increase our athlete success rates by winning the most medals of any Pan/Parapan Am Games. Ontario proved that it could be inclusive when we held the most accessible games.

On Thursday I was at Ryerson University and I announced the Ontario government’s plan to build a new plan—

*Interjection.*

**The Speaker (Hon. Dave Levac):** Order.

**Hon. Michael Coteau:** —to increase the success of our athletes in Ontario by announcing a sports strategy called Game ON.

*Interjection.*

**The Speaker (Hon. Dave Levac):** The member from Hamilton East–Stoney Creek.

**Hon. Michael Coteau:** This is the first sports strategy in Ontario in over 20 years. By—

*Interjection.*

**The Speaker (Hon. Dave Levac):** Right after I mention, he decides to do it again. I’m just being lenient because of Wednesday.

Carry on.

**Hon. Michael Coteau:** By leveraging what we learned from the games, we will bring forward more change. The Game ON plan for Ontario represents another long-lasting legacy out of the Pan/Parapan Am Games to benefit Ontario.

**Mr. Chris Ballard:** Thank you, Minister. I’m happy to see that the minister is using the momentum of the games to promote healthier, fitter Ontarians. It’s well understood that sport creates positive and lasting benefits

for health and wellness. We know that physical activity contributes to healthier bodyweight and better cardiovascular fitness for our youth and that physical activity can help to prevent chronic diseases later in life, like heart disease or cancer.

While we know of the benefits of physical activity, we also are aware that there exists a gender gap in sports, one that widens with age. For every adult female engaging in sport, there are two males. As an MPP and as a father of two grown daughters: What are we doing to address this gender gap, and what is our government doing to build up amateur sport?

**Hon. Michael Coteau:** Again, I'd like to thank the member. Our sports plan focuses on three key areas: participation, development and excellence. We know that in different parts of Ontario, depending on where you live and on family income, there are barriers to achievements in sport.

We also know that participation by women and girls in sport is half the participation level of that of men. With the help of an advisory panel, this year we're going to look for new ways to advance athleticism and sport for women and girls in Ontario by increasing the amount of role models that exist.

In the last winter games, held out in BC, only 11 of the 108 coaches were female. But we also know, in contrast to that, that 97% of 400 female executives who were surveyed participated in sport. It's my hope that we can take what we have learned from these games and continue to advance sport in Ontario for everyone.

#### ENVIRONMENTAL PROTECTION

**Mr. Ted Arnott:** My question is for the Minister of Economic Development. The passage of Bill C-40, to establish the Rouge National Urban Park, this past January was a great day for Canada in creating the largest urban park in the world—some 20,000 acres. However, this minister threw the entire project into jeopardy by reneging on an agreement signed in January 2013 to transfer provincial land to the federal government to create the new park.

While the minister cited inadequate environmental protection as the government's rationale for going back on its word, a fundraising email sent out by the minister made it clear that the government's motivation was purely partisan. They made up an excuse, because they didn't want the Harper government to get credit for the new park prior to the next election. It's that simple.

Now that there's a new government in Ottawa, will the minister commit to stop holding up the Rouge National Urban Park and agree to transfer the land?

**Hon. Brad Duguid:** I was planting trees in the Rouge Valley before I even knew what partisan politics was about. When it comes to the Rouge Valley, I and my colleagues from Scarborough, and all of us on this side of the House, recognize that we have a responsibility—nothing to do with partisan politics. It's to do with our responsibility to the next generation to ensure that we

pass on this gem of an ecosystem of a park to that generation.

The government you spoke about, the Harper government, didn't take that responsibility seriously. Thank goodness the new Prime Minister and the new government do, and we are looking forward to working with them to put in place a real national park for the Rouge that is going to ensure it has the protections we have in place today, or may even enhanced protections. I'm looking forward to working with that new government to get that done.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Mr. Ted Arnott:** It's absolutely ludicrous for the government to claim that Parks Canada does not provide some of the highest standards of forest protection and management, as the minister has done in the past. The provincial Environmental Commissioner recently said that the government "lack of dedicated funding makes it nearly impossible to protect new parcels of environmentally sensitive land."

The former CEO of Parks Canada, Alan Latourelle, went as far as to say, "Any individual or organization that directly or indirectly implies that the federal legislation for Rouge National Urban Park does not meet the standards of the current provincial legislation for Rouge lands is misleading the public."

**The Speaker (Hon. Dave Levac):** The member will withdraw, because you cannot say indirectly what you cannot say directly.

**Mr. Ted Arnott:** I withdraw.

**The Speaker (Hon. Dave Levac):** Thank you.

**Mr. Ted Arnott:** This government has held up the Rouge National Urban Park for far too long. Will the minister listen to the experts, submit comments on the Rouge National Urban Park Management Plan and transfer the lands he committed to do in 2013?

*Interjections.*

**The Speaker (Hon. Dave Levac):** Stop the clock. Be seated, please.

Minister.

*Interjection.*

**The Speaker (Hon. Dave Levac):** The member from Renfrew–Nipissing–Pembroke is warned.

**Hon. Brad Duguid:** Mr. Speaker, it is this government that has worked so hard over the last 10 years to ensure that the policies are in place to ensure that that park is protected for future generations. It is this Liberal government that, in the 1980s under David Peterson, saved those lands in the first place. This is something we feel strongly about. It's nothing to do with partisan politics, and the question from the member was about as partisan as you possibly could get.

This is about working together with the federal government to get this done right. We finally have in place a minister of the environment federally and a government that cares about the environment, that is determined to save this planet, determined to ensure that we preserve those ecological gems like the Rouge Valley. We're

going to get this done. We're going to get this done with Prime Minister Trudeau—

*Interjections.*

**The Speaker (Hon. Dave Levac):** Stop the clock. Be seated, please.

Just to remind the minister, when I stand, you sit.

**Hon. Brad Duguid:** Yes, sir.

**The Speaker (Hon. Dave Levac):** New question.

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#### DISASTER RELIEF

**Ms. Jennifer K. French:** My question is to the Premier. In December 2013, communities across the province were hit by a massive ice storm. At the time, municipalities were assured that 100% of eligible disaster costs would be reimbursed by the Ontario government, but communities across Durham region have received just a third of that so far, with no timeline in place for the remainder.

Residents of Durham want to know that they are not going to be left out in the cold, because, Speaker, winter is coming. Will the Premier please explain why she has broken her promise on ice-storm funding to the people of Durham region?

**Hon. Kathleen O. Wynne:** Mr. Speaker, I know the devastation that was caused by the ice storm. I was out; I was meeting with people; I was at the warming centres. I know that it was a real trial for municipalities.

I also know that municipalities are working with the ministry. I know there has been some money that has flowed. There is more money that I know needs to flow. We will continue that co-operation.

**The Speaker (Hon. Dave Levac):** Supplementary.

**Ms. Jennifer K. French:** Speaker, it has been almost two years since communities were hit by the ice storm, and for two years they have been left to wonder when they would see the support they were promised, if at all. Whitby is still waiting for half a million dollars, and my community of Oshawa is waiting for over a million dollars.

Does the Premier believe that two years is an appropriate time for these communities to be left in the dark, or does she believe her government can and should do better? Will the Premier commit today to ensuring that communities like Whitby and Oshawa have their promised funding immediately: Yes or no?

**Hon. Kathleen O. Wynne:** Mr. Speaker, if the member opposite had a conversation with the municipal officials, she would know that claims are being reviewed. She would know that 28 claims have been fully reviewed and final payments have been issued. We have flowed over \$62 million as of September 2015.

In addition, to help municipalities and conservation authorities, the government has issued interim payments, because one of the issues that I recognized when I was Minister of Municipal Affairs and Housing is that often there is an upfront payment that is needed; we know that that is sometimes what is needed.

But the claims have to be reviewed. That's why the ministry is working with the municipalities. We are doing that as quickly as we can, but there are two parties to that review process, and municipalities need to be working with the ministry and vice versa.

#### AGRICULTURE INDUSTRY

**Mr. Lou Rinaldi:** My question is to the Minister of Agriculture, Food and Rural Affairs. Minister, we know that climate change is already impacting our environment and our economy. Extreme weather events create challenges for agricultural production around the world.

We also know that to find solutions to the challenges that we face, we must work together across industries to tackle climate change. Our government has demonstrated and continues to demonstrate its support for farmers and the broader agricultural industry in this mission. In supporting the entire sector through a range of business development programs that include advice, partnership and research, the government is encouraging innovation.

Ontario farmers are excellent environmental stewards. They understand the impact of climate change and are already taking action to fight it. Speaker, can the minister please inform the House about proactive measures that Ontario farmers are taking to reduce environmental impacts?

**Hon. Jeff Leal:** I want to thank the member from Northumberland—Quinte West for his question this morning and to let the House know that the new, thriving kale industry is actually centred in his riding of Northumberland—Quinte West.

We do know that there are 52,000 family farms in the province of Ontario. Of those 52,000 family farms, 35,000 have been involved, over the decades, in voluntary environmental farm plans contributing to our government's plan for climate change. Through their activity, they have improved the environment by some \$353 million of on-farm activity to improve their environment.

In February of this year, we announced a program, some \$16 million over four years, to improve water quality, particularly in Lake Erie. We're looking at ways to contain phosphorus loading and prevent the algae blooms that are now developing in the Lake Erie area.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Mr. Lou Rinaldi:** Thank you to the minister for that answer. It's great to hear that Ontario farmers are engaged in efforts designed to protect the environment. Taking action to modernize, innovate and adapt allows our industries, including agriculture, to put themselves on a sustainable path forward.

Minister, I know our friends from Ontario Pork joined us at Queen's Park yesterday. Speaker, could the minister inform the House on steps the agricultural group is taking to modernize, become more sustainable and protect the environment?

**Hon. Jeff Leal:** Mr. Speaker, I want to recognize the great work that's being done by Ontario Pork. All sides of the House yesterday had the opportunity to attend their

reception. They just produced a new report talking about social responsibility for the pork industry in the province of Ontario. They've highlighted five key things they're doing to promote social responsibility in their industry. They're looking at farm management, they're looking at economic performance, they're looking at environmental stewardship, at animal care and food safety, and at their relationships with the broader consumer community in the province of Ontario.

We all know, on all sides of the House, that farmers are great environmental stewards. I'm proud of the work that they do each and every day. I want to salute Ontario Pork and Amy Cronin, who, with her husband, Mike, just got recognized as the Outstanding Young Farmers of Canada recently in Edmonton, Alberta—a good example of what they're doing in that industry to further social responsibility in Ontario.

### HEALTH CARE

**Mr. Norm Miller:** My question is to the Minister of Health. In September, Nelson and Cathy Samuel of Gravenhurst went public with an issue that they are facing. While on a vacation to Whitehorse to visit their daughter, Nelson's knee became infected to the point that he had to be transported by medevac to Vancouver for immediate treatment. It saved his life. The Samuels are now facing a bill of \$18,400. They're seniors on a fixed income, and this cost would be a big hit on their retirement savings. They even checked with OHIP before making the trip to make sure they had coverage.

Speaker, to the minister: What assistance can be provided for Nelson and Cathy in their time of need?

**Hon. Eric Hoskins:** I appreciate the member opposite raising this issue. With the permission of the family, I would be interested in learning more about the specific circumstances involved.

A number of members of this Legislature have come forward to me directly when such a circumstance does take place, and thus far, Mr. Speaker, I think that we can say that we've made significant efforts to resolve these specific challenges.

But it does point out a deficit, I think I would describe it, nationally, for people when they are travelling out of province. We have arrangements with all the provinces and territories and the federal government for reimbursement of health care costs. But to date—and this is partly due to when these measures were put in place—they haven't accounted for the type of air transport that the member opposite has alluded to with this example.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Mr. Norm Miller:** Thank you to the minister for that response, but through the Speaker, again, to the Minister of Health: It has been over a month since the minister spoke to CTV News about this specific case. He said, "We want to make sure that Ontarians, when they travel, that they're right to have an expectation that urgent and immediate health care costs will be covered."

Recently, there was a case in Alberta of an Alberta mother who gave birth prematurely in a Timmins

hospital. In the end, she had her emergency travel costs covered jointly by two separate provincial governments.

Minister, the clock is ticking, as the Samuels' bill has now been transferred to an agency for collection. Through the Speaker: Will the minister commit to help my constituents Cathy and Nelson with the massive bill they are now facing?

**Hon. Eric Hoskins:** In fact, the Alberta case that was referenced was covered by the private insurance that the family in question had. But that being said, I made the commitment at that time—and we have a federal-provincial-territorial meeting coming up in January in British Columbia, and I've asked our partners across the country to have a discussion about this specific issue. I think it's important and timely that we update the reimbursement that is available between provinces and territories. It doesn't, as I mentioned, currently cover air transport of this nature. I would certainly encourage any individual or family travelling outside of the province to have private health insurance to cover all necessities of travel if untoward circumstances do arise. But I have asked for this specific issue to be put on the national agenda so that we can address it in a comprehensive fashion across the country.

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### HEALTH CARE

**Mr. Peter Tabuns:** Speaker, my question is to the Minister of Health.

For the fourth year in a row, I rise to ask the Minister of Health for an investigation into the substandard care of Dimitra Daskalos, who passed away in a Toronto hospital in February 2011. The family of Mrs. Daskalos is still awaiting answers and this government has failed to provide them. The daughter of Dimitra, Maria Daskalos, is here with us today.

I've sent numerous letters to your predecessor, asked questions in the House, made statements and presented a petition with over 5,400 signatures. I sent this minister a letter last February, 2015. The family still doesn't have answers to the questions that it asked.

Mrs. Daskalos was treated as a bed blocker and the hospital was clearly in violation of infection control guidelines when she was housed with other patients with an antibiotic-resistant disease.

Will the minister commit to an investigation of this case?

**Hon. Eric Hoskins:** I appreciate the question. I want to acknowledge, speaking to you directly, your presence here today and my regret that the experience did happen—

**The Speaker (Hon. Dave Levac):** To the Chair, please.

**Hon. Eric Hoskins:** —to you. I can only imagine the devastation that it has caused, Mr. Speaker, to the family and loved ones of this individual. I would be happy to discuss afterwards, as well, the specifics of this case.

In the supplementary, I think that I would like to also talk about changes that we've put in place that hopefully will provide avenues for individuals and families who do go through these tragic circumstances.

**The Speaker (Hon. Dave Levac):** Supplementary.

**Mr. Peter Tabuns:** Speaker, I just want to note, as well, that it was almost a year ago that this government decided not to give the Ombudsman power to investigate these kinds of cases.

Once again, I ask this minister to launch an investigation into the substandard care of Dimitra Daskalos, received while a patient at the downtown hospital, and her subsequent death, apparently due to the hospital's failure to comply with infection control protocols.

Although hospitals are independent corporations directly responsible for the quality of care they provide, the legal accountability and enforcement of breaches in hospital protocol rests squarely with the Minister of Health and Long-Term Care. Minister, why were infection control guidelines violated?

**Hon. Eric Hoskins:** I'm very proud of what we have done as a government. We've created the office of the patient ombudsman specifically for cases like this, where individuals or family members, where an incident occurs—perhaps in a hospital environment or a long-term-care home—if they're dissatisfied with the process that takes place in the hospital, if they don't receive remedy for what they see as a grievance against them, very shortly they will have an avenue that they can go to, a patient ombudsman who reports directly to the Minister of Health within Health Quality Ontario and who will work to address their concerns.

We do have a responsibility as a government to make sure that our patients, Ontarians, are provided with the highest quality of care. When incidents do occur, when mistakes are made, when procedures aren't followed correctly, we have an obligation to make sure that action is taken. That's the commitment that we have, and our patient ombudsman will help us through that process.

## RESEARCH AND INNOVATION

**Ms. Soo Wong:** My question is for the Minister of Economic Development, Employment and Infrastructure.

Minister, you informed the House on Tuesday that the MaRS west tower project is currently 84% occupied.

This is great news for our province, as well as our economy, which stands to benefit from the expertise and innovative research that MaRS will attract to Ontario.

Every day, I receive questions and calls from my local residents, especially the young people in Scarborough–Agincourt, inquiring about the west tower project. Speaker, through you to the minister, can he please update the House on some of the important projects that are coming to MaRS west tower project?

**Hon. Brad Duguid:** The member is right. MaRS west tower is indeed a resounding success. As the member stated, MaRS is now 84% leased and is expected to be fully leased very soon.

What's key is that the tenants locating in this building are exactly the mix of tenants originally sought. There is a healthy mix of institutional tenants that drive research and innovation, with a growing number of private sector tenants that drive innovation, commercialization and job creation, which is exactly what it was all about to begin with.

Companies like Facebook, Airbnb, JLABS, League, Synaptive, Kindred, Teknion and many more have picked up leases there and will soon be operating in that facility, if they're not already. Just two weeks ago, we announced the addition of Autodesk, and I'll have more to say about that in a minute.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Ms. Soo Wong:** Thanks to the minister for that answer and for all his hard work on this particular file.

Ontario is quickly becoming one of the strongest jurisdictions for tech innovation. This is truly a proud record. Autodesk is a key part of the information and innovation technology cluster, and an exciting addition to MaRS.

Speaker, through you to the minister, can he please provide the House with more information about Autodesk's addition to MaRS and what it means for the province of Ontario?

**Hon. Brad Duguid:** The member is absolutely right: One of the greatest competitive advantages that Ontario has is our strength in tech innovation. The fact that Ontario now ranks number two to only the Silicon Valley in ICT, with 19,000 ICT companies innovating in our economy, is absolutely huge.

Our world is changing exponentially fast. Technology disruption is occurring in almost every sector of our economy and of our lives. Jurisdictions that want to compete in this new economy need to have strengths in disruptive technologies like 3D printing, supercomputing, strong tech engineering capacity and the Internet of everything. Autodesk is a company that is a global leader in all of these disruptive technologies. The siting of an Autodesk R&D centre at MaRS will be an incredible asset to our globally competitive innovation capacity in Ontario and make the Toronto-Waterloo super-technology corridor even stronger.

## HUMAN TRAFFICKING

**Ms. Laurie Scott:** My question is to the Premier. Last week, I spoke with the leading experts in anti-human trafficking, who say that the province is not providing the resources needed for victim services. We have not heard anything specific to anti-human trafficking funding since 2011. The government says that they take this crime very seriously, but not seriously enough to initiate a provincial task force.

Just days ago, three people were charged with over 20 offences related to human trafficking and sexual assault of a 13-year-old girl. When will the Premier commit to creating a provincial task force and keep women and children safe?

**Hon. Tracy MacCharles:** I want to thank the member, my critic, for this very important question. I know we're on the same page, in agreement that human trafficking is a deplorable activity that, unfortunately, overwhelmingly targets women and girls. It's one I take extremely seriously, as the minister responsible for women's issues.

We've begun work on this issue by investing over \$9 million in the next three years in programs like our language interpreter services, and we want to continue to help support victims and provide increased services to them. Funding will also help victims with health care, legal and social services.

Human trafficking, I believe, is also an issue that cuts across ministries. There is a role to play in what the member is asking about for our Attorney General and our Minister of Community Safety and Correctional Services.

**The Speaker (Hon. Dave Levac):** Supplementary?

**Ms. Laurie Scott:** Mr. Speaker, we need programs specifically for human trafficking. It is a very separate and specialized crime that is not being taken as seriously as I'd like it to be.

I called for a task force because that was the provincial coordinating network that was encouraged to be set up by all the front-line workers. I'm not seeing that it's a priority for this government. I appreciate what the minister said, but it's not enough of a priority. As I said, the task force would see the coalition of front-line workers providing specialized, victim-centred care.

Some of the victim services, when they are available and we can rescue victims from the abyss of this perverted and insidious crime—they actually have to google “human trafficking.” I just want to clarify that the services aren't there.

I just want a simple yes-or-no answer, Mr. Speaker. Will the government finally implement the task force?

**Hon. Tracy MacCharles:** Minister of Community Safety and Correctional Services.

1140

**Hon. Yasir Naqvi:** First, I want to echo what the minister responsible for women's issues said. Human trafficking or sexual trafficking is a deplorable activity, and we all have to, collectively, work together with our partners out in the community to stop this practice.

This is an issue that is very actively being worked on through the violence-against-women round table. Just yesterday, there was a special meeting that was held where this issue was referenced. The Premier had the opportunity to attend that meeting, along with the minister responsible for women's issues and the Minister of Community and Social Services.

My ministry, the Ministry of Community Safety and Correctional Services, is also working very closely with the Attorney General's office on this in terms of the Joint Working Group on Violence against Aboriginal Women and the FPT working committee—not to mention, there's about \$1.4 million being invested in our communities to deal with sexual—

**The Speaker (Hon. Dave Levac):** Thank you. New question.

## LYME DISEASE

**Mr. Michael Mantha:** My question is to the Minister of Health and Long-Term Care.

Minister, it has been one year since this House unanimously passed my motion to create an action plan on Lyme disease within a year. Lyme disease is a significant and growing health issue across our province. To date, the provincial government does not have a plan, adequate medical testing and treatment, and many health practitioners are not Lyme-literate. Thousands of Ontarians are still suffering and seek medical attention outside the province and country.

Minister, we all in this House gave people suffering from Lyme disease hope. It's devastating to many that the Liberal Lyme action plan is all talk and no action.

Health Canada predicts that there will be up to 18,000 cases of Lyme per year in Canada by 2020, and Ontario currently has the highest number of cases in the country.

Minister, it has been a year. When will this House act? Where is the will of this—

**The Speaker (Hon. Dave Levac):** Thank you. Minister of Health and Long-Term Care.

**Hon. Eric Hoskins:** I want to thank the member opposite and acknowledge that he has, for quite some time, been a very strong and positive advocate for individuals who are suffering from Lyme disease in this province.

I know he does know that the government is very committed and I'm personally very committed to protecting the people of Ontario from Lyme disease. In fact, we have an action plan, but we've committed to updating and strengthening that action plan. What we've done is—and the member knows this as well. I believe, in the summer—and I attended the group's first meeting—we actually created a Lyme disease stakeholder group which is comprised of many individuals who have Lyme disease themselves or family members with Lyme disease or are strong and powerful advocates for people living with Lyme disease. We've launched that stakeholder group to lead our review of a Lyme disease action plan and educational process.

All of those elements that the member opposite has rightly pointed out need to be done and strengthened.

**The Speaker (Hon. Dave Levac):** Thank you.

*Interjections.*

**The Speaker (Hon. Dave Levac):** It looks like we've got a few, so let's be patient.

The member for Huron—Bruce on a point of order.

**Ms. Lisa M. Thompson:** The privilege of freedom of speech is a very powerful tool in this Legislature, Speaker, but it should never be used for political purposes. Earlier today, the Premier knowingly made an incorrect accusation about me, and I would—

*Interjections.*

**The Speaker (Hon. Dave Levac):** The member also knows that only members themselves can correct their own record.

### VISITORS

**Mr. Norm Miller:** I see that in the members' east gallery, the mayor of Kenora is visiting. Dave Canfield, welcome to Queen's Park.

**The Speaker (Hon. Dave Levac):** I think the Minister of Northern Development and Mines wants to get in on this, so I'll offer him the opportunity to do the same.

**Hon. Michael Gravelle:** Well, you're very kind, and thank you to the member from Parry Sound–Muskoka.

It's just great to have the president of the North-western Ontario Municipal Association, the mayor of Kenora and a great northerner with us today. Welcome, again, Dave Canfield.

**Ms. Soo Wong:** I believe we have guests of mine from Scarborough–Agincourt. Page Aislin Perry's parents, Don Perry and Gillian Hutchinson, are here today. I want to welcome them to Queen's Park.

**Mr. Percy Hatfield:** I'd just like to recognize my very good friend Dave Canfield, the mayor of Kenora. He's over here in the west gallery.

**The Speaker (Hon. Dave Levac):** We have with us today the mayor of Kenora. I'd like to welcome him.

### DEFERRED VOTES

### TIME ALLOCATION

**The Speaker (Hon. Dave Levac):** We have a deferred vote and an amendment to a motion for allocation of time on Bill 144, an Act to implement Budget measures and to enact or amend certain other statutes.

Call in the members. This will be a five-minute bell.

*The division bells rang from 1145 to 1150.*

**The Speaker (Hon. Dave Levac):** Would all members please take their seats.

On November 25, Mr. Bradley moved government notice of motion number 44. Ms. Jones then moved an amendment to Mr. Bradley's motion as follows:

That the paragraph starting with "That the Standing Committee on Finance and Economic Affairs be authorized to meet" be struck out and replaced with:

"That the Standing Committee on Finance and Economic Affairs be authorized to meet on Wednesday, December 2, 2015, from 9 a.m."—

**Hon. Yasir Naqvi:** Dispense.

**The Speaker (Hon. Dave Levac):** Dispense? No?

—"to 10:15 a.m. and 2 p.m. to 6 p.m., and Thursday, December 3, 2015, from 9 a.m. to 10:15 a.m. and from 2 p.m. to 6 p.m. for the purpose of public hearings on the bill; and

"That the Clerk of the Committee, in consultation with the committee Chair, be authorized to arrange the following with regard to Bill 144"—

**Hon. Yasir Naqvi:** Dispense.

**The Speaker (Hon. Dave Levac):** Dispense? Dispense.

All those in favour of Ms. Jones's amendment to the motion, please rise one at a time and be recognized by the Clerk.

### Ayes

Armstrong, Teresa J.	Hardeman, Ernie	Natyshak, Taras
Arnott, Ted	Hatfield, Percy	Nicholls, Rick
Barrett, Toby	Hudak, Tim	Pettapiece, Randy
Bisson, Gilles	Jones, Sylvia	Sattler, Peggy
Brown, Patrick	MacLaren, Jack	Scott, Laurie
Campbell, Sarah	MacLeod, Lisa	Singh, Jagmeet
Clark, Steve	Mantha, Michael	Smith, Todd
Fedeli, Victor	Martow, Gila	Tabuns, Peter
Fife, Catherine	McDonell, Jim	Taylor, Monique
French, Jennifer K.	Miller, Norm	Thompson, Lisa M.
Gates, Wayne	Miller, Paul	Vanthof, John
Gretzky, Lisa	Munro, Julia	Walker, Bill

**The Speaker (Hon. Dave Levac):** All those opposed, please rise one at a time and be recognized by the Clerk.

### Nays

Albanese, Laura	Flynn, Kevin Daniel	Meilleur, Madeleine
Anderson, Granville	Fraser, John	Milczyn, Peter Z.
Baker, Yvan	Gravelle, Michael	Moridi, Reza
Balkissoon, Bas	Hoggarth, Ann	Murray, Glen R.
Ballard, Chris	Hoskins, Eric	Naidoo-Harris, Indira
Berardinetti, Lorenzo	Hunter, Mitzi	Naqvi, Yasir
Bradley, James J.	Jaczek, Helena	Oraziotti, David
Chan, Michael	Kwinter, Monte	Potts, Arthur
Chiarelli, Bob	Lalonde, Marie-France	Qaadri, Shafiq
Colle, Mike	Leal, Jeff	Rinaldi, Lou
Coteau, Michael	MacCharles, Tracy	Sandals, Liz
Crack, Grant	Malhi, Harinder	Thibeault, Glenn
Damerla, Dipika	Mangat, Amrit	Vernile, Daiene
Del Duca, Steven	Martins, Cristina	Wong, Soo
Delaney, Bob	Matthews, Deborah	Wynne, Kathleen O.
Dhillon, Vic	Mauro, Bill	Zimmer, David
Dong, Han	McGarry, Kathryn	
Duguid, Brad	McMahon, Eleanor	

**The Clerk of the Assembly (Ms. Deborah Deller):** The ayes are 36; the nays are 52.

**The Speaker (Hon. Dave Levac):** I declare the amendment lost.

Are the members ready to vote on the main motion? Yes?

On November 25, Mr. Bradley moved government notice of motion number 44. Is it the pleasure of the House that the motion carry? I heard a "no."

All those in favour, please say "aye."

All those opposed, please say "nay."

In my opinion, the ayes have it.

Call in the members. This will be a five-minute bell.

All members please take their seats.

Mr. Bradley has moved government notice of motion number 44. All those in favour, please rise one at a time and be recognized by the Clerk.

### Ayes

Albanese, Laura	Flynn, Kevin Daniel	Meilleur, Madeleine
Anderson, Granville	Fraser, John	Milczyn, Peter Z.
Baker, Yvan	Gravelle, Michael	Moridi, Reza

Balkissoon, Bas	Hoggarth, Ann	Murray, Glen R.
Ballard, Chris	Hoskins, Eric	Naidoo-Harris, Indira
Berardinetti, Lorenzo	Hunter, Mitzie	Naqvi, Yasir
Bradley, James J.	Jaczek, Helena	Orazietti, David
Chan, Michael	Kwinter, Monte	Potts, Arthur
Chiarelli, Bob	Lalonde, Marie-France	Qaadri, Shafiq
Colle, Mike	Leal, Jeff	Rinaldi, Lou
Coteau, Michael	MacCharles, Tracy	Sandals, Liz
Crack, Grant	Malhi, Harinder	Thibeault, Glenn
Damerla, Dipika	Mangat, Amrit	Vernile, Daiene
Del Duca, Steven	Martins, Cristina	Wong, Soo
Delaney, Bob	Matthews, Deborah	Wynne, Kathleen O.
Dhillon, Vic	Mauro, Bill	Zimmer, David
Dong, Han	McGarry, Kathryn	
Duguid, Brad	McMahon, Eleanor	

**The Speaker (Hon. Dave Levac):** All those opposed, please rise one at a time and be recognized by the Clerk.

#### Nays

Armstrong, Teresa J.	Hardeman, Ernie	Natyshak, Taras
Arnott, Ted	Hatfield, Percy	Nicholls, Rick
Barrett, Toby	Hudak, Tim	Pettapiece, Randy
Bisson, Gilles	Jones, Sylvia	Sattler, Peggy
Brown, Patrick	MacLaren, Jack	Scott, Laurie
Campbell, Sarah	MacLeod, Lisa	Singh, Jagmeet
Clark, Steve	Mantha, Michael	Smith, Todd
Fedeli, Victor	Martow, Gila	Tabuns, Peter
Fife, Catherine	McDonnell, Jim	Taylor, Monique
French, Jennifer K.	Miller, Norm	Thompson, Lisa M.
Gates, Wayne	Miller, Paul	Vanthof, John
Gretzky, Lisa	Munro, Julia	Walker, Bill

**The Clerk of the Assembly (Ms. Deborah Deller):** The ayes are 52; the nays are 36.

**The Speaker (Hon. Dave Levac):** I declare the motion carried.

*Motion agreed to.*

**The Speaker (Hon. Dave Levac):** There are no further deferred votes. This House stands recessed until 1 p.m. this afternoon.

*The House recessed from 1159 to 1300.*

#### INTRODUCTION OF VISITORS

**Hon. Charles Sousa:** I'd like to welcome my wife to the Legislative Assembly today. Zenny, thank you for being here.

I'd also like to introduce my goddaughter Cassandra Ruggiero, who's here as well. Thank you.

**Ms. Harinder Malhi:** I have guests here who should be joining us shortly. They're here on a delegation from India. It's Mr. Dalip Sharma, Professor Paramjit Kaur, Professor Maitreyee Dutta, Professor Arvind Bal Gupta, Professor Bakhshish Chand Choudhary, Professor Gurpreet Kaur, Manjeet Kaur, Sumitra Choudhary, Vibhor Chahra and Kanwar Dhanjal, who should be joining us shortly.

**Mr. Bas Balkissoon:** I'd just like to introduce a good friend of mine who is in the west gallery, the editor of Uthayan newspaper, Mr. Logan Loganathan.

**Mr. Han Dong:** It's my pleasure to introduce and welcome my good friend and my former boss Mr. Gerry Phillips, such an important member of this Legislature,

and my good friend Kent Emerson from finance. Welcome.

**The Speaker (Hon. Dave Levac):** I would have jumped on this quicker, but I'm going to try to do my best. I think he's everyone's friend. There is a former member here from Scarborough-Agincourt in the 34th to the 39th Parliaments: Mr. Gerry Phillips. Welcome, Gerry. Thank you for joining us today.

I hope my coughing didn't disturb the member from Trinity-Spadina.

**Mr. Jack MacLaren:** It is my pleasure to introduce friends and guests from the Tamil community who are here today to hear a statement on Tamil remembrance day. We have Eric Xavier, Navajeevan Anantharajah, Nimalraj Vinayagamoorthy, Navaneshan Murugandy, Rahulan Sana, Kamal Bharathy, Pon Balarajan, Parasuran Rajendran, Nagamany Logendralingam and Narayana Moorthy.

**The Speaker (Hon. Dave Levac):** Welcome.

#### MEMBERS' STATEMENTS

##### MUNICIPAL LAND TRANSFER TAX

**Mrs. Julia Munro:** Today, I rise to draw attention to the opposition in my riding of York-Simcoe to the Liberals' latest tax plan.

Young couples often dream of buying a home, a home to build a life in, a home to raise a family in. This is a dream that has been shared by generations. However, the Liberal government is threatening to make this dream even further out of reach. The proposed municipal land transfer tax is simply another tax on homebuyers. If introduced, this tax would make Ontario the most expensive place in North America to buy a home, adding about \$4,600 to the price.

Recent studies show that more than one in four Ontarians agree that this proposed new tax would limit their ability to buy a home. When asked if they opposed the implementation in their area, that number jumped to nine out of every 10. When this tax was introduced in Toronto in addition to the already existing provincial tax, there was a decline of 16% in the sale of single-family homes.

Mr. Speaker, add all the taxes Ontarians pay, and then add to that their ever-growing hydro bills and the ill-advised ORPP. Quite simply, our taxpayers are tapped out.

This tax is an unfair burden on our young couples and families who are working hard toward their goals.

##### NORTHERN ECONOMY

**Ms. Sarah Campbell:** I have been inundated by pleas for help from desperate northerners who are struggling to stay afloat. Northerners are telling me things like, "I live in Dryden, and food prices are terrible. You cannot afford to buy meat unless it is on sale." The writer, Joann, goes on to say it was cheaper to buy food in Sault Ste. Marie



when she was there on a trip and drive it back to Dryden, frozen in a five-day cooler, than it would be to buy it in her home community.

Jamie writes, "When I'm visiting my dad in southern Ontario and see how cheap groceries are there in comparison to here, I'm in total disbelief. Food prices are getting exorbitant and unaffordable."

And these are examples from the urban areas in my riding. Only Ontario's one percenters can afford to buy nutritious food in our remote First Nations communities.

Northerners are pushed to the brink, and they see the writing on the wall. We know what happens when the cost of living outpaces our wages, pensions and social assistance rates. It means we can no longer cover essentials like food, housing and hydro bills. As one northerner succinctly writes, "Between the price of food and ever rising cost of hydro, I think many more of us will be homeless within the next five years."

This government has a lot of catching up to do to ease the heavy burden on northerners. We're looking to this provincial government to do the right thing and act now to make life more affordable in Ontario's north.

### HOLODOMOR

**Mr. Yvan Baker:** This week is Holdomor awareness week, and I'm standing to pay tribute to the Holodomor. This week, we pay tribute to the 82nd anniversary of the famine genocide known as the Holodomor, when Joseph Stalin closed Ukraine's borders and confiscated all grain to destroy the Ukrainian population that was opposed to his rule—a population that sought the same freedom and the same independence that the people of Ukraine are fighting for today. Seventeen people per minute, 1,000 per hour and 25,000 per day were dying at the height of the Holodomor. The world was silent, and millions died as a result.

My grandmother was one of the people who survived the famine. She used to say that she hoped the victims of the Holodomor would not only be remembered, but honoured. Honoured, she said, meant not just remembering or commemorating them, but taking the steps to make sure that a tragedy like this never happens again.

That is why I'm so proud to stand here today with our Premier and with the Minister of Education. They have worked with the community to do several things that are very important. They have ensured that the Holodomor is in the Ontario curriculum, so that every young person can learn about the Holodomor, and they have provided funding to the Holodomor Mobile Classroom and the Holodomor awareness tour, a bus that has been retrofitted that will travel the province and educate our young people across Ontario about the Holodomor and the lessons of the Holodomor.

This week, it is important that we not only commemorate and remember, but that we also redouble our efforts and commitment as a people to learn from tragedies like this one and make sure that tragedies like this—crimes like this—never happen again.

Today, by taking these steps, the Premier and the Minister of Education have done what I think my grandmother and so many victims in the past have asked for. They have helped to commemorate the victims, they have helped to remember the victims and they have helped to honour them.

### TAMIL COMMUNITY

**Mr. Jack MacLaren:** I am honoured to rise today and speak about Tamil remembrance day. I would like to welcome to the Legislature my friends from the Tamils for Patrick team, the Transnational Government of Tamil Eelam, the Uthayan newspaper, Ekuruvi and CMR Tamil Radio.

We all remember and mourn people who were killed during the war in Sri Lanka. For the people of Tamil Eelam, and for Tamils living in Canada and many other parts of the world, November 27 is the day on which they remember and mourn over 100,000 people who were killed during the war. None of the perpetrators of this war crime have been brought to justice.

**1310**

The genocidal onslaught for the Tamils on the island of Sri Lanka is still a reality on many parts of the island. They seek the attention of the greater Canadian community and its support in order to live with dignity and freedom in their own land. On this day, they seek to rededicate themselves to the causes of justice, freedom, and the elimination of racism, so those who have died shall not have died in vain.

Like all free people in this world, the Tamil population also wants the freedom to express their political will through a referendum, in accordance with international norms, on the island of Sri Lanka and in the Tamil diaspora.

I have many friends in the Tamil community, some who are here today, who have made Ontario their home after experiencing the tragedy of this genocide in Sri Lanka. The Tamil population has contributed significantly to our province, and their warm generosity and rich culture are reflected in what makes Ontario great.

On behalf of our leader, Patrick Brown, and the PC caucus, I say that we stand firmly with you in your quest for peace, freedom and justice in Sri Lanka as well as the elimination of racism everywhere.

**The Speaker (Hon. Dave Levac):** Thank you.

*Interruption.*

**The Speaker (Hon. Dave Levac):** I regretfully inform all of our members who are observing that you're only allowed to observe and that any demonstration is not allowed.

And I would appreciate it if the member from Hamilton Mountain would not do any coaching.

**Miss Monique Taylor:** I apologize, Speaker.

**The Speaker (Hon. Dave Levac):** The member from Timmins-James Bay.

**Mr. Gilles Bisson:** First of all, Mr. Speaker, I want to make sure that our guests here understand that New Democrats support what was just said.

### ATTAWAPISKAT HOSPITAL

**Mr. Gilles Bisson:** I'm here today to report some good news from the James Bay coast and Attawapiskat.

As you know, some time ago, last December, there was a diesel spill at the Attawapiskat hospital, a fairly new facility that was built some 20 years ago. The fuel-handling system that feeds the generators and feeds the heating system, for some reason—this brand new system that's supposed to prevent a spill—spilled, and the diesel contaminated underneath the hospital. As a result, we ended up having to evacuate that hospital. People had to be sent pretty far away from the community to be able to secure a bed. Those who stayed in the community we had to double up at the health centre and other places, to offer services.

I want to say that the work of the community, the work of Weeneebayko hospital, and also the work of our minister, Minister Hoskins, were key to being able to get this thing unstuck.

I want to make this point. We had a diesel spill in Attawapiskat at a school. It took over 20 years and the death of a young woman for that school to be rebuilt by our federal government.

I just want to say that our decision to transfer health care on the James Bay from the federal government to the provincial government was the right thing to do, because in this case, because the Ministry of Health and the province are in the business of delivering health care in this province, we had the capacity to respond to what was a crisis. The minister did his job, the people in the community did their job, Weeneebayko did their job, and what's best is our hospital is now opening. We still have some issues that we have to deal with, but I think it shows that when the province is involved on First Nations issues on-reserve, we can do a heck of a lot better than the feds can.

I want to thank all those people, including the minister, who were involved.

### INTERFAITH REFUGEE RESETTLERS

**Mr. Chris Ballard:** With the current Syrian refugee crisis gripping the national conscience, communities need to come together to welcome these families with open arms, to ensure their basic human rights are met.

One organization in my riding of Newmarket–Aurora that's making a difference is the Interfaith Refugee Resettlers. This organization is made up of members from Trinity Anglican church, Aurora United Church and the Newmarket Islamic Centre. Together, they're working to sponsor a refugee family. This includes, of course, raising funds for accommodation, food, clothing and ESL training to help the family transition to life in Canada.

Together with AURA, a Canadian charitable organization that is assisting in the sponsorship and resettlement of refugees, the Interfaith Refugee Resettlers have set up their subcommittees and they're well on their way to raising their \$30,000 target. In fact, they're confident

they'll be able to raise double that and perhaps bring two families to Newmarket–Aurora. It's their hope and mine that the residents of Newmarket–Aurora and communities across the country come together to support future families that will be starting new lives in Canada.

I'm also proud to represent a government that promotes a welcoming and inclusive society by supporting the plan to bring 10,000 Syrian refugees to Ontario. However, without the assistance of community organizations such as Interfaith Refugee Resettlers, this goal is not attainable. As Eleanor Roosevelt once said, "Where, after all, do universal human rights begin? In small places, close to home."

Organizations such as the one in Newmarket–Aurora demonstrate how local actions can help make this world a better place.

### THOMAS FLEMING

**Mr. Tim Hudak:** It was just over a year ago that I stood here and talked about the death of Art Fleming, one of the most respected and beloved figures in west Niagara. Today, sadly, I want to acknowledge another great man from the community of Beamsville, in west Niagara, who we lost to cancer on November 15. Sadly, it's Art's son Thomas Fleming.

I can't imagine the depth of loss—such a young age, a vibrant man—that his wife, Jo-Anne, has gone through with their children, Andrew and Rachel. My heart particularly goes out to his mom, Val, who, sadly, has buried both her husband and her son within a year.

Speaker, Tom learned a lot from his dad, both in business and in life. He had strong business smarts. He successfully ran the local family business, Fleming Chicks. He was at Queen's Park many times. I suspect many of my colleagues here will remember Tom. He was a leader in the poultry sector. He was known for his firm, warm grip and his bright smile. I suspect he voted the right way, but he had tremendous respect for this institution and the work that is done under this roof.

He always had a bit of a mischievous twinkle in his eye. I remember one of the first times I spent with Tom, who was always a great adviser to me on agricultural issues. I went to Fleming Chicks. Newly hatched chicks come out on a conveyor belt and they go round in a circle, and then those working at Fleming Chicks sort the chicks—between male and female. They grow at different rates. He asked me to take part in this. There are no pink or blue diapers for the chicks, Speaker, so I did, to confess—I hope it's parliamentary—what most people would do: I looked between the chicks' legs. I thought that was the quickest route. It doesn't work so hot for chicks. It's something to do with the wings. I don't know if I still have learned. Tom and his team had a good laugh at that. I suspect I am not the only politician who has been put through that process. But it spoke to his spirit.

I speak fondly of his strength in the community. He also was a great singer and always led his choir. Knowing Tom's character, his strong Christian spirit, his great singing voice and the fact that he was not afraid to throw

a few elbows from time to time, he's probably leading a choir of angels now, I'm sorry to say.

A great man, a sad loss, one of our leading citizens of west Niagara. He'll be missed.

### HATE CRIMES

**Ms. Harinder Malhi:** In recent weeks there has been an upsurge in racially motivated and unprovoked attacks on the Muslim community.

Here in Ontario, a string of suspected hate crimes has taken place in the days following the horrific Paris attacks. A mosque in Peterborough was badly damaged by a fire that appears to have been set deliberately. In Kitchener, a Hindu temple's windows were broken by rock-throwing vandals. In Toronto, a Muslim woman reported that she was attacked while on her way to pick up her children and that the two men who beat her called her a terrorist. These are just a few of the incidents.

It is likely that these incidents are misguided retaliations, by a few malicious individuals, for what happened in Paris, but that does not make it acceptable. Such violence has no place in our society. These hateful incidents are completely conflicting to Canadian values. We are an all-inclusive, global community. We must accept everyone as equal human beings.

The safety of all Ontarians is the collective responsibility of this government, and it is my job as the member for Brampton–Springdale to raise issues affecting my constituents. I call on our law enforcement agencies to ensure swift action is taken against those perpetuating violence, and ask everyone to remain vigilant.

Ultimately, whether it happens in Paris, Baghdad or Beirut—or here in Ontario—an attack that causes terror is a terrorist attack. Such cowardly acts of violence are affiliated with nothing but their own evil.

**1320**

As Ontarians, as Canadians, we must stand in solidarity in condemning terror, which has no place in our world. I stand with all our brothers and sisters of the Muslim community in condemning these acts. Families, friends, colleagues and neighbours have been affected by the violence and vandalism. Let us stand as one in providing support to those deeply affected by these horrific attacks.

### LAKE SHORE SANTA CLAUS PARADE

**Mr. Peter Z. Milczyn:** In the spirit of the season, I want to bring to the Legislature's attention that for the past 25 years, Santa Claus has arrived a little bit early in Etobicoke–Lakeshore, as our residents celebrate the start of the holiday season with the annual Etobicoke Lake Shore Santa Claus Parade.

This is the 25th anniversary of the parade, ranked as one of the four best in Ontario. The parade plays an important role in our community, bringing together local businesses, industry and residents to pull together the best possible event, to welcome Santa Claus to our neigh-

bourhood and to the region. There will be 15 amazing floats created by volunteers; 10 marching bands; representatives of first responders; athletes and mascots like Carlton from the Maple Leafs and Jason from the Argonauts and over 250 local volunteers costumed as clowns, polar bears and Smurfs. Local organizations like Storefront Humber and LAMP Community Health Centre also get in on the fun. This parade is filmed by Rogers cable. It attracts about 60,000 people each year.

Again, I want to thank the BIAs of Lakeshore Village and Long Branch for getting together to help launch this 25 years ago by just borrowing some trailers and getting a group of local people together to work on it—people like local realtors Carl and Liz Porritt, who donated a great deal of time and spirit to have this done.

I have the honour of having helped the organizers to secure their very own Santa's workshop over the years, where they can work on and store the floats throughout the year.

My six-year-old daughter can't wait to join me at the Etobicoke Lake Shore Santa Claus Parade on December 5 to greet Santa in Etobicoke–Lakeshore.

**The Speaker (Hon. Dave Levac):** Thank you. The only thing that saved you was invoking Santa Claus—going over time.

I do want to remind all members of their word count. It's time-consuming, and although it's friendly, we try to stay within the time frames.

## REPORTS BY COMMITTEES

### STANDING COMMITTEE ON ESTIMATES

**Miss Monique Taylor:** I beg leave to present a report from the Standing Committee on Estimates.

**The Clerk-at-the-Table (Mr. Trevor Day):** Pursuant to the order of the House dated September 14, 2015, Miss Taylor from the Standing Committee on Estimates reports the following resolutions:

Resolved, that supply in the following amounts and to defray the expenses of the following ministries be granted—

**Miss Monique Taylor:** Dispense.

**The Speaker (Hon. Dave Levac):** Dispense.

Pursuant to standing order 63(d), an order for concurrence for each of the resolutions reported from the committee will be placed on the Orders and Notices paper.

*Report deemed received.*

## INTRODUCTION OF BILLS

### WASTE-FREE ONTARIO ACT, 2015

#### LOI DE 2015 FAVORISANT UN ONTARIO SANS DÉCHETS

Mr. Murray moved first reading of the following bill:

Bill 151, An Act to enact the Resource Recovery and Circular Economy Act, 2015 and the Waste Diversion Transition Act, 2015 and to repeal the Waste Diversion Act, 2002 / *Projet de loi 151, Loi édictant la Loi de 2015 sur la récupération des ressources et l'économie circulaire et la Loi transitoire de 2015 sur le réacheminement des déchets et abrogeant la Loi de 2002 sur le réacheminement des déchets.*

**The Speaker (Hon. Dave Levac):** Is it the pleasure of the House that the motion carry? Carried.

*First reading agreed to.*

**The Speaker (Hon. Dave Levac):** The member for a short statement.

**Hon. Glen R. Murray:** Mr. Speaker, I'm pleased today to introduce the Waste-Free Ontario Act, 2015. If passed, the proposed omnibus bill would enact two acts related to reducing waste, and replace the existing programs operated under the Waste Diversion Act, 2002.

The Resource Recovery and Circular Economy Act, 2015, would:

- establish an overarching provincial interest in resource recovery and waste reduction and enable the government to issue policy statements to support this interest;

- authorize policies that advance the provincial interest and require provincial ministries, municipalities, producers and others with obligations under the specified acts to perform in a manner that is consistent with those in the policy;

- make producers accountable in full for recovering resources and reducing waste associated with their products and packaging; producers and anyone else involved with reducing, reusing and recycling would need to register, report, promote and encourage public participation in recycling activities;

- overhaul Waste Diversion Ontario, the oversight body currently overseeing waste diversion programs, into the Resource Productivity and Recovery Authority, with new powers, compliance and enforcement tools, and enhanced oversight and accountability.

Just briefly, Mr. Speaker, the second act in the omnibus bill, the Waste Diversion Transition Act, would ensure that the existing waste diversion program can be smoothly transitioned into the new producer responsibility model. This would ensure that Ontarians' access to existing recycling services, including the blue box, is not disrupted.

Mr. Speaker, I would just like to thank the many businesses, environmental groups, municipalities and community leaders who played such a large role in this.

**The Speaker (Hon. Dave Levac):** We always have to ensure that all comments are from the explanatory notes. That would be helpful. I appreciate that.

## MOTIONS

### ORDER OF BUSINESS

**Hon. James J. Bradley:** I believe we have unanimous consent to put forward a motion without notice with respect to private members' public bills.

**The Speaker (Hon. Dave Levac):** The deputy House leader is seeking unanimous consent to put forward a motion without notice. Do we agree? Agreed.

**Hon. James J. Bradley:** I move that the order of the House dated July 17, 2014, referring Bill 12, An Act to amend the Employment Standards Act, 2000, with respect to tips and other gratuities, to the Standing Committee on the Legislative Assembly, be discharged; and

That the order of the House dated May 7, 2015, referring Bill 33, An Act to reduce the abuse of fentanyl patches, to the Standing Committee on Finance and Economic Affairs, be discharged; and

That the order of the House dated September 17, 2015, referring Bill 117, An Act to amend the Provincial Advocate for Children and Youth Act, 2007, with respect to notices of critical injury or death, to the Standing Committee on Justice Policy, be discharged; and

That the order of the House dated November 19, 2015, referring Bill 141, An Act to require research to be undertaken and programs to be developed for pregnancy loss and infant death and to proclaim October 15 as Pregnancy and Infant Loss Awareness Day, to the Standing Committee on Regulations and Private Bills, be discharged; and

That Bills 12, 33, 117 and 141 be instead referred to the Standing Committee on Social Policy; and

That the Standing Committee on Social Policy shall meet commencing at 2 p.m. on Monday, November 30, 2015, and may continue to meet in the evening if required, for the purpose of conducting up to one hour of public hearings on each of the bills; and

That the deadline for filing amendments to the bills with the Clerk of the Committee shall be 12 noon on Tuesday, December 1, 2015; and

That the committee shall meet commencing at 4 p.m. on Tuesday, December 1, 2015, and may continue to meet until 12 midnight, if required, to complete clause-by-clause consideration of each of the bills; and

That the committee shall report Bills 12, 33, 117 and 141 to the House on Wednesday, December 2, 2015. In the event that the committee fails to report any of the bills on that day, such bills shall be deemed to be passed by the committee and shall be deemed to be reported to and received by the House; and

That on Monday, December 7, 2015, up to one hour shall be allotted to the third reading stage of each of the bills, apportioned equally among the recognized parties in the House, at the end of which time the Speaker shall put the question for third reading of each bill, respectively, without debate or amendment.

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**Mr. Gilles Bisson:** Without further debate or amendment.

**Hon. James J. Bradley:** Without further debate or amendment, yes.

**The Speaker (Hon. Dave Levac):** The deputy House leader moves that the order of the House—

**Mr. Gilles Bisson:** Dispense.

**The Speaker (Hon. Dave Levac):** Dispense? Dispense.

Do we agree? Carried.

*Motion agreed to.*

#### COMMITTEE SITTINGS

**Hon. James J. Bradley:** I believe we have unanimous consent to put forward a motion without notice with respect to the Standing Committee on Finance and Economic Affairs.

**The Speaker (Hon. Dave Levac):** The deputy House leader seeks unanimous consent to put forward a motion without notice. Do we agree? Agreed. Deputy House leader.

**Hon. James J. Bradley:** I move that the Standing Committee on Finance and Economic Affairs be authorized to sit for up to seven days during the winter recess for the purpose of conducting pre-budget consultations.

**The Speaker (Hon. Dave Levac):** The deputy House leader moves that the Standing Committee on Finance—

**Mr. Gilles Bisson:** Dispense.

**The Speaker (Hon. Dave Levac):** Dispense? Dispense.

Do we agree? Agreed. Carried.

*Motion agreed to.*

#### STATEMENTS BY THE MINISTRY AND RESPONSES

##### ECONOMIC OUTLOOK AND FISCAL REVIEW

##### PERSPECTIVES ÉCONOMIQUES ET REVUE FINANCIÈRE

**Hon. Charles Sousa:** I rise today to present the 2015 Ontario economic outlook and fiscal review.

The purpose of this report is to update the status of our plan since the 2015 budget and to provide a snapshot of the progress made in building Ontario up.

In the 2014 and 2015 budgets, we laid out a comprehensive plan to enhance greater prosperity for Ontarians by:

- investing in people's talents and skills;
- creating an innovative and dynamic business environment;
- building modern public infrastructure; and
- strengthening retirement security.

We've taken major action on all these fronts to achieve positive results.

Mr. Speaker, Ontario is in the midst of fundamental change. Our government is not only embracing change; we're driving it.

Moreover, we're investing in our economy and in our people and we're taking deliberate steps to exceed our targets by reducing the deficit and balancing the budget. We've put forward a positive plan to achieve prosperity.

We're making progress and we're sticking to our plan.

Ontario's economy continues to grow in a challenging global environment.

Key economic indicators such as the employment rate and real GDP show that the province continues to advance and is overcoming challenges posed by the global recession. In fact, private sector economists expect Ontario to lead Canada, with higher levels of GDP growth, at 2.3% per year, on average, over the next three years.

Ontario employers are hiring. More than 560,000 jobs have been created since the recessionary low in 2009, the majority of which are full-time and pay above-average wages.

Furthermore, unemployment has improved steadily over the past six years, reaching 6.8% in October and beating the national average.

Mr. Speaker, global economic forces are indeed challenging, and we need to be at our best. Still, this heightened competition and technological advances also offer new opportunities to be seized, and Ontario companies are doing just that.

To help grow our economy, we've lowered Ontario's corporate income tax rate so that it is lower than the comparable rate in any US state. We've reduced red tape for businesses, saving more than \$50 million over the past four years, and we've promoted Ontario businesses internationally through our trade missions. As a result, Ontario remains the top destination in all of North America for foreign direct investment.

Our government recognizes that Ontario's economy is evolving to a knowledge-based, innovation economy.

We will continue to devise bold new strategies.

For example, we're strengthening our financial services sector. It accounts for almost 10% of Ontario's GDP. It has created jobs almost twice as fast as the overall economy. Toronto is now ranked second in North America, behind only New York, by the Global Financial Centres Index.

To bolster our leading international position, we're modernizing regulation in financial services, including reviews of the mandates of key agencies. This will strengthen consumer and investor protection. We're promoting Ontario's capital as a global financial services hub. We recently established the RMB currency hub, the only one in North America, to make doing business with China that much easier.

Ontario is taking a leadership role in establishing the Cooperative Capital Markets Regulatory System. This system would enhance Canada's competitiveness globally.

Ontario is embracing new technologies. Consumers are using their hand-held devices to conduct their transactions more quickly and easily. Our government recognizes that the sharing economy, a system of apps that drive peer-to-peer-based sharing of goods and services, is here to stay.

That's why we've created the Sharing Economy Advisory Committee. It will harness opportunities and

oversee development and coordination of the sector's potential while protecting consumers and businesses.

L'Ontario fait face à un environnement de plus en plus compétitif à l'échelle mondiale. Nous serons là pour favoriser la prospérité des entreprises de la province.

To that end, our government is:

- promoting the scaling-up and growth of successful firms;

- spurring an innovation-driven, knowledge-based economy; and

- modernizing regulatory systems.

Improving competitiveness means lowering costs, and that's why we're also proposing to remove the debt retirement charge for commercial, industrial and non-residential electricity users on April 1, 2018—nine months earlier than previously estimated.

This will save a typical large industrial company about 7%; large, northern industrial companies more than 8%; and a small business about 4% on their electricity bills. It reduces their costs, but equally important, it gives them certainty on managing their bills.

Another major pillar of our plan is making the largest public infrastructure investment in our province's history.

We're investing more than \$134 billion over 10 years in roads, bridges, public transit, hospitals and schools. In fact, a recent report by the Broadbent Institute showed that for every dollar spent on public infrastructure, our GDP improves by \$1.43 in the short term and up to \$3.83 in the long term. That's solid return on investment.

Investing in infrastructure will make our province more competitive, and it makes our province work even better.

Since the 2015 budget, the province has announced support for more than 200 infrastructure projects. These projects keep people and goods moving, connect communities and improve quality of life. Examples include:

- building the Eglinton Crosstown LRT, with an investment of \$5.3 billion;

- widening stretches of Highway 7 in Kitchener;

- expanding Highway 69 in Sudbury and Parry Sound;

- continuing to work on the Confederation Line, Ottawa's LRT project; and

- all across Ontario, investing \$25 million over three years to improve routes for cyclists.

Mr. Speaker, that's building Ontario up.

By unlocking the value of certain provincial assets, we're also able to reinvest more funds in new assets to generate more economic benefit. The people of Ontario are already realizing greater value from the Hydro One IPO. We will generate more value from selling head office buildings of LCBO and OPG, as well as repurposing the Seaton and Lakeview lands.

The net gains will generate billions more to invest in new projects and communities right across the province.

These funds will be dedicated to the Trillium Trust and earmarked for Moving Ontario Forward. We're on track to achieve our optimization targets while minimizing the degree of borrowing.

As well, Mr. Speaker, Ontario has made significant progress on creating more convenience and choice for consumers. This includes moving forward with the sale of beer in grocery stores.

**Interjection:** Hear, hear.

**Hon. Charles Sousa:** Yes, by all means. Here's to that.

We have further negotiated a level playing field for smaller brewers while keeping Ontario beer prices below the Canadian average.

This is the largest shakeup in beverage alcohol in Ontario since the end of Prohibition.

Building Ontario up means planning for the future.

Building on our innovation and creativity is key. Our advantage is a highly skilled workforce. It's the talent of our people that drives a province's economic growth and competitiveness.

We're committed to investing in people's talents and skills.

From the earliest years, we're helping students to be prepared to succeed in an ever-evolving economy.

It begins with the youngest of learners before they even get to school, by investing \$120 million over three years to create about 4,000 more licensed care spaces, and then by expanding the Specialist High Skills Major program and launching Experience Ontario so high school students graduate, turning their passions into careers.

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And should they go further, we have also increased support for post-secondary students. We have modernized the Ontario Student Assistance Program and we're expanding access to eCampus Ontario, as well as establishing new campuses like the York University-Markham Centre, in partnership with Seneca College. This new campus will help 4,000 more students pursue their dreams closer to home.

Investing in tomorrow's workforce also includes providing support for young people to find good jobs. That's why we've launched the Youth Job Connection.

Mr. Speaker, today, only one third of Ontarians have a workplace pension plan, and that's not good enough. Our government is committed to strengthening retirement security for all Ontarians.

With proper retirement income, people can enjoy a higher standard of living, and that's why we're creating the Ontario Retirement Pension Plan. Together with modernizing workplace pensions, offering PRPPs and enabling other savings vehicles, we're strengthening and providing Ontarians with more availability, all of which will provide greater peace of mind.

Furthermore, Ontario has played a leadership role in advocating for CPP enhancement, and we're encouraged that it is a priority for our new federal partner.

Ontario will support a CPP enhancement that is consistent with the ORPP's objectives regarding adequacy and coverage.

But enhancing CPP would take considerable time and requires agreement from governments across the country.

In light of the pressing need to address retirement security today, Ontario will move forward with implementing the ORPP for tomorrow.

Our goal is clear: By 2020, every eligible Ontario worker would be covered by the ORPP or a comparable workplace pension plan.

All Ontarians must have the opportunity to achieve their full potential.

In the budget, the government committed to supporting those most vulnerable.

That's why we have increased social assistance, indexed the minimum wage to inflation, increased funding for the Ontario Child Benefit, and provided greater support for people with disabilities to be included in the workforce. And we're not stopping there.

We're also taking steps to close the wage gap between men and women and further encourage greater equality at work and on boards.

A large part of the budget is of course health care, and we're transforming our system to ensure all Ontarians have improved access to a better and more coordinated level of care now and in the future.

Mr. Speaker, we're also taking action to combat sexual violence and harassment because, as our plan says very clearly, it's never okay.

Ontarians can be proud to live in a very progressive place. We're the first to have completely eliminated coal-fired power plants anywhere in Canada and the US. This is the single-largest greenhouse gas reduction initiative in North America. We've shown the world that bold action on climate change can be done, and good environmental policy is good economic policy.

It is why our government is committed to a cap-and-trade program with Quebec and California in the Western Climate Initiative.

We've honoured that commitment by setting greenhouse gas emission reduction targets for 2030 to help preserve our environment for generations to come.

In the budget of 2015, we said that proceeds from the cap-and-trade program would go toward only those priorities that reduce greenhouse gas emissions.

As a next step, we propose \$325 million in a Green Investment Fund, a down payment to promote and create innovative solutions to reduce emissions while at the same time strengthening our economy. For example, this fund would support energy retrofits in homes and in businesses, including in our aboriginal communities.

We are home to most of Canada's clean tech businesses, operating in power generation, in transportation, in energy efficiency, in recycling and in water and waste water solutions. Indeed, for the second consecutive year, Ontario leads North America for green investments as well.

Mr. Speaker, last year we launched Canada's first-ever green bonds, and demand for the inaugural issue exceeded \$2.4 billion. It was oversubscribed. Given that program was so successful, we're pleased to be issuing a second round of Ontario green bonds before the end of March 2016.

Mr. Speaker, Ontario and our country face challenges. Overcoming them requires greater intergovernmental collaboration. These challenges cannot be tackled by one order of government alone.

Une fédération solide nécessite un partenariat solide pour bâtir une union économique encore plus solide.

Ontario, led by Premier Kathleen Wynne, is ready to work with the federal government on shared priorities such as building infrastructure, improving retirement security, tackling climate change, sustaining health care and creating new jobs.

We look forward to working collaboratively with all provinces, territories and aboriginal partners to deliver better results for all Canadians.

Mr. Speaker, we, as proud and compassionate Canadians, are also welcoming those who flee persecution and oppression from other parts of the world. We will support the humanitarian efforts shared by the rest of Canada and the free world. Ontario welcomes the many children and their families fleeing devastation to find peace and safety, to make Ontario their new home.

We will be as compassionate as we are competitive. We will be as fair as we are prosperous. That balance in civil society is as important as any balance on the books.

Make no mistake: Our government is committed to balancing the books. We will balance the budget by 2017-18.

We back our commitment with a focus on controlling spending by achieving the best possible value for each and every dollar spent.

Over the last four years, the province has held average annual program spending growth to 1.4%—less than the rate of inflation.

In fact, Ontario consistently has the lowest per capita program spending among all Canadian provinces, while continuing to invest in priorities like health care and education.

The government's Program Review, Renewal and Transformation, led by Deputy Premier and President of the Treasury Board Deb Matthews, is controlling spending and finding smarter ways to deliver the best possible outcomes.

Managing public sector compensation costs remains crucial to balancing the budget, since more than half of government spending goes to salaries and benefits. Our public sector partners are doing their part to offset modest increases with savings to achieve net-zero compensation agreements. The government will continue to do its part by conducting a line-by-line review of major programs to keep those costs down.

Mr. Speaker, Ontario is committed to eliminating the deficit by also addressing the underground economy, to ensure everyone pays their fair share. To date, the province's achievements in combatting the underground economy have generated \$225 million more, above what was reported in the budget. This is good news for Ontario, and we have strengthened our resolve with the legislative measures to combat electronic sales suppression devices as well.

Mr. Speaker, for the last six years, Ontario has managed spending growth to offset softer revenues to beat the annual deficit target.

I am pleased to announce that the province is now projecting a lower deficit of \$7.5 billion in 2015-16, reducing further to \$4.5 billion in 2016-17 and a balanced budget in 2017-18.

We remain committed to balancing the budget in a way that is fair and responsible, and supports the vital services that Ontarians depend upon.

Our plan for building Ontario up is bold.

Take the West Don Lands.

For decades, governments hesitated to revitalize this precious waterfront. This site has now been transformed, first into the athletes' village for the most successful Pan/Parapan American Games in history.

And now as a LEED gold-designed community with over 1,000 units, including affordable and accessible housing.

This is a multi-purpose community with a student residence for George Brown College and a YMCA for families.

**1350**

This is a former derelict industrial area that has now been transformed into a thriving new neighbourhood where families can live and work.

It is a lasting legacy of the greatest Pan/Parapan American Games ever, and it is also an example of our vision for communities across our great province.

To make strategic investments for the benefit of generations to come.

To build roads, transit, hospitals and schools.

To partner with the private sector to create dynamic business climates to help businesses succeed.

To invest in tomorrow's workforce by helping young people gain the skills required for a knowledge-based economy.

To strengthen retirement security and to help Ontarians protect their future.

And, as well, to create those new jobs by seizing opportunities that grow our economy.

Mr. Speaker, we are embracing change.

We're making progress.

We are leading.

We're building Ontario up.

**The Speaker (Hon. Dave Levac):** It is now time for responses.

**Mr. Victor Fedeli:** We are very disappointed that the forecasted deficit of \$8.5 billion actually grew by a billion dollars. The actual deficit is now \$9.5 billion. While the government presents a rosier number, I'm going to expose how they got to that number.

I'll read from their own document, page 100: "The province's total revenue projection for 2015-16 of \$125.6 billion is \$1.2 billion higher than the 2015 budget forecast." That's accurate. "The increase largely reflects the government's progress on its asset optimization strategy related to the recent Hydro One initial public offering." Of course, Speaker, what that means is that they have

used the sale of Hydro One and put that number in revenue, the exact thing we've said they would be doing all along.

Further to that, if we look at page 99 of the budget, we know that they used \$1 billion from a reserve. This rosy number that they have projected is not accurate whatsoever when you add back the reserve number of a billion dollars and this juiced-up number because of the \$1.2 billion that they've included from the sale of Hydro One. That brings the annual deficit this year to \$9.5 billion, \$2 billion higher than the number they just presented to this very Legislature.

We've been saying this all along: That Hydro One sale money is not for transit; it has always been designed to lower their deficit, just as they did today.

This brings us back to what the Financial Accountability Officer said. Just last week or the week before, he told us that the government's revenue was going to be lower than they said, and it was; and they won't meet their spending reductions, and they didn't. The FAO, the only person we can actually listen to, in addition to the Auditor General and the OPP, was absolutely correct.

We presented documents some 18 months ago from the Ministry of Finance's own files that showed us a \$4-billion gap in their deficit reduction plan. That, of course, was confirmed by the Financial Accountability Officer's report earlier this month. He gave us the real numbers. We'll go with his numbers any day of the week.

He said the budget won't be balanced in 2017-18; rather, we'll still have a deficit between \$3.5 billion and \$7.2 billion. He told us that they will not meet their revenue numbers and they will not control their spending, and this is the result, and we saw that flat out today. We saw that the only way they could have a lower number was by selling assets, booking that in revenue and taking a billion dollars out of reserves.

We have always said in this Legislature, since day one, that this government was not selling for money to put toward transit. Rather the money was always designed to fluff up the deficit numbers. And if you'll recall, Speaker, in their very own 2014 budget they had \$130 billion listed for transit and infrastructure expenditures. It did not need the sale of Hydro. If you look closely at it, you'll see that they had \$3.1 billion of asset sales; \$1.1 billion in year one came from the sale of GM shares. You have \$1 billion in the next year, half a billion in the year after and half a billion in the year after. There was no mention—there were no numbers—that related whatsoever to the sale of Hydro. That sale of hydro was not necessary to reach the \$130 billion. Of course, in the 2015 budget, the exact same \$130 billion was announced, but all of a sudden they needed the Hydro money.

I think the Ottawa Citizen said it best. Way back in April, they pegged this; they figured it out, as we did, way back in April. "A reasonable person might wonder why we need to sell most of a significant public asset, just to keep doing what we have been doing for years. The real answer ... is that putting some billions of new money into the province's transit trust will enable the



government to quietly shift existing money to help it reduce the deficit or pay for other spending.”

**Ms. Catherine Fife:** For us, this statement confirms that Ontario is being set up for more sell-offs and more cuts to the people of this province. The Liberals are using the sell-off of Hydro One to cover up the fact that their plan isn't working. It's time for a fact-check for this government. Today's update shows that the government doesn't understand that the plans they put forward aren't helping families or the economy. In fact, people are falling behind.

They're reducing their growth projections, and projections for job creation are down significantly. They're showing increased revenue, but that's only because of the sell-off of Hydro One. In fact, on page 100 of their own update, they say that in black and white.

It's exactly what Ontario's independent Financial Accountability Officer showed in his report and it's what we have been saying for a long time. The FAO said that in the first year Ontario would see modest increases from selling off Hydro One but as of 2016, selling Hydro One will actually cost the province money. It will have a negative impact on revenues. And I just want to, while I have your undivided attention, remind you about that. He says that once this government sells off 60% of Ontario's Hydro One, the province stands to lose up to \$500 million a year in the long run.

This is money that could have been spent on education, on health care and on poverty reduction. Unfortunately for Ontarians, that money is as good as gone. Under this Premier's leadership, Ontario now has the most debt of any subnational government in the world. More debt means less money invested in the priorities of Ontarians. And the Financial Accountability Officer confirmed that the province's net debt will be even higher after the sell-off of Hydro One, leaving a significant burden on future generations.

That's a problem, Mr. Speaker. It's just one of the many problems that this government has on the financial record.

Of course, it's also worth noting that on the first page of this statement, the government says, “Should slower-than-expected revenue growth occur, the government will need to consider other tools to ensure that balance is achieved.” We know what that means, Mr. Speaker. It means that more public assets will be for sale. Ontario is up for sale.

For weeks now, New Democrats have asked the Premier to shut the door on selling off more assets, to tell Ontarians that they don't need to worry, that there won't be any more sell-offs. She has refused to do so. She won't shut the door. She's leaving herself room to sell more money-making assets at the expense of the people of this province. Some 80% of the people of Ontario have said to this Premier and to this government, “We do not want you to sell Hydro One.” Some 188 municipalities have passed motions asking this government not to sell Hydro One because they see it as a very poor fiscal plan. It is a money grab for now, and you are burdening future generations with debt going forward.

I think that we should be very worried, Mr. Speaker, because this government refuses to acknowledge that they have a problem. You can't address a financial or fiscal problem unless you admit that you have one. What this fall economic statement proves is that they are willing to sell off anything, including a revenue-generating asset like Hydro One, to make themselves look like they know what they're doing. It's a shameful state of affairs and it could very well create the conditions, going forward, for increased and aggressive privatization in this province.

This Premier is setting the province up for more cuts to program spending and she is setting this province up for more sell-offs of public assets. I can tell you, that is not the way you build Ontario up.

1400

## PETITIONS

### HEALTH CARE FUNDING

**Mrs. Julia Munro:** “Petition to the Legislative Assembly of Ontario:

“Whereas Ontario's growing and aging population is putting an increasing strain on our publicly funded health care system; and

“Whereas since February 2015, the Ontario government has made an almost 7% unilateral cut to physician services expenditures which cover all the care doctors provide to patients; and

“Whereas the decisions Ontario makes today will impact patients' access to quality care in the years to come and these cuts will threaten access to the quality, patient-focused care Ontarians need and expect;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“The Minister of Health and Long-Term Care return to the table with Ontario's doctors and work together through mediation-arbitration to reach a fair deal that protects the quality, patient-focused care Ontario's families deserve.”

As I am in agreement, I have affixed my signature and given it to page Rachael.

### AUTISM TREATMENT

**Miss Monique Taylor:** This petition is “End the Wait-lists for IBI/ABA Services Now.

“To the Legislative Assembly of Ontario:

“Whereas applied behaviour analysis (ABA) and intensive behavioural intervention (IBI) are the only recognized evidence-based practices known to treat autism spectrum disorder (ASD); and

“Whereas the combined number of children waiting for ABA and IBI therapies in Ontario is approximately 16,158; and

“Whereas estimates from the Ministry of Children and Youth Services for 2015-2016 indicate that only five

more children are receiving IBI this year compared to last year and, shockingly, the number of children receiving ABA has dropped by almost 1,000 in the past two years—despite the fact that the wait-list is growing; and

“Whereas it is well known that early detection and early intervention is crucially important for children with ASD to learn to their fullest potential, and these programs set the stage for growth and development throughout children’s lives; and

“Whereas some families are being forced to remortgage houses or move to other provinces while other families have no option but to go without essential therapy; and

“Whereas the Premier and her government should not be balancing the budget on the backs of kids with ASD and their families;

“We, the undersigned, petition the Legislative Assembly of Ontario to direct the government of Ontario immediately end the chronic wait-lists for IBI/ABA services for kids with autism spectrum disorder.”

I couldn’t agree with this more, Mr. Speaker. I wish it was included in the economic statement. I’m going to give it to page Dayo to bring to the Clerk.

#### HEALTH CARE FUNDING

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“The Minister of Health and Long-Term Care return to the table with Ontario’s doctors and work together through mediation-arbitration to reach a fair deal that protects the quality, patient-focused care Ontario’s families deserve.”

I have affixed my signature, as I’m in agreement, to give it to page Ben.

#### HIGHWAY IMPROVEMENT

**Mr. Taras Natyshak:** I’m pleased to present a petition to the Legislative Assembly of Ontario that reads:

“Whereas Highway 3 from Windsor to Leamington has long been identified as dangerous and unable to meet growing traffic volumes; and

“Whereas the widening of this highway passed its environmental assessment in 2006; and

“Whereas the portion of this project from Windsor to west of the town of Essex has been completed, but the remainder of the project remains stalled; and

“Whereas there has been a recent announcement of plans to rebuild the roadway, culverts, lighting and signals along the portion of Highway 3 that has not yet been widened;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“To revisit plans to rebuild Highway 3 from Essex to Leamington and direct those funds to the timely completion of the already approved widening of this important roadway ”

I couldn’t agree more. There are too many accidents on that road. It’s very unsafe. I’m pleased to affix my name to it and send it to the Clerks’ table via page Ajay.

#### WATER FLUORIDATION

**Mr. Han Dong:** I have a petition to the Ontario Legislative Assembly.

“Whereas fluoride is a mineral that exists naturally in virtually all water supplies, even the ocean; and

“Whereas scientific studies conducted during the past 70 years have consistently shown that the fluoridation of community water supplies is a safe and effective means of preventing dental decay, and is a public health measure endorsed by more than 90 national and international health organizations; and

“Whereas dental decay is the second-most frequent condition suffered by children, and is one of the leading causes of absences from school; and

“Whereas Health Canada has determined that the optimal concentration of fluoride in municipal drinking water for dental health is 0.7 mg/L, providing optimal dental health benefits, and well below the maximum acceptable concentrations; and

“Whereas the decision to add fluoride to municipal drinking water is a patchwork of individual choices across Ontario, with municipal councils often vulnerable to the influence of misinformation, and studies of questionable or no scientific merit;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“That the ministries of the government of Ontario adopt the number one recommendation made by the Ontario Chief Medical Officer of Health in a 2012 report on oral health in Ontario, and amend all applicable legislation and regulations to make the fluoridation of municipal drinking water mandatory in all municipal water systems across the province of Ontario.”

I sign my name to it as I show my support of this petition.

#### HEALTH CARE FUNDING

**Mr. Norm Miller:** I have a petition with regard to health care services, presented by the town of Huntsville and the town of Bracebridge, in support of acute-care

hospital services at both South Muskoka Memorial and Huntsville District Memorial.

“Whereas the provision of a full range of core hospital services, including acute-care in-patient, emergency, diagnostic and surgical services, at both the Huntsville District Memorial Hospital and the South Muskoka Memorial Hospital in Bracebridge by Muskoka Algonquin Healthcare (MAHC) is vital for all of the communities in the entire MAHC catchment area, including Algonquin Provincial Park; and

“Whereas the continued delivery of those core hospital services at both the South Muskoka Memorial Hospital in Bracebridge and the Huntsville District Memorial Hospital is crucial to the long-term sustainability and economic vitality of the two communities and the entire MAHC catchment area, including Algonquin Provincial Park; and

“Whereas the residents of Huntsville, Bracebridge and the other communities in the MAHC catchment area have strongly supported multi-site delivery of a full range of core hospital services, including acute-care in-patient, emergency, diagnostic and surgical services, at both the South Muskoka Memorial Hospital in Bracebridge and the Huntsville District Memorial Hospital; and

“Whereas, contrary to the wishes of the people of the entire MAHC catchment area, the board of directors of Muskoka Algonquin Healthcare has approved the ‘one-hospital model’ as the preferred model for hospital service delivery in the future;

**1410**

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“(1) That the province of Ontario ensure that a full range of core hospital services, including acute-care in-patient, emergency, diagnostic and surgical services, are maintained on a multi-site basis at both” Huntsville and Bracebridge;

“(2) That the province of Ontario ensure that the changes to Ontario’s health care delivery system currently being implemented do not negatively impact access to services and the quality of care in Bracebridge, Huntsville and the entire MAHC catchment area, including Algonquin Provincial Park;

“(3) That the province of Ontario ensure that the changes to Ontario’s health care delivery system currently being implemented recognize the unique and important role that smaller hospitals, such as” Huntsville and South Muskoka in Bracebridge “have in promoting economic development and creating sustainable communities in Ontario.”

I’m pleased to sign this petition.

#### HEALTH CARE FUNDING

**Miss Monique Taylor:** I have a petition to the Legislative Assembly of Ontario.

“Whereas Ontario’s growing and aging population is putting an increasing strain on our publicly funded health care system; and

“Whereas since February 2015, the Ontario government has made an almost 7% unilateral cut to physician services expenditures which cover all the care doctors provide to patients; and

“Whereas the decisions Ontario makes today will impact patients’ access to quality care in the years to come and these cuts will threaten access to the quality, patient-focused care Ontarians need and expect;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“The Minister of Health and Long-Term Care return to the table with Ontario’s doctors and work together through mediation-arbitration to reach a fair deal that protects the quality, patient-focused care Ontario’s families deserve.”

I support this petition, I will affix my name to it and give it to page Lauren to bring to the Clerk.

#### WATER FLUORIDATION

**Mr. Bob Delaney:** I have a petition addressed to the Ontario Legislative Assembly. It’s entitled “Fluoridate All Ontario Drinking Water.” I especially want to thank Dr. Pravir Patel and his patients and staff at their Churchill Meadows office for sharing this with me. It reads as follows:

“Whereas fluoride is a mineral that exists naturally in virtually all water supplies, even the ocean; and

“Whereas scientific studies conducted during the past 70 years have consistently shown that the fluoridation of community water supplies is a safe and effective means of preventing dental decay, and is a public health measure endorsed by more than 90 national and international health organizations; and

“Whereas dental decay is the second-most frequent condition suffered by children, and is one of the leading causes of absences from school; and

“Whereas Health Canada has determined that the optimal concentration of fluoride in municipal drinking water for dental health is 0.7 mg/L, providing optimal dental health benefits, and well below the maximum acceptable concentrations; and

“Whereas the decision to add fluoride to municipal drinking water is a patchwork of individual choices across Ontario, with municipal councils often vulnerable to the influence of misinformation, and studies of questionable or no scientific merit;

“We, the undersigned, petition the Legislative Assembly of Ontario as follows:

“That the ministries of the government of Ontario adopt the number one recommendation made by the Ontario Chief Medical Officer of Health in a 2012 report on oral health in Ontario, and amend all applicable legislation and regulations to make the fluoridation of municipal drinking water mandatory in all municipal water systems across the province of Ontario.”

Speaker, I join with our dentists in agreeing that this is essential. I am pleased to sign and support it, and send it down with page Aminah.

## PRIVATISATION DES BIENS PUBLICS

**M. Taras Natyshak:** J'ai le plaisir d'introduire cette pétition qui dit :

« Privatiser d'Hydro One : une autre mauvaise décision...

« Attendu que la privatisation d'Hydro One est un aller sans retour; et

« Attendu que nous allons perdre des centaines de millions de revenus fiables d'Hydro One pour nos écoles et nos hôpitaux; et

« Attendu que nous allons perdre le plus gros atout économique provincial et le contrôle de notre avenir dans le secteur de l'énergie; et

« Attendu que nous allons payer de plus en plus pour l'électricité, tout comme ce qui est arrivé ailleurs;

« Nous, soussignés, pétitionnons l'Assemblée législative de l'Ontario comme suit :

« D'arrêter la vente d'Hydro One et de faire en sorte que les familles de l'Ontario, comme propriétaires d'Hydro One, en bénéficient, maintenant et pour les générations à venir. »

J'appuie cette pétition, j'y affiche ma signature et je l'envoie à la table via page Aislin.

## LUNG HEALTH

**Mrs. Marie-France Lalonde:** I would like to bring a petition to the Legislative Assembly of Ontario.

"Whereas lung disease affects more than 2.4 million people in the province of Ontario, more than 570,000 of whom are children;

"Of the four chronic diseases responsible for 79% of deaths (cancers, cardiovascular diseases, lung disease and diabetes) lung disease is the only one without a dedicated province-wide strategy;

"In the Ontario Lung Association report, Your Lungs, Your Life, it is estimated that lung disease currently costs the Ontario taxpayers more than \$4 billion a year in direct and indirect health care costs, and that this figure is estimated to rise to more than \$80 billion seven short years from now;

"We, the undersigned, petition the Legislative Assembly of Ontario as follows:

"To allow for deputations on" my colleague "MPP Kathryn McGarry's private member's bill, Bill 41, Lung Health Act, 2014, which establishes a Lung Health Advisory Council to make recommendations to the Minister of Health and Long-Term Care on lung health issues and requires the minister to develop and implement an Ontario Lung Health Action Plan with respect to research, prevention, diagnosis and treatment of lung disease; and

"Once debated at committee, to expedite Bill 41, Lung Health Act, 2014, through the committee stage and back to the Legislature for third and final reading; and to immediately call for a vote on Bill 41 and to seek royal assent immediately upon its passage."

It gives me great pleasure, as I agree with this petition, to affix my signature, and I give it to page Megan Faith.

**The Deputy Speaker (Mr. Bas Balkissoon):** Thank you. The time for petitions has expired.

I just want to bring to everyone's attention that there is an error on the printed order paper. Ballot item number 6 is in the name of Miss Taylor, and ballot item number 8 is in the name of Mr. Tabuns.

## PRIVATE MEMBERS' PUBLIC BUSINESS

### DISCLOSURE OF INFORMATION RELATING TO THE PROTECTION OF CHILDREN ACT, 2015

### LOI DE 2015 SUR LA DIVULGATION DE RENSEIGNEMENTS CONCERNANT LA PROTECTION DES ENFANTS

Miss Taylor moved second reading of the following bill:

Bill 146, An Act to amend the Employment Standards Act, 2000 and the Public Service of Ontario Act, 2006 with respect to the disclosure of specified information relating to children and services in respect of children / Projet de loi 146, Loi modifiant la Loi de 2000 sur les normes d'emploi et la Loi de 2006 sur la fonction publique de l'Ontario en ce qui a trait à la divulgation de renseignements précisés concernant les enfants et les services à leur intention.

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98, the member has 12 minutes for her presentation.

**Miss Monique Taylor:** Of course, I'm very pleased to be able to speak today to my private member's bill, the Disclosure of Information Relating to the Protection of Children Act.

I was delighted when my leader, Andrea Horwath, asked me to be the critic for children and youth services, because that's an area that is near and dear to me. The issues that arise in this portfolio are often those that demand our closest attention.

I often hear people say that governments should be run like a business. That's not the way I see it. I believe government should be run like a family. We invest in those things that will have a long-term effect for our large family. We make sure that the health and education of our family are taken care of.

The most important role of any family is the well-being of our children. In fact, any parent will tell you that they will pull out all the stops to put their children first. And, yes, while they love all of their children equally, they will also give a little bit more attention to the child who needs it. That's what families do, and that's what a government should do. We should pull out all the stops to give the help that is needed to our most vulnerable children. That is what this private member's bill is about.

**1420**

I am under no illusions that this bill will solve all of the problems. The workers and the agencies who deliver these services are well aware of the importance of their work and the impact that they have on the lives of children and families they serve. They do a very difficult job in an area that is chronically underfunded.

More than 6,000 children are waiting a year, on average, to begin mental health treatment. Children's aid societies' budgets have been flatlined for the past three years, and now they have to take money from those very services to pay for a new database, CPIN, and the excessive problems that we have seen. CPIN is facing excessive problems that we have seen come with every single new government database.

There are many issues, and a lot of them are related to this underfunding, but this bill is one more piece of the puzzle. By opening up a channel of communication, by offering protection to people who speak out on behalf of vulnerable children, we can only make things better.

This bill has two sections. One is amending the Employment Standards Act, and the other is amending the Public Service of Ontario Act.

The section amending the Employment Standards Act specifically refers to the duty to report provisions of the Child and Family Services Act. Section 72 of the CFSA sets out the responsibility of each person to report to a children's aid society if they suspect a child is being abused or neglected, or if they believe the child is at risk of being abused or neglected. In fact, if a person works in a professional capacity with respect to children, they are guilty of an offence if they do not make a report.

The same section of the Child and Family Services Act provides some measure of protection to those who make a report. Section 72(7) states, in part, "No action for making the report shall be instituted against a person who acts in accordance with this section." What this means when interpreted by a legal mind is that a person is protected from legal action. They are protected from liability.

With the amendment to the Employment Standards Act, all employees covered by that act, not just those working in the sector, will have the broader protection if they act under the duty to report. The passage of this bill would ensure that no employer would be allowed to intimidate, dismiss or otherwise penalize an employee for taking any actions. I think we can all agree that these provisions will help to open up the channels of communication that would make life a little bit safer for vulnerable children.

Interestingly, Speaker, as I researched for this bill, I came across section 72(1.5) of the Child and Family Services Act. What section 72(1.5) would do is protect a person who reports from dismissal, suspension, demotion, discipline, harassment, interference or being disadvantaged. I say "would" because, although section 72(1.5) was passed many years ago, it has never been proclaimed. This might be a question for another day, but I'm curious as to why that section, along with others

relating to child pornography, has never been proclaimed. Having said that, I would note that even if section 72(1.5) were proclaimed, it would still fall short of the protection offered by these amendments to the Employment Standards Act.

I want to turn now to the second part of my bill, the amendments to the Public Service of Ontario Act. Part 6 of the Public Service of Ontario Act sets out the rules and process for disclosing and investigating wrongdoing. It includes protection from reprisal for making such a disclosure.

That is what is commonly called "whistle-blower protection." It has been defined as "the disclosure by organization members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organizations that may be able to effect action." So it is broadly perceived as an important tool by giving protection to those who report wrongdoing and serves in the public's best interest.

In the 2012 report by the OECD, they had this to say: "Public and private sector employees have access to up-to-date information concerning their workplaces' practices, and are usually the first to recognize wrongdoings...."

"Whistleblower protection is therefore essential to encourage the reporting of misconduct, fraud and corruption. Providing effective protection for whistleblowers supports an open, organizational culture where employees are not only aware of how to report but also have confidence in the reporting procedures."

That's why whistleblower protection is included in the Public Service of Ontario Act: because we recognize the value of the public's interest of having it there. As we strive to offer the best possible protection for Ontario's most vulnerable children and to provide the best possible service to them, I believe that whistleblower protection is an important element of the structures we want to build by meeting these goals.

The problem is that the children's aid and transfer payment agencies that provide services under the Child and Family Services Act are not covered by the Public Service of Ontario Act. Despite the fact that they are funded, if not exclusively, to a very high degree, by the government and despite the fact that their work is directed by the government through the Child and Family Services Act and associated regulations, those agencies are neither part of the ministry nor are they public bodies as defined by the Public Service of Ontario Act. As such, people who work in these agencies, despite the fact that they deliver critical public services, are not considered public servants.

The relevant regulation lists 167 public bodies, and they include, for example, the Advisory Council to the Order of Ontario, the Niagara Parks Commission, the Owen Sound Transportation Co., and the Fish and Wildlife Heritage Commission. I don't doubt that the 167 bodies do excellent work for people in the service of Ontarians, and I certainly do not suggest that they shouldn't be covered by this legislation, but I do wonder

why agencies that are responsible for the welfare of our most vulnerable children are not covered.

These are agencies that we entrust to make sure our children are protected from harm, who deliver essential mental health services, who provide developmental services, who operate group homes and youth corrections. If you go back to my earlier analogy that compared the work of government to that of a family, they perform perhaps the most crucial role of government: What type of family would not pull out all the stops for their struggling child? What type of government would not pull out all the stops to look after our most vulnerable children? We owe it to these children to put in place all the tools that we can to further their well-being.

This bill will provide whistleblower protection to those who work in those agencies. It amends the Public Service of Ontario Act so that those who provide child and family services are covered by the same whistleblower protection as public servants. In fact, it makes them public servants for part VI, the whistleblowing part, and only part VI, and it makes the agencies and societies public bodies for that part of the act.

For the further benefit of vulnerable children, my bill also amends the protection from reprisals section of part VI of the Public Service of Ontario Act. The intent of this amendment is that reprisals cannot be taken against any public servant who communicates about or makes a disclosure specifically to the Office of the Provincial Advocate for Children and Youth. This amendment flows from the provincial advocate's submission to the hearings on Bill 8, the Public Sector and MPP Accountability and Transparency Act, in November of last year. From that submission, recommendation 14 states:

"Whistleblowing: The provincial advocate requests this Legislature to enact legislation extending whistleblower protection to those employees not covered by the Public Service of Ontario Act, 2006, where a disclosure is made to the Office of the Provincial Advocate for Children and Youth involving a risk of harm to children and youth within its mandate." Today, we all have the opportunity to make some way toward that request for the provincial advocate.

Children deserve to have more people speaking out on their behalf. Workers who do so deserve to be protected. We need to put in place whatever tools we can to make sure the channels of communication are open. I thank you for your time, and I ask all members to support this bill.

1430

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mrs. Marie-France Lalonde:** First, I would like to thank the member for Hamilton Mountain for bringing this bill forward in this Legislature.

J'ai le plaisir d'être ici aujourd'hui pour discuter ce projet de loi au nom de ma circonscription d'Ottawa-Orléans.

Mr. Speaker, children and youth receiving services from children's aid societies are some of the most

vulnerable in our province, and our government is firmly committed to supporting a child welfare system that protects them.

I'm actually quite familiar with the challenges associated with children's aid. Just a few years ago—not saying exactly how long, Mr. Speaker—after studying social work, I began my career with the children's aid society in Ottawa. I saw first-hand the impact that government can have in protecting our youth and vulnerable children.

Je comprends le désir de modifier notre législation pour mieux aider les enfants et les jeunes dans notre province.

All of us in this House believe that children are our future, and we must always protect those who may not be in a position to protect themselves.

La Loi sur les services à l'enfance et à la famille est un outil important pour soutenir notre système d'allocations.

Under this act, all Ontarians are required to report to a children's aid society if they have reasonable grounds to suspect that a child is or may be in need of protection. This means that all Ontarians have a legal duty to report. Under the Child and Family Services Act, a person who reports suspected cases of child abuse and/or neglect is protected from liability, unless that person acts maliciously or without reasonable grounds for the suspicions.

Mr. Speaker, our government understands the issues that the member for Hamilton Mountain is addressing in her bill, and our government is working hard to support our children's aid societies. The Ontario government realizes that it is important to allow full support for these workers who devote their lives to caring for Ontario's vulnerable children and youth. That is why we have taken on many initiatives with this in mind.

To increase awareness and understanding of the duty to report suspected cases of children abuse and/or neglect, the Minister of Children and Youth Services launched a public education campaign last month to coincide with Child Abuse Prevention Month in Ontario. Furthermore, we have been vocal in our support of a high-quality, consistent and sustainable child welfare system. As many in this House may remember, including the member opposite, in April 2013, we introduced a new approach to accountability that includes the collection and public reporting of performance indicators, clear expectations regarding children's aid society performance and accountability agreements.

We have supported legislation that established the Office of the Provincial Advocate for Children and Youth, to provide an independent voice for all children. This office is accountable directly to the Legislature and provides this House with reports and recommendations. The creation of this office is an important step in continuing to protect our vulnerable children and youth. Ever since the creation of this independent office, the Ministry of Children and Youth Services has worked closely with the office of the provincial advocate.

We recognize the important contributions that the provincial advocate makes to elevate the voice of chil-

dren and youth. As a former social worker in this field, I could not be more proud of the steps we have taken.

This office has the authority to advocate for children and youth receiving services under the CFSA by receiving and responding to complaints, conducting reviews, representing the views and preferences of children and youth, making reports and providing recommendations.

Mr. Speaker, we continue to help protect these children. Last year, this Legislature passed an amendment to the advocate's legislation which provides the advocate with the authority to investigate matters relating to children and youth involved in the child protection system.

We are expanding the authority of the Provincial Advocate for Children and Youth, and I know all members in this House will agree this is a good thing. I know that next year, when the changes take effect for the advocate, he will use his significant new investigative powers to further strengthen the oversight of the child protection system by providing an important new function for the benefit of our most vulnerable children and youth.

Our government is working tirelessly to help those children and youth who are vulnerable. We've established an independent advocate and enhanced his powers. Our minister and this government will continue to work for those who cannot protect themselves. For all of us in this House, protecting our youth and children is a goal I would say we all share.

In closing, I would like to thank the member for Hamilton Mountain and all in this House for their work in advocating and advancing the protection of our children and our vulnerable youth.

It gives me great pleasure to stand for this on behalf of me, as an MPP for Ottawa—Orléans and as a former social worker working for the children's aid society.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Todd Smith:** It's a pleasure to join the debate this afternoon on Bill 146. I commend the member from Hamilton Mountain for putting forward this piece of legislation. She is very passionate when she speaks in the Legislature about many, many things, but you could especially sense the passion in her voice when speaking about this very important issue to her and her community. It is important to all of us on both sides of the Legislature, making sure that we are looking after and providing the safeguards for our children in our communities.

I have had the opportunity not to work necessarily with children or as a social worker, but I have had the opportunity to support the Quinte Children's Foundation, which is the charitable branch of the Highland Shores Children's Aid society. I guess they're not going by the "Quinte Children's Foundation" anymore; they are just going by the "Children's Foundation," because they have branched out to include Northumberland county as well. Northumberland county, Hastings county and Prince Edward county are all part of the Children's Foundation which looks out for children in our community, many of

them wards of the CAS, but many of them just children from low-income families who need help to participate in sporting activities or the arts or, you know, anything outside of the school setting.

We have many, many people in our community who have been active in helping out the Children's Foundation. There's a really neat event every year in the spring, I believe it is, the Guardian Angel Gala, where we celebrate the contributions of local people in our community in protecting children in our community, raising funds for children, being philanthropists in this sector. I'm very happy to say that very good friends of mine are receiving their wings very soon, as they have been named guardian angels. This is an event that occurs once a year in our community, and Heather and John Williams will be receiving their wings. I'd like to publicly congratulate them for being so important to protecting our children across the Quinte region. John is the former mayor of the city of Quinte West, and Heather is a nutritionist in the area. They have been wonderful philanthropists and leading the charge to ensure that we provide a safe environment for our children in the Quinte region.

As for the bill that's been brought forward by the member for Hamilton Mountain, as the father of two young girls, Payton and Reagan, there's nothing more important to me in this world than the safety and protection of my children and children right across the province. I've had the opportunity to be a hockey coach and a soccer coach and a baseball coach, and to go into the schools and speak to children, as I'm sure a lot of my colleagues do now, about—well, previously it was broadcasting; now it's about politics, in the grade 5 civics classes. I enjoy spending time with children because they are so important to the future of our province, obviously.

**1440**

Bill 146, the Disclosure of Information Relating to the Protection of Children Act: It's an important bill that will help protect those who do their due diligence and report any form of child abuse. By protecting the legal rights of employees to not be threatened, intimidated, dismissed or penalized when reporting child abuse, we can protect and ensure that, under all cases, those people who suspect or are witness to child abuse will feel safe and secure to report any such incidents. Although many companies already include HR policies that protect employees from reprimand or termination when they report incidences such as these, this bill creates the legislative framework so that these policies are guaranteed for everyone across Ontario.

When someone intentionally hurts a child, physically or otherwise, they're committing one of the most heinous crimes that can occur in society. It's imperative, therefore, that no barriers stand between those who witness or suspect child abuse and those picking up a form and reporting it to the authorities. Ensuring that the employment rights of those who report are protected will help eliminate some of those barriers that anyone may face when reporting instances of child abuse.

Now, I did speak to some people at the Highland Shores Children's Aid society in my region, Mr. Speaker,

and when speaking to some of those representatives from my riding of Prince Edward–Hastings, there were a couple of outstanding concerns as to some of the language included in the bill. So, a question: Does the bill include staff of children's aid societies as part of the public service, or does it mean to allow them to remain as they are, as part of the public sector in the province? My constituent flagged some important spin-off implications that this could potentially raise for the children's aid societies that would go beyond just this bill, but I'm sure that these types of discussions will occur at committee, where each legislative implication can be examined a little more closely under the scrutiny of the committee environment.

Notwithstanding that, the children of this province are its future, and it's our duty as members of the Legislature to ensure that their right to grow up in a safe and carefree environment, free from the horrors of child abuse or any other harm, can happen here in Ontario. This bill, by making sure that those who report child abuse are protected, is helping this province catch those who perpetrate these despicable acts and make sure that they're caught and persecuted.

Again, I would like to congratulate the member from Hamilton Mountain. I support her today. This is why I, as a father and a member of the provincial Legislature, will be supporting Bill 146.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Taras Natyshak:** It's a real honour to stand here today to speak to my colleague and seatmate's bill, Bill 146, the Disclosure of Information Relating to the Protection of Children Act. The member from Hamilton Mountain, whom I've had the privilege of sitting next to since I was first elected—

**Hon. Glen R. Murray:** Very passionate.

**Mr. Taras Natyshak:** Yes, Minister. It has been an incredible privilege, as you know. Our colleague here is one of the most passionate voices when it comes specifically to the issue of the protection of children. We all dedicate our efforts in this place, but I don't think anyone is as singularly focused on that issue as she has been. Again, it's an honour to watch her focus even more energy today, with the introduction of this bill, on identifying where we as legislators can apply our efforts to make the system better. This is indeed one of those bills.

Speaker, she has done this in the past. She has dedicated her private member slots to extending, or hoping to extend, Ombudsman oversight on the children's aid societies and other sectors. Unfortunately, the government has not seen fit to move that along, as much as it may be required even more so today than ever. However, this has not deterred her from pressing on and continuing to find and identify gaps in the system.

Today's bill, Bill 146, is something that in its mechanics, is quite logical and quite reasonable, something that we should pass swiftly here, and also be able to pass swiftly at committee.

I listened to my colleague from—Todd, where's your—

**Mr. Todd Smith:** Prince Edward–Hastings.

**Mr. Taras Natyshak:** —Prince Edward–Hastings, who raised the question about the language regarding whether CAS officials would be public sector now, or public service. Indeed, for the sake of this bill, and through the provisions of the whistle-blower protection only, they would be public sector workers and would have no ramifications—I assume, Speaker, the member was referring to potential contractual or negotiated labour implications. This wouldn't touch that. It's just for the sake of protecting them under the law, through the whistle-blower protections, because currently they don't have that, as public sector workers currently do. Now it's treating them the same way. That's what I'm talking about when I say the mechanics of the bill.

Why wouldn't we want to do that? Why wouldn't we want to bring all of those who deal directly with kids in our communities under the umbrella, under that protective cloak, to ensure that they have the freedom and the resources to be able to identify the gaps and identify where children are potentially being harmed? Not only that, but the gaps in the service, the gaps in the delivery of those protections where agencies and potential employees of those agencies are failing in their duties to protect those children. It's not meant to shame anyone but to ensure that everyone is doing their job, and that those who aren't, those who are negligent in providing that safety and the services, are held to account and that there are some mechanisms to call them to account.

Again, on a day-to-day, routine basis here around this place, there are so many different aspects of the law that we have to consider. One that, frankly, I never even knew existed—that small, minute gap in coverage of the law that we can do here quite quickly to ensure that we are protecting all of those who want to do their job effectively. Ultimately through this minor change—which I see as a minor change; it only has two schedule changes to it—we protect kids.

I've considered the job that we do here every day, considered my role and our role, collectively, and the various things that we deal with. At the end of the day, our primary role is public safety; it is. We can talk about economics. We can talk about various government ministries and agencies and other functions of the provincial government, but, at the end of the day, our primary goal is to ensure that the protection of the public is paramount. This is again one mechanism where we can do that.

I am supremely proud to see the efforts of my colleague the member from Hamilton Mountain come to fruition. She puts a lot of thought into her bills. She puts in a lot of effort and consultation. I know she's connecting with stakeholders on a continuous basis. I can tell you, as her colleague and as her friend, she puts her heart into these bills. Knowing that she has done that and continues to do that, it certainly is going to be an endeavour that we can all be proud of supporting—and see it work its way through the process here in the Legislature, ultimately, for the benefit of kids in our province.



I thank you very much, Speaker, for your time, and I appreciate the attention of my colleagues.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Ms. Eleanor McMahon:** I'm pleased to rise in the House today and join my colleagues from Essex and from Prince Edward–Hastings to speak to a very important issue. I'd like to thank the member from Hamilton Mountain, who, as the member from Essex noted, is an incredibly passionate member. She, indeed, is a strong advocate for children and their protection. Congratulations for doing this.

It's an unfortunate reality that there are children in Ontario who are the victims of abuse or neglect and are in need of protection. If I may, Speaker, if the House will indulge me, I'd like to acknowledge the work of my brother John and his wife Lise who are constituents in the member opposite's riding of Essex. They are foster parents. They deal with children who are amongst the most challenged in terms of being crown wards. I laud them for their compassion and for their incredible—

*Applause.*

1450

**Ms. Eleanor McMahon:** Thank you. I am in awe of their contributions, Speaker, and I know, indeed, that they have saved lives through their work.

These children are almost always unable to speak for themselves, so it falls to others in our communities to speak for them and report cases to authorities where they believe a child is in danger. This is not just an obligation; it is the right thing to do. And making sure that those individuals who do report cases are protected from negative consequences is also the right thing.

Our government is firmly committed to this, and to supporting a welfare system that protects children and those who act on their behalf. That is why, in April 2013, we introduced a new approach to accountability, including the collection and public reporting of performance indicators, clear expectations regarding children's aid societies' performance and accountability agreements.

Children's aid societies are on the front line. They deal with child abuse and neglect. This year is the 100th anniversary of the Halton Children's Aid Society in my riding. It has an office in Burlington, and 81% of the Halton Children's Aid Society's protection workers are co-located within the community.

When these workers are out in our community, it would be an absolute shame that people would feel as though they could not approach them—their neighbours and their friends—because they have a fear of being reprimanded for something that is noble, just and simply our duty to do as human beings.

Over the past 100 years, Halton CAS has been doing such noble work. However, they simply cannot do this on their own. Over the past year, the Halton Children's Aid Society, which cares for residents of Burlington, had a 13% increase in investigations at intake. Their ongoing cases, at over 300, remain at what is considered a high

level, and the number of children in their care increased when they expected a reduction.

They expected a 30% growth in cases before the court, and even with the addition of four front-line staff in community protection, their workload increased. There's no question that they and other aid societies across our province are busy and remain committed to protecting children.

Their increased workload is a sign that people are reporting, and that's a good thing. But there is a need to ensure that the voices of those who know of wrongdoings are heard. Social workers alone cannot deal with the hideous problem of child abuse. Those who wish to assist in this noble cause deserve protection in every capacity. It is our job as public servants to ensure that we protect them.

Currently, the Child and Family Services Act requires all Ontarians to report to a children's aid society if they have a reasonable suspicion that a child is or may be facing danger and is in need of protection. This means that we all have a duty to report, and the CFSA provides protection from liability to individuals who do so, provided that they did not do so without reasonable grounds, or with malice.

Our government understands that this is also an issue of awareness. A study published by the Canadian Medical Association Journal, which made national news, found that 32% of Canadians had experienced physical abuse, sexual abuse, exposure to intimate partner violence or a combination of these when they were young, including behaviour once deemed socially appropriate, like spanking and slapping.

These statistics underscore the fact that we need to make the public aware that this problem exists and is far more common than people realize. That is why the Ministry of Children and Youth Services launched a public education campaign just last month to coincide with Child Abuse Prevention Month in Ontario, to help Ontarians understand the scope of these problems and help them to understand the complexity of the issues.

We have also consistently supported enhancing our child welfare system, including legislation that requires more rigorous background checks for individuals offering to provide care for children receiving CAS services, and to establish the Office of the Provincial Advocate for Children and Youth. We've increased the mandate and powers of the Child and Family Services Review Board, so they may independently review complaints related to CASs, as well as certain decisions of societies and adoption licensees.

Ultimately, I will absolutely be supporting this bill today, and I hope that all colleagues in the House do the same. While the types of protections put forth in this legislation may exist in some form, I wholeheartedly support the intention of this bill in adding further protection to those in our communities who act in the defence of our most precious resource, our children.

I'd like to thank again the member for Hamilton Mountain for bringing forth this very important bill, for

starting this conversation and for acting, as she always does, on behalf of vulnerable children in Ontario.

As the member for Essex noted, with this legislation it is our job, and even our moral obligation, to look after those in our province who need it most.

Thank you again, Mr. Speaker, for the opportunity.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Rick Nicholls:** It's my pleasure to rise today and offer a few brief remarks. Like the member for Hamilton Mountain, I was first elected back in 2011. I remember that back in 2012 the member introduced Bill 110, An Act to amend the Ombudsman Act with respect to children's aid societies, which aimed to give full investigative power to the Ombudsman in relation to decisions made by children's aid societies.

Unfortunately, that bill died when the former Premier, Dalton McGuinty, resigned at the height of the gas plant scandal and prorogued the Legislature.

She then reintroduced the bill, this time as Bill 42, in 2013. Our caucus, I'm proud to say, supported that bill through second reading, despite efforts by the government to vote the bill down.

All of this is to say that the member for Hamilton Mountain is no stranger to advocating on behalf of children and youth, especially when it comes to our province's children's aid societies. It was hardly a surprise to see that the member now has tabled another bill with the same theme, Bill 146, the Disclosure of Information Relating to the Protection of Children Act, 2015. The bill seeks to amend the Employment Standards Act, 2000, and the Public Service of Ontario Act, 2006, to protect employees against reprisal when reporting concerns about a service or a child to the Office of the Provincial Advocate for Children and Youth.

Everyone is currently free to speak out on behalf of children and every citizen of this province is able to take steps to report a suspicion that a child is in need of protection. However, not all employees are protected from retaliation from their employers about what they report. Surely, there have been examples of concerns that were never raised for fear of getting into trouble at the workplace. Speaker, I think that's just tragic.

Bill 146 sets out to provide protection for an employee against retaliation in situations where the employee takes steps to report a suspicion that a child is in need of protection. The bill establishes a scheme under which public servants may disclose wrongdoing and sets out that specified persons who perform professional or official duties with respect to children, including every employee, director, officer, member or sole proprietor of a child and family service provider, are all public servants for the purposes of this bill. This effectively means that the bill would extend whistle-blower protection to those speaking out on behalf of children who may be harmed or at risk of being harmed.

Earlier this week, I spoke to a couple of children's aid societies. One saw the reason for the changes that this legislation proposes. Currently, under the Child and

Family Services Act, anyone who believes a child is in need of protection must report it immediately to the children's aid society. The Child and Family Services Act also states that no person shall disclose the identity of an informant and that "no person shall dismiss, suspend, demote, discipline, harass, interfere with or otherwise disadvantage an informant under this section." Speaker, this bill is not that much different from what Bill 146 had set out. I look forward to the member addressing some of the confusion that is out there about the bill.

I do support the intent of the bill, as we need to ensure that every individual is protected when it comes to reporting a suspicion of child abuse, but from what I can see, this bill is simply making minor adjustments rather than substantive changes—but that's all right. She's moving in the right direction.

I'm not the only one who is supportive of this bill. Irwin Elman, the Provincial Advocate for Children and Youth, spoke strongly in favour of the bill and said the following:

"Children under the mandate of our office are the most vulnerable and silenced in the province. There are times in which they require supportive adults to stand with them. This bill is about protecting vulnerable children and creating a culture in this province where a child's voice can be heard and where individuals seeking to amplify that voice can come forward without fearing reprisal from their employer."

The bill is about protecting those who protect our children. This is something I endorse wholeheartedly.

**1500**

I think everyone here believes that we all have a duty to ensure our province's children and youth are safe. As part of our duty as legislators, we should be striving to bring forward legislation that will, in fact, improve and protect the lives of our province's children and youth. As a father and, recently, a grandfather, nothing is more important than protecting our children.

I've been involved in a lot of sports over my years at the coaching level. I've coached various levels of youth baseball and hockey, sponsoring soccer—followed my three children through their youth. I also taught a program in the high schools entitled Success Strategies for Youth, an eight-week program aimed at further developing the self-confidence and improving the self-esteem of young people today, most of whom sometimes have been abused at some point in time in their lives. So they deal with it.

It's again an honour. I truly support this bill at second reading.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. John Vanthof:** It's always an honour to be able to stand in this House, and today especially so because we're talking about a bill that has an impact on at-risk children. It has an impact on at-risk children, and it also has an incredible impact on the people who work to take care of those kids, because it's a very stressful job.

Before I get too far in my five minutes, I would like to thank my colleague from Hamilton Mountain for bringing this bill forward. At our caucus table and in this House, she is always, always a very strong voice for those who can't speak for themselves. I think that's the best way to describe it. Often, we'll be discussing something and she will go, "Oh, wait a second. You forgot about that." We really appreciate that.

Everyone has something that they're very interested in. The member from Hamilton Mountain is very, very passionate about children, about people who don't have a voice. They couldn't have a better voice than the member from Hamilton Mountain.

Getting back to the bill: This isn't an earth-shattering change. This is one of those bills that—if this is passed, as it should be—is offering protection to public servants who, right now, according to the way legislation is written, although they are public servants, they're not public servants. For those people who don't spend a lot of time watching how legislation is created, it's a lot like—I'm from a farm background—making sausage. When you're making sausage, sometimes you forget some ingredients and you think everything is fine, but it's not. That's what this bill is.

People in the public service, in the direct public service, who are directly paid for by the government, are currently covered by whistle-blower protection. What this bill aims to correct is that people who are paid by the government, but at arm's length—when the money is transferred to another agency, they're still, in the eyes of the public, a public servant, but in the eyes of government whistle-blower protection, they're not. That creates a huge problem, because a person who isn't protected could have knowledge of a child who is being abused or neglected, but because of the fact that they aren't protected if they bring that knowledge forward, they might be reluctant to do so. And someone says, "Oh, that never happens. I would never do that." But you know what? Having been in situations where you have to risk your job for something that may or may not be fixed, it's a hard decision to make.

If we could take this opportunity and extend whistle-blower protection to those people—because it exists for a direct public servant. I don't know if that's the correct term, Mr. Speaker, but if you're directly paid by the Ontario government, you are protected by whistle-blower protection. But if you're paid by an agency which is funded by the Ontario government, you're not. Now, I'm sure that doesn't make sense to the people out there. Until the member from Hamilton Mountain explained it to our caucus, it didn't make sense to us either that this wasn't happening now. Now the case that we're trying to make to the other members in this House is that it's something that can be fixed easily.

We are in the business of making laws, making them better and hopefully not making them worse. This is definitely a case where we would be making the laws of this province better to protect not only the children but the people who work in those jobs.

I know people who work in some of those agencies. They face some incredible stresses and incredible pressures. They deal with issues that most of us will never see and that most of us would never be able to deal with. The very least we can do for those people is to make sure that when they see an issue that no one should see, that they are protected if they bring it forward.

One thing in this bill about when someone brings something forward to the Provincial Advocate for Children and Youth—is that their name?

**Miss Monique Taylor:** Yes.

**Mr. John Vanthof:** I think that's a very important part that should be mentioned because the child advocate, as an independent officer of this House, is a very powerful position and a position that shouldn't be taken lightly. The fact is that if you make information available to the child advocate, you are protected if you are an indirect public servant. I think that should be stressed, because the child advocate plays a very important role in this province. Anything that we can do to shed more light to help him or her—whoever happens to be appointed, but right now it's a him—help children, we should take that advantage.

It's very frustrating in this House when you see things that could be done very quickly, and they lag for years. I hope that this isn't the case with this bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** I now return to the member from Hamilton Mountain. You have two minutes for a response.

**Miss Monique Taylor:** Thank you to the members who had some input into this bill, Bill 146: the member from Ottawa—Orléans; the member from Prince Edward—Hastings; my seatmate, the member from Essex; the member from Timiskaming—Cochrane; the member from Burlington; and the member from Chatham—Kent—Essex.

Some good points were made in the House today. The members from the government side talked about the things that were being implemented already: the protection indicators and the public education. We all welcome those tools to be available to protection workers and to people across this province to ensure that our children are safe.

The member from Chatham—Kent—Essex said that this is really just a minor change. He's absolutely right. It's a minor change that could make a huge difference in regard to a person taking the chance, without fear of reprisal of their job if they make a complaint and something is being shuffled under the carpet and could create damage to a child, to the industry or to the sector.

You know that that person is going to be able to feel safe about the right thing to do. That's really what it's about: giving people the ability to do the right thing in regard to the safety and well-being of our children, which I know is always front and centre of any debate in this House, that it's always in the best interests of a child. That's really what this bill comes down to.

**The Deputy Speaker (Mr. Bas Balkissoon):** We'll take the vote on this item at the end of private members' business.

1510

SMOKE-FREE SCHOOLS  
ACT, 2015

LOI DE 2015 FAVORISANT  
DES ÉCOLES SANS FUMÉE

Mr. Smith moved second reading of the following bill:  
Bill 139, An Act to amend the Smoke-Free Ontario Act and the Tobacco Tax Act / Projet de loi 139, Loi modifiant la Loi favorisant un Ontario sans fumée et la Loi de la taxe sur le tabac.

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98, the member has 12 minutes for his presentation.

The member for Prince Edward–Hastings.

**Mr. Todd Smith:** Thanks very much, Speaker. This bill, like the previous bill, has a lot to do with protecting kids, and it also has to do with cracking down on criminal activity; in particular, organized crime that is rampant in Ontario. Today, I'm rising on a matter for which I hope we have a common cause in the Legislature.

In December 1952, way back when, Reader's Digest published *Cancer by the Carton*, the first true journalistic exposé of the health effects of smoking. In the 63 years since, legislators in countries around the world have tried actively to lower smoking rates across the board. Measures have been brought in to raise taxes, limit production, ensure information was provided about health effects on the packaging, and even limit marketing and advertising displays.

We have had some successes. We have evolved from a society where four in five doctors smoked somebody's brand to a society where a cigarette company can't even sponsor a fireworks show. We have evolved from a situation where kids knew their parents' brand to kids whose parents never had a brand. For those successes, I'd like to extend congratulations to some of the people who sponsored the legislation that I'm bringing forward today.

We have a couple of them in the Legislature, actually. Greg Killough—first of all, I would like to give a lot of thanks to Greg from the Heart and Stroke Foundation. We've worked very closely with him. Nadia Formigoni is here from Heart and Stroke today. We welcome her. Kelly Gorman from the Canadian Cancer Society and Canadian Cancer Society youth volunteer Shadi Mousavi Nia—is that pretty good? Pretty good. We welcome them here today. They have been sponsors of this particular legislation.

Folks at the Canadian Cancer Society and the Heart and Stroke Foundation have worked tirelessly for years to bring down the rates of smoking in this province, but for many people, the rates of youth smoking in this province still remain way too high. What we know, from studies conducted by groups like Tobacco-Free Kids, is that 80% of adult smokers have had their first cigarette

before they turned 18. We know that the Centre for Addiction and Mental Health says that 43% of all cigarettes consumed by Ontario high schoolers are contraband, and 50% of high school smokers will have at least one cigarette a day. The reason why we're having trouble making further dents in the smoking rate among both young people and adults is contraband tobacco. That's the reason. So let's do something about it.

The reason that I think we can seek common cause here is because the government has continually said it wants to do something on this file. The actions taken, however, have been insufficient so far to the size of the problem. It's not just an Ontario problem anymore. We've got cigarettes from Hamilton making up almost half the contraband seized in Atlantic Canada, and contraband cigarettes from Norfolk county being sold in places like Mexico, Guatemala and Costa Rica.

But I also need to address some of the things being said about this bill. First, fines are being increased on those who transport, manufacture and distribute illegal tobacco. The reason for this is that fines are supposed to be a disincentive to illegal activity, as well as a punitive measure for those who break the law. But most of the fines that we had, particularly on the transportation and distribution side, failed to live up to the first objective. Illegal tobacco is big, big business, and it should be fined the way that big business is fined when it breaks the law.

One of the concerns is that the bill will cause you to lose your car if you transport illegal tobacco in bulk. The Tobacco Tax Act already grants police those powers. In order to be deemed to be transporting tobacco in bulk, you have to be transporting a lot of cigarettes. As a matter of fact, in the Tobacco Tax Act, you have to be transporting 10,000 cigarettes, or roughly 50 cartons. That's the size of what is called a master case of cigarettes, so that's a lot of cigarettes.

As a matter of perspective, in three different busts that occurred last year, police seized 107 cases, 463 bags and 182 garbage bags full of cigarettes. This isn't targeted at anyone buying cigarettes for their personal use. That's a whack of cigarettes, Mr. Speaker. This is aimed at people who traffic in this poison.

Unfortunately, we have too many of those people. When it comes to marketing and promoting their product, people who traffic in illegal tobacco are working in the Wild West right now, and that's the scary part. You can be trying to sell an illegal product with some pretty nasty ingredients in it—like even animal feces, which has been reported—while telling a group of high school kids that your product is natural. So this bill has a public education portion in it as well that seeks to educate kids about the dangers of any tobacco, but also with a particular focus on illegal tobacco and the dangers around its consumption.

A part of this bill that has gotten considerable attention is the ability of the government to take your driver's licence as well if you're caught transporting illegal tobacco in bulk. Previously, the Tobacco Tax Act allowed for that as a possible punishment. This just makes

it a mandatory punishment. You will lose your licence if you're caught transporting illegal tobacco in bulk. On a first offence, you can lose your licence for up to six months; on a second offence, it's up to a year.

What we know from comprehensive health studies is that we're talking about a product, in illegal tobacco, that overwhelmingly markets to kids and overwhelmingly markets to people with lower incomes. We know that we've got organizations in Ontario that have widespread distribution and are trafficking in these illegal cigarettes outside of our provincial jurisdiction and even outside of the continent. When you look at it that way, taking away their licence hardly seems like an unjustified measure.

I had a gentleman tell me just the other day that, a few years back, he was offered \$30,000 just to drive a truck to Montreal and back—\$30,000, he was offered, to drive a truck to Montreal and back. So it is happening.

The bill would allow the Minister of Finance the ability to share the proceeds of seizures made in these types of investigations with the police departments who are conducting the investigations.

In 2014, an RCMP report on the Federal Tobacco Control Strategy stated the following: "In the short to middle term, the involvement of organized crime groups in importing, manufacturing and distributing contraband is expected to remain stable due to the low risks and potential for large profits.... The availability of tobacco materials, and access to industrial machinery as well as means of transportation, may entice organized crime groups to invest additional human and financial resources in order to tighten control over this criminal market, particularly in central Canada."

What we know from many of the illegal tobacco busts made in this province is that we're often not only confiscating tobacco, but guns and drugs are being confiscated as well.

This is far from a victimless crime. A lot of the people doing the distributing in this province are pushing a lot of different brands of illegal cigarettes. This is just another one that we can use to catch them.

Central Canada is the source of much of the illegal tobacco problem across the country. Almost all of Canada's tobacco is actually grown right here in Ontario. As long as we have an illegal tobacco problem, the whole continent will have an illegal tobacco problem.

When Quebec enacted measures like this under the Charest government in 2009, it led to a 60% decrease in their youth smoking rate. So this isn't a new idea; this was introduced in 2009 by the government of Quebec, the Jean Charest government. As I say, their youth smoking rate went down by 60%, almost entirely because of this legislation. That's an important statistic, because this is more than a health problem and it's more than a law enforcement problem. It's a cost problem.

As I said earlier, we know that 80% of adult smokers had picked up the habit before the age of 18. We know, and have known for years, that smoking is tied to increased rates of lung cancer, heart disease, stroke, emphysema and countless other chronic illnesses. The

estimated cost for treating these diseases is billions and billions, and it's billions of dollars, Mr. Speaker, that can be prevented. It's billions of dollars that could be going to some other part of our health care system.

The way we make sure that money doesn't go to something that can be prevented is by cracking down on the guys who are pushing the illegal products in the first place.

It's not just a health problem; it's a health care problem. It's surgery hours, hospital beds, chemotherapy treatments, pharmacare costs. The tragic part is that all of this is preventable. If we don't stop it—if we don't treat it like it's a law enforcement problem, if we don't start putting the guys who push this poison out of business, they will put us out of business.

**1520**

After you talk about the health care portion of what illegal tobacco does, it almost seems kind of trivial to talk about what it does to the economy and finances of the province. But, once again, we're talking about billions. As much as \$1.1 billion is lost annually to the provincial treasury because of illegal cigarettes.

We all want schools, hospitals, roads and infrastructure. When you take \$1.1 billion out of the excise every year, you have a long-term cash problem that impacts your ability to pay for those schools, hospitals, roads and infrastructure.

The government said in its budget last year that it has tried to take further measures in the large omnibus bill that's currently before the House to deal with this issue. It's done so largely by attacking the raw leaf problem. There's no doubt that we do have a raw leaf problem in Ontario. We've got people who grow tobacco in this province letting some slip out the back door in the middle of the night, or fall off trucks. I can understand the government's point: If we cut off the supply, we create a big problem for those who are involved in this illegal distribution. But our responsibility has to extend further down the supply chain, because we're not going to always be able to make the stop at the first link in the supply chain.

The overwhelming majority—70% of the problem—is cigarettes, cigarillos and cigars. We can't address the illegal tobacco problem without attacking that side of it. These products are being moved across our province daily in a very organized, sophisticated fashion. It's the illegal movement of these products across Ontario, into and out of this jurisdiction, that are costing us billions in health care, costing us billions in lost revenue and making our kids pick up a habit that they shouldn't be introduced to in the first place.

In conclusion, it's my hope that members from all sides will support this bill today, and that we can get the Smoke-Free Schools Act to committee for further debate.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Wayne Gates:** It's always a pleasure to rise on behalf of my riding of Niagara Falls.

As most of us know, my colleague, my fellow MPP from Nickel Belt and our health critic, has done excellent

work as a champion for reducing tobacco use among young people. In particular, her work to ban the sale of flavoured tobacco products in order to stop the marketing of tobacco to children has been a pleasure to behold.

Mr. Speaker, I'm happy to see this House taking further action to reduce tobacco use among young people. This is a serious health issue facing our province, and it's great to see proactive measures being taken to address this problem.

According to a 2013 Youth Smoking Survey conducted by Health Canada and the University of Waterloo—think about this, my colleagues who are here today—21% of young kids have tried smoking. One in five young people is picking up a cigarette. That is far too many young people exposing themselves to the risks of smoking, and I'm happy—I know my colleagues will like to hear this—to support a bill that should help reduce those numbers.

It has long been clear that one of the easiest measures we can take to help to prevent our young people from starting to smoke is also one that can be very effective. I'm speaking, of course, about the education programs to reduce tobacco use. Not only have these programs been effective here in Ontario, they've also been effective on a national, and even a global, scale. The reason for their effectiveness is quite simple: When people understand the harm that smoking causes to their bodies, as well as the harm it causes to those around them, they become less likely to start smoking. Mr. Speaker, that is why it is important for this bill to have a mandate for the government to establish a public education program about the health risks associated with the use of tobacco, because it is effective. This will help us be able to ensure that our children and grandchildren grow up and become the next generation of non-smokers and do not have to deal with the health problems that come, unfortunately, from smoking.

It's critical that we do not allow our children to start smoking. I have three daughters myself—Jacqueline, Tara-Lynn and Chantel—as well as five grandkids. I know from personal experience the horrors of smoking. My mother smoked her entire life, and, in the end, that's what killed her. When she had the first half of her lung removed because of lung cancer, the doctors told her to quit or she would die, but she couldn't. Then, when she had half of her other lung removed, the doctor told her the same thing, and despite her entire family, myself included, begging my mother to quit, she couldn't do it. And in the end, it was the cigarettes that caused the lung cancer that killed my mother at the age of 61.

Now every time I look at my own daughters and my grandkids, I know just how important it is to make sure they never start—because if you watch the advertising that goes on and you watch the ads on TV, it's geared to young people, how exciting it is. We have got to make sure they never start, because once they start, it's almost impossible to quit.

Mr. Speaker, I'm going to add a little part to that story. I think it's important to put a face to it.

I never smoked. There's a couple of reasons why I didn't smoke. I actually thought I was a pretty good goal-tender and I was going to make the NHL. In my time, we had small goalies: Gump Worsley, Mike Vernon—

**Hon. Jeff Leal:** Rogie Vachon.

**Mr. Wayne Gates:** Rogie Vachon.

But the other reason why I never smoked—and it was interesting what stuck in my mind, because we talk about educating our young people. I was always told that if you smoked, it would stunt your growth, so I'd probably be about four feet tall if I smoked. That's one of the reasons why I never took up smoking.

All that being said, I do support your bill. I also believe there are issues around the bill that we need to have addressed at committee.

First—I would really like my colleague to listen—and this is something that we need to address every time we discuss legislation governing the use of tobacco: What impact will this have on our First Nations people? It's critical for everyone in this House to recognize that tobacco has an important history for the First Nations people of our province. Many of their traditional ceremonies and practices involve the use of tobacco, and we must not infringe on those practices. Mr. Speaker, there's only one true way that we can ensure that the rights of First Nations people are fully respected, and we have to listen to them. We need to have full hearings at committee where First Nations peoples of this province can come and make their voices heard on this very, very important issue for their communities.

That's not the only reason it's very important for this bill to have full hearings before a committee. There are other important aspects of this bill that need to be examined very closely.

Another part of this bill that we need to examine closely and fully in committee is the mandatory suspension of a driver's licence for any person convicted of delivering unmarked cigarettes, selling tobacco without a wholesaler's permit, or transferring or possessing bulk tobacco acquired without a permit.

**1530**

I want to be very clear to everyone: I absolutely support efforts to reduce smoking rates among young people in our province. So my concern here is not the fact that we're trying to punish these people more severely; rather my concern is about the fact that this punishment is mandatory. It's very important we discuss at committee whether that is the appropriate course of action or whether it would be more appropriate to make sure that the new sentencing options be left in the hands of our court system. This is an important discussion to have because we should always be careful in removing powers from our court system. They are there to exercise discretion in sentencing; to ensure the proportionality of a sentence. We should be wary about removing any kind of power of the courts. Seeing that we're here discussing bills and making laws, we shouldn't take that power away from the courts.

In addition, it is crucial for us to hear from those with past experience as it relates to these new regulations.

Quebec's Bill 59, passed in 2009, brought into force many of these measures in that province. In the six years that have passed since then, their police forces and courts have had the opportunity to build up considerable knowledge about the impact of these regulations. As we move into committee, we must hear from our counterparts in Quebec as to how effective or not these regulations have been. That information is available, and we would not be properly doing our duty to the people of this province if we did not examine it before enacting similar laws.

This bill does important work in terms of helping to enact new regulations that will reduce smoking rates among our kids and our grandkids. However, in its efforts to do that, the bill contains a number of measures that need to be examined fully and carefully at committee.

Like I've said a couple of times already, I'm happy to stand here today in support of this bill; I'll be even happier to support it once it has gone through the examination of the committee.

I'll close by saying: Like all of us, a lot of my friends and colleagues that are here today—there is nothing more important than our kids and our grandkids. We have an opportunity here to send a clear message that we are not going to tolerate having our kids exposed to cigarettes in school so somebody can make a profit at their expense and so that 40 or 50 years down the road, instead of living to be 80, they end up like my mother did: dying at 61.

I encourage all three parties to support this bill. I'll certainly be supporting it. Thank you very much for giving me a few minutes of everybody's time to talk about this important bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Han Dong:** It's my great pleasure to be given the opportunity to speak to the bill presented by the member from Prince Edward–Hastings. Also, I was listening carefully to the debate by the member from Niagara Falls.

I, too, have some personal stories to share with the Legislature. As you know, I came here when I was 13. I spent seven years growing up with my grandparents on my father's side, and both of them were smokers—almost lifelong smokers, as far as I can remember. During my childhood, every night I would hear one of them, or sometimes both at the same time, coughing through the night. That was just part of my memory. Then, as I grew up, I learned the harmful effects of using tobacco and of smoking. That's why in principle I'm supportive of this bill. I'm very glad that it was brought forward by the member opposite.

We have come a long way in Ontario in terms of introducing a smoke-free environment. I think the members of this Legislature can all remember that many years ago—actually, not too long ago; about 10 or 15 years ago—people were able to smoke in bars. There would be different sections, a smoking section and a non-

smoking section. People would be smoking in some of their offices, at home or in their car. We've made it tougher for smokers to actually have a cigarette in an environment they're sharing with everybody else.

I do remember in the very beginning quite a bit of criticism on that, because it does affect some of the local businesses, but I'm proud of our government's record. We've stood firm on this, because of the health of Ontario's future, and our kids.

I just want to share with the Legislature what we've done. We've helped people quit smoking, ensuring young people don't get addicted. In fact, we've invested over \$354 million for tobacco prevention, cessation and protection. I'm very pleased to say that as a result of our efforts, smoking rates have decreased in Ontario from 24.5% in 2000 to 18.1% in 2013. That's over 332,000 fewer smokers, and today we have the second-lowest smoking rate in Canada. That is quite an accomplishment.

I noticed that in this bill the member talked about creating a public education program. I think it's a wonderful idea, because when these programs are shared and taught in class in school, just because of peer pressure you will see a sharp decline in smoking.

Too often, we drive through our constituencies and notice outside a high school, or even sometimes an elementary school—I don't know how they got their hands on cigarettes, but I've noticed students smoking outside a school. It really offends me when I see that. I know the parents teach their kids that this is a bad habit and make sure they know all the negative effects of smoking, but unfortunately, in today's society, there are still quite a few young people smoking outside the schools. Just introducing this program in the schools where they study, where they hang out with their friends, will do quite a bit of prevention of young smokers.

I also want to talk about contraband. It is a crime. Everybody agrees that it is a crime. I know our government has come a long way in trying to fix this problem. In our 2015 budget, we demonstrated how we could build on existing measures by outlining a variety of initiatives aimed at addressing contraband tobacco, including enhancing partnerships with key enforcement agencies, such as the OPP; examining options to regulate additional tobacco product components, such as the acetate tow used in making cigarette filters; and working with the Minister of Health and Long-Term Care to optimize the effectiveness of compliance efforts by better coordinating retail inspections.

In my riding, there are still a few mom-and-pop shops and convenience stores. Every year here in Queen's Park, we receive the association of convenience stores, and we have conversations over contraband smoking. I know it's hurting those stores. Those people try to make an honest living, and unfortunately they are hurt by these criminal acts.

I'm very supportive of the member's bill, and I hope that members of this Legislature will be supportive as well.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate.

**Mr. Tim Hudak:** I'm pleased to rise in support of my colleague from Prince Edward–Hastings's initiative to fight back against the growing and increasingly dangerous, gang-associated underground economy when it comes to contraband tobacco in the province.

**1540**

I saw an article in the *Toronto Sun*, "Tory MPP Targets Contraband Smokes," by Antonella Artuso, a few days ago, and it got me thinking about this issue more in-depth. I spoke about it a little while ago. The issue has changed tremendously from the time that most of us were growing up. I remember growing up on Lindbergh Drive—I think that the statute of limitations is well past, so I can name names—where Chris Burton stole cigarettes from his babysitter. I don't know when this was—1975 or 1976. He asked all of the boys in the neighbourhood if we wanted to go out in the woods behind my house and smoke these cigarettes. I know members are looking at me and they're thinking that I was a rebel when I was a kid.

*Laughter.*

**Mr. Tim Hudak:** You don't have to laugh that hard. Let me just say that I actually said no. I didn't go. I was too straight and narrow. But a bunch of the guys did. They smoked the cigarettes, and that was kind of the innocence—

**Hon. Kevin Daniel Flynn:** Are they in jail?

**Mr. Tim Hudak:** That's a different question altogether.

It was the innocence of the time, right? But it's far more than kids being kids, trying to become adults too soon and doing things their parents tell them not to. This has now gone to the world of serious, serious crime. Contraband tobacco—not only the health impacts that my colleague and others have properly talked about, but also the way it paves paths for further smuggling of heavy arms, hard drugs and human smuggling—that's what this has effectively done. We're talking about the Hells Angels here. We're talking about some of those vicious Mexican drug gangs that are involved with this trade. My colleague talked about how tobacco grown in Ontario is ending up down in Mexico. It's scary. I think it is big business; it's big criminal business, and we need a big bill and big sanctions to try to curtail it.

I know there was controversy about seizing the vehicle. Look, I worked at customs for a while when I was putting myself through university. It was a fascinating job at the Peace Bridge in Fort Erie. I remember one time, actually, when a guy was crossing the border; I wasn't in the booth at this time, but a colleague was. He was cool as a cucumber. He had nothing to declare. He had just gone across the border, had bought a few things and was coming back into Canada. He lit up a cigarette and then proceeded to toss his Bic lighter out the window.

The Bic lighter was a bit of a tell that he was nervous, so we pulled him over. The car was full of cartons of

tobacco hidden in the door panels and behind the back seat. He was an early contraband tobacco runner. What do you do at customs? You seize the vehicle. This was the case back in the late 1980s or early 1990s.

I remember another time—it's a quick story—where a car was going through the customs line, and it itself started smoking. This one was not as clever as the first guy with the Bic lighter. They had put the cartons of tobacco on top of the engine. So they pull up—

**Interjection:** Cheech and Chong.

**Mr. Tim Hudak:** It's like Cheech and Chong, my colleague says. That was an easier one to catch, when tobacco smoke starts billowing out of the front of the car.

But I think that that sanction is fair and appropriate. If you're seizing a vehicle when it comes with up to 50 cartons of cigarettes, that's a substantial amount of money for the underground economy. If you seize it at the border, what's the difference if you seize it outside of a high school in Belleville or Beamsville? I think it makes a lot of sense. We've got to take this on, on both the supply and the demand side. There's no doubt.

The bill also talks about increasing the fines for those who are trying to purchase cigarettes illegally. Others may be looking at things on the demand side. The government has given lip service to this issue, but focuses on small measures that might sound good, but that are really ineffective at the end. Focusing on flavoured tobacco or pictures on the tobacco I'm sure in a small way has an impact, but if you really want to attack underage smoking and the criminal activity that is fostered as a result, you have to have a bold initiative like Mr. Smith, the member for Prince Edward–Hastings, is doing in this bill, and I'm glad to support it.

So taking away the vehicle, I think, is fair and reasonable. My colleague from Niagara Falls talked about a committee. Great. Maybe we should, in terms of taking the licence away. But this is not the harmless stuff like stealing your babysitter's cigarettes and trying it. This is huge criminal activity with considerable damage to individuals partaking and the crime wave that follows behind that.

Some 43% of cigarettes now are contraband tobacco. Quebec, under Premier Charest, had the courage to take this on. I think we've got to do a heck of a lot more to go after the illegal smoke shacks that are on reserves or slightly off reserves, and that are funneling this. I think we actually have to be bold and clear about this policy.

As I've said before in this House, I do not believe that a young, native kid growing up on-reserve, a young aboriginal boy or girl who sees that a life of crime is a way to get head ahead—that's not helping them, as well. That's not helping to bring in jobs and investments and entrepreneurship. It's a real social policy issue, too, if we look the other way on the big supply.

Surely, the government has done some tinkering on the demand side—we'd do a lot more—but I salute the member for Prince Edward–Hastings for having a bold initiative to go after the supply: the drug lords, the kingpins and the criminals who are benefiting from this



policy. If you're part of that and you lose your car, that's the least that should happen to you.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Peter Z. Milczyn:** It's a pleasure to rise this afternoon to speak to Bill 139, An Act to amend the Smoke-Free Ontario Act and the Tobacco Tax Act. I applaud the member from Prince Edward-Hastings for bringing this piece of legislation forward.

Mr. Speaker, I don't know if you've heard the radio ads recently playing on the airwaves about a dramatized 911 call. A lady is calling about her relative being shot and there being blood. Then, the narrator moves on to that the proceeds of crime, wherever they come from, and, certainly, if they come from the sale of illegal tobacco products, go to gangs. They don't invest that money in TFSA's or in pension plans; they buy guns, they traffic in underage kids, they sell drugs, they do other bad things.

So when we're dealing with this, there's the one aspect of it, which I'll get into in a moment, that is about preventing people from smoking, especially young people, but this is about stopping criminals. To those who go out and purchase these cigarettes, who think, "I'm just cheating the government out of some money. I'm not really breaking the law"—they are breaking the law and they are helping others break the law in much more significant ways. It's not a victimless crime to go out and think that you're buying cheap smokes. It's actually a serious crime.

The aspects of the legislation that the member from Prince Edward-Hastings is talking about—targeting those who are moving these products around, targeting those who are purchasing, as well, with more fines and greater sanctions—I think those are good ideas that we should send to committee and delve into more deeply because they are very important.

Certainly, on the other side, I can echo the sad story of the member from Niagara Falls, because I also observed my mother passing away far too early because she was a smoker. All the women in her family for generations lived into their 90s; she died 20 years too young by that comparison and it was because of smoking.

She started out young. I did not take that up and I certainly hope my six-year-old daughter doesn't. I hope that as she gets older and goes on to high school, there won't be people peddling contraband cigarettes in the corners by the high school or the parking lot or a neighbourhood store or wherever the case might be.

So the two parts of this—the intervention, the enforcement and the penalty are very important, and the prevention. Now, in terms of what the government has been doing, I do think there have been effective steps in prevention. We do know that, province-wide, the rate of smoking since the turn of this century has gone down by 6%, and that is significant. It's especially significant if it means fewer young people start smoking. We have invested significant resources in programs to promote not smoking and in programs to help people who have started smoking to get effective help to stop.

Also, one of those aspects of the tobacco industry, whether it's contraband or not, which entices people with supposedly lighter products and flavoured products—the government has brought in legislation to ban the sale of menthol products and other flavoured tobacco products. Those are also important steps.

**1550**

We are making progress. We are having a successful war against tobacco, but we do need to do more. I do support the member from Prince Edward-Hastings's proposed bill. It's going in the right direction. I do think, as the member from Niagara Falls said earlier, that we need to understand precisely what Quebec did, what is successful about their approach and what has been less than successful. I'd like Ontario to be a leader in these efforts and not just a follower. I think we've done tremendous work so far. We can do better. With the initiative that the member from Prince Edward-Hastings has brought forward, I know we will be able to do better.

I think one of the issues we really have to focus on as well is the underground economy. The Minister of Finance, in the 2015 budget, announced certain measures to help tackle the underground economy. I believe he did mention, in today's fall economic statement, some of the progress that is being made in tackling that. There's much more that we have to do. Certainly the aspect of the underground economy that relates to contraband tobacco is a big part of that, and we need to tackle it. I will be supporting this bill for that reason.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Toby Barrett:** I certainly want to thank my colleague Todd Smith for developing Bill 139, the Smoke-Free Schools Act. I'm an MPP who represents most of the tobacco farmers in Canada, essentially—what's left of them. We have very few farmers left now. They cannot compete with the illegal trade.

Tobacco growing, as many would know, goes back centuries in Canada. It was about 100 years ago that it really accelerated down in Brant, Norfolk, Oxford, Elgin, Middlesex, Essex county and beyond. Many European families came over after the wars, and they spent very long, hard days both planting and harvesting the crop, and trying to negotiate a price with the companies.

Things have changed dramatically just in recent years. I've been involved with tobacco, both agriculture—I spent 20 years at the Addiction Research Foundation and 20 years here. Dramatic changes just in the very recent years—changes for the worse. Just last month—this was mentioned—I was interviewed by a journalist with *Reforma*. They came up from Mexico City to my little constituency office. A film crew came up from Mexico. This spring, I was interviewed by a camera crew from Guatemala, and another crew came from Costa Rica doing a documentary on illegal tobacco.

Why would they come up here? All the contraband tobacco that has arrived on their shores is grown in Ontario, manufactured in Ontario and shipped down in containers. Ontario's tobacco industry—the illegal side

of it—has become completely out of control. For this reason, I support Bill 139. I support what have proven to be successful initiatives from the Quebec government that give local police jurisdiction to stop the sale of illegal tobacco products and allow municipalities to keep the proceeds that have been confiscated when arrests are made that lead to convictions.

I've always felt that both enforcement and intelligence gathering is very important. I always supported the lowering of tobacco taxes. We saw this in 1994. The NDP Premier at the time, Bob Rae, and Liberal Prime Minister Jean Chrétien lowered tobacco taxes dramatically. I was working for the Ontario Addiction Research Foundation, working on Six Nations. I watched hundreds of smoke shacks disappear overnight. Back then, the illegal trade was maybe 11% of the market. It's considerably higher now. We're looking at 40% or 50%. That approach could be very difficult to do today.

A number of years ago—I think it was in 2009—I did propose and we debated legislation, the tobacco reduction act, to again replicate that slashing of taxes that Bob Rae and Jean Chrétien accomplished. Regrettably, it did not receive the support in this Legislature.

We can't emphasize enough this issue of contraband tobacco. It's certainly creating destruction across my part of Ontario. It's mostly domestic, but it has now become international. It's not visible, essentially. We have very sophisticated operations moving leaf, moving processed leaf, moving cartons and cases across the country and out of the country and leaving behind illegal weapons and other drugs. Human trafficking is involved as well.

I predict things are going to get worse. The province of Ontario is now connected with organized crime in Mexico. This is the reason people have been coming to my constituency office. The province of Ontario is now being viewed, essentially, as an illegal drug pusher, and it's coming right out of just west of Toronto, in this part of southern Ontario.

Speaker, this situation is not good. It has the potential danger to get much worse. We really haven't been able to pull together a viable answer. One proposal that I will throw out to members present—and I may send out a letter to people, actually—is I think it's time that we bring in not only the experts but other people involved.

I think it's time that the Ontario government established a commission—time-limited, maybe six months or nine months; it doesn't have to be an expensive inquiry. Hold hearings, do the research, bring in the papers, and let's really find out. Let's pull together the data, the knowledge, with respect to trafficking of not only tobacco but other drugs, the illegal weapons, human beings, and the connection all of this has now, in a very dramatic way, with organized crime in the province of Ontario.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate? Last call: Further debate?

I now return to the member for Prince Edward–Hastings. You have two minutes for a response.

**Mr. Todd Smith:** Thanks to all of those who told their personal stories in regard to smoking and the

dangers of smoking, and the brushes that they've had with illegal tobacco and its movement across the province as well.

To the members from Niagara Falls, Trinity–Spadina, Niagara West–Glanbrook, Haldimand–Norfolk and Etobicoke–Lakeshore: Thank you for your support, first of all, of Bill 139, and your stories to back up why this is important legislation in Toronto.

One of the first meetings that I had as an MPP was with Mr. Hudak, the member from Niagara West–Glanbrook. We were meeting with the Ontario Korean Businessmen's Association. The very first businessman to stand up in the meeting said, "The biggest problem that I have in my store right now isn't in my store; it's just outside my store. It's this van that's parked there, and it's selling illegal cigarettes right in front of my store." People are driving up and they're paying cash, and they're buying illegal cigarettes at a much cheaper price than they would pay, obviously, if they were purchasing it in the store, a legal establishment.

The other thing that they said was that kids were coming up with coins in their hand, and they were able to purchase cigarettes one at a time or five at a time. So if the kid went through Mom's ashtray in the car and pulled out \$2.75, they were able to go up to this individual selling these illegal cigarettes outside the convenience store in Brampton or Toronto or Mississauga or Belleville, or wherever it might be in the province, and getting their hands on illegal cigarettes, introducing them to the terrible act of smoking, at a discounted price.

**1600**

So this has to stop. I appreciate the support from all of those in the Legislature in getting this to committee. I also appreciate the efforts of the Heart and Stroke Foundation and the Canadian Cancer Society in backing me on this, and I appreciate you being here to support Bill 139 today.

Thank you very much, Mr. Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** I thank everyone for their comments. We will take the vote on this item at the end of private members' business.

## SMART GRID CYBER SECURITY AND PRIVACY ACT, 2015 LOI DE 2015 SUR LA CYBERSÉCURITÉ DU RÉSEAU INTELLIGENT ET LA PROTECTION DE LA VIE PRIVÉE

Mr. Tabuns moved second reading of the following bill:

Bill 140, An Act respecting smart grid cyber security and privacy / Projet de loi 140, Loi portant sur la cybersécurité du réseau intelligent et la protection de la vie privée.

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98, the member has 12 minutes for his presentation.

**Mr. Peter Tabuns:** Over the last decade, the Liberal government has installed over four million smart meters

at homes and businesses across Ontario. The costs came in at close to \$2 billion, with virtually no savings for homeowners or the electricity system, according to Ontario's Auditor General. Not only was this expensive system a failure in terms of savings, but it diverted almost \$2 billion that could have been used as a rotating loan fund to help families and businesses retrofit their homes and buildings to cut energy use and costs.

A lost opportunity, very high cost, no savings—but beyond that, the smart meter installation has opened up a vulnerability to cyber-attack and invasion of privacy for Ontario families. I introduced this bill, the Smart Grid Cyber Security and Privacy Act, to help limit that vulnerability. I ask members of this Legislature to vote for this bill, which would give the government of Ontario the power to set standards for cyber security and privacy, as well as the power to enforce those standards—not just the power, but the responsibility.

The introduction of smart meters into every home in Ontario fundamentally changes the landscape when it comes to cyber security and personal privacy. This must be addressed. I want to take a look at some other jurisdictions and other experiences to give you a sense of what's on the table, Speaker.

In April 2012, the website Krebs on Security reported on a major smart meter hacking in Puerto Rico. Under the headline "FBI: Smart Meter Hacks Likely to Spread," the website reported—sorry, Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** Take your time.

**Mr. Peter Tabuns:** Colds wait for no one.

The website reported:

"A series of hacks perpetrated against so-called 'smart meter' installations over the past several years may have cost a single U.S. electric utility hundreds of millions of dollars annually, the FBI said in a cyber-intelligence bulletin....

"Smart meters are intended to ... allow the electric utility to charge different rates for electricity at different times of day....

"But it appears that some of these meters are smarter than others in their ability to deter hackers and block unauthorized modifications. The FBI warns that insiders and individuals with only a moderate level of computer knowledge are likely able to compromise meters with low-cost tools and software readily available on the Internet.

"Sometime in 2009, an electric utility in Puerto Rico asked the FBI to help it investigate widespread incidents of power thefts that it believed was related to its smart meter deployment."

The FBI reported out on their findings:

"The FBI assesses with medium confidence that as smart grid use continues to spread throughout the country, this type of fraud will also spread because of the ease of intrusion and the economic benefit to both the hacker and the electric customer," the agency said in its bulletin.

"The feds estimate that the Puerto Rican utility's losses from the smart meter fraud could reach \$400 million annually."

Let's go to another report. In October 2014, not that long ago, the BBC reported on the potential for hacking smart meters in Spain:

"Smart meters widely used in Spain can be hacked to under-report energy use, security researchers have found," allowing people to steal power.

"Poorly protected credentials inside the devices could let attackers take control over the gadgets, warn the researchers....

"The discovery comes as one security expert warns some terror groups may attack critical infrastructure systems....

"We took them apart to see how they work," said an independent researcher. "'We feared the security would be easy to break and we confirmed that,' he told the BBC....

"Attackers could use what" the researcher "found to under-report energy use or to get" a neighbour "to pay their bill."

Speaker, there is an incredible opportunity for mischief, for theft and for damage to people who are customers of Ontario's electricity system.

"Security investigator Greg Jones who carried out similar work on smart meters being rolled out in the UK, said he was 'not surprised' about the Spanish researchers' findings....

"Some meters were being installed in their millions across nations, he said, despite security holes having been found in them."

Speaker, hackers can do more than steal power. They can do more than assign someone's electricity bill to their neighbours. In the January 2015 edition of Wired magazine, there was a report about a non-smart meter attack in Germany in 2014. The writer reports, "In a German report released just before Christmas ... hackers had struck an unnamed steel mill in Germany. They did so by manipulating and disrupting control systems to such a degree that a blast furnace could not be properly shut down, resulting in 'massive'—though unspecified—damage."

Speaker, German lawmakers noticed that damage. They noticed the vulnerability of their computer systems, and in July 2015, the German government brought in an IT security act that would require utilities, telecommunications companies, transport, traffic, health and water systems to have a basic level of cyber security to protect the well-being of the population.

I'll just finish off with noting that, in 2014, hackers stole the credit card data from 110 million Target customers—110 million people.

There's a lot more out there of substantiated, reported intrusions and damage by hackers. It's a very big field, it's a growing field, and it's all the more disturbing because of the lackadaisical approach of the Liberal government towards the question of cyber security.

During the hearings at the public accounts committee on the Auditor General's 2014 scathing report on smart meter blunders, I asked senior officials about their awareness of smart meter vulnerability in other jurisdictions. I asked the Deputy Minister of Energy if he was aware of what had been found in Spain, and did he have it under control? He told me that, "Yes, we're looking into this. We're good. We're secure." So I asked him specifically, "So we're safe from ... the vulnerabilities that were found with the Spanish smart meters?" At which point he turned me over to the Ontario Energy Board, and the Ontario Energy Board representative didn't have anything to say about Spain, Puerto Rico, or any other jurisdiction where cyber security had been compromised.

In fact, the Ontario Energy Board doesn't even know what's in place in Ontario with our local distribution companies. In January of this year, the Ontario Energy Board sent out a survey that local distribution companies could answer anonymously about their cyber security. They asked things like:

Does your company have a cyber security program? You know, I kind of figure that if you've got all of these little computers out, attached to people's homes all over your town, that you have to have a cyber security program—apparently not.

Do you use cyber-attack detection and reporting capabilities? One would have thought that, the government being in charge of this smart meter program, it would have required that sort of hardware and software to be put in place—apparently not.

Do you have a cyber-incident response plan? That is, if you're attacked, or if your computers are hacked, do you have a plan in place to deal with that?

Those questions are so fundamental, it's like asking: Do you have locks on the front door of your office building? Or, do you have any guards whatsoever on your works yards? It's extraordinary to me.

I have to note that the Auditor General's report in December 2014 was scathing about the costs, scathing about the lack of savings with smart meters, but she also pointed out substantial problems with privacy and cyber security.

With a smart meter, a utility company can follow you with every device you use in your home through the day, every day. They have a complete record of what you turn on, what you turn off, when you're in your house, when you're out of your house—great material for anyone who is into advertising and marketing if they know very, very detailed elements in your daily schedule. He's great for anyone who is interested in burglarizing houses, as well, because they know when people are in and out.

1610

Local hydro distributors, in response to the Auditor General, indicated that 85% of them had not done even the most fundamental item in protecting privacy: 85% had not done a privacy impact assessment. Beyond that, most of the smaller utilities in Ontario don't operate their own data centres for the material that comes through the

smart meters; they contract it out to a larger data management company. I had legislative research call that company. I found out that the company has had cyber audits, which is a good thing, but had not done a privacy impact assessment. So they may be secure from hackers, but they may not be secure from people in their own operation going through and looking individually at how people live their lives.

I wanted to check on the Independent Electricity System Operator, as well, because the Auditor General spoke to problems with their security. I found out that the IESO has had five consecutive clean audits of their cyber security, but on one pass-through, the Auditor General found that there was a failure to keep track of people who had access to the central data repository in all of the different local distribution companies. She found, in a sampling of 200 people who had access to that very sensitive data repository, that eight had left within about a year without actually being followed up to see if they'd had their credentials revoked in a speedy way.

I would say that what the Auditor General found was that the IESO, the nerve centre of controlling electricity in this province, has a very narrow view of what it's responsible for. It sees itself as being responsible for what's inside its four walls, not for all the other people and institutions that have access to that information.

The Liberal approach to our electricity system has been damaging on so many levels. The Liberals could have acted from day one to embed privacy in this whole system. They could have kept current with what's happening in cyber security around the world. They have not, apparently, done that. I have to say that it's fair to suspect that our privacy and our cyber security are not, at this point, adequately protected.

I urge members of this Legislature to adopt this bill and move forward to protect the families of Ontario, their privacy and their cyber security.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Bob Delaney:** Speaker, I'm sorry to hear that my colleague from Toronto—Danforth has a cold. I hope he had his flu shot.

It is very nice of him to give a software guy a chance to talk about a vital but esoteric topic, which in this case is cyber security. I also note that I read his bill. It's very short; it's just two very short pages. I thought it a little bit bizarre that he didn't actually talk to his own bill, so I'll talk to his bill.

It's a bill that's interesting in that it's a few years late and a great deal of substance short. The Ministry of Energy, Ontario Power Generation, Hydro One and the Independent Electricity System Operator, which I may refer to as IESO, and in fact the entire power generation and transmission sector were where the member's bill is several years ago. He's out of date. We have since moved on much further than the scope of what the member's bill contemplates.

As long as the member's bill does not ask the province to go backward to the state described in the bill, we wel-

come his interest in cyber security in Ontario's energy system. As well, I'd like to use this time to describe what depth and breadth of electronic security measures are already in place and how Ontarians' privacy and security are already protected.

Ontario is widely regarded as a cyber security leader, both in North America and worldwide. I feel confident in saying that the member for Toronto–Danforth shares the sense of priority that the province feels in protecting the Ontario electricity grid, both the bulk electricity system and local distribution networks.

This summer I had a chance to visit the IESO control room, which is a comprehensive, state-of-the-art facility that is a leader in implementing continent-wide cyber security standards. Ontario is not a follower in cyber security; it is now, and has long been, a leader.

The IESO is a key member of the North American Electric Reliability Corp.'s critical infrastructure protection committee. That long-named committee, for which I'm not even going to try to do an acronym, is a standard-setting body that designed and implemented North America's electrical grid security enforcement policies, rules, protocols and procedures.

In truth, Ontario is one of the go-to places for excellent cyber security practice in North America. In some areas we may have equals, but few, if any, jurisdictions are better at monitoring and securing the province's bulk electricity system.

Good cyber security protects the privacy and security of everyone who uses electricity in Ontario. The bill before us, contrary to what the member talked about, describes a person and an entity responsible for cyber security. That's nice as far as it goes, but the member doesn't go anywhere near far enough. Over and above describing who ought to process paper, analyze data and issue reports, the province has gone much further beyond this.

Smart meters need to have security features to be authorized for use in Ontario. They must effectively prevent unauthorized access. Smart meters in Ontario must implement security features to prevent unauthorized access to the underlying meter firmware infrastructure, and also to protect the actual data recorded. This protocol, for the members' edification, is set out in regulation 425/06, which regulates electricity distributors.

The member could consult the Ministry of Energy's November 23, 2010, directive to the Ontario Energy Board. It sets out the privacy and security objectives, including cyber security. That means the Ontario Energy Board's guidelines for distributed rate filings already include cyber security considerations as part of the evaluation criteria, and also as a component of category-specific requirements for distribution system plans.

A couple of comments based on the member's own comments: Smart meters are absolutely essential to understand electricity usage. If you don't measure it, you're guessing, which is how the NDP formulate policy anyway. Smart meters show where electricity leakage is occurring. If you can't measure it, you don't know where it's going.

If I understand it correctly, the member's solution is not to measure usage, which means that their answer is to deliberately never know about the problem and to shift the costs of theft to the electricity user rate base. That's insane. That's absolutely insane.

Apparently the member thinks that data theft from Target stemmed somehow from Ontario's smart meter program, which is equally bizarre.

The member makes some assertions that smart meters can tell you what's on and what's off in your home. This is false. Unless a specific appliance or a junction box and its firmware—think about how much firmware there is on an electric lamp: none—have an information exchange protocol with a specific appliance, it's not possible for a specific appliance and a meter to record information that it can neither receive nor request.

Speaker, the OEB is in the process of revising its already stringent plans to require distributors to—I'll use their words—"provide evidence of meeting appropriate cyber security and privacy standards." In other words, the standards continue to evolve to be more stringent, more specific and more strict.

The bill cites privacy-by-design standards. These are already incorporated in smart metering design, and have been repeatedly cited by the commissioner as a case study in best practices. According to the Information and Privacy Commissioner—again, I'll use their words—"the IESO's Smart Metering Entity control framework demonstrates a commitment to the standard of privacy by design by taking a systemic and principled approach to embedding privacy within its controls," which is bureaucratic language for, "They're doing it pretty well and they're doing it pretty effectively."

**1620**

In addition, the Ontario Smart Grid Fund played a key role in supporting N-Dimension. N-Dimension is a North American industry leader in cyber security solutions headquartered right here in Ontario, right in Richmond Hill. Its function is to design a solution for ensuring data security over smart meter networks.

The IESO, as Ontario's reliability coordinator, is subject to stringent, continent-wide cyber security standards. Its core responsibility is to ensure the Ontario bulk electricity system complies completely with these standards and is secured against threats, including those related to cyber security. The IESO, as I mentioned earlier, is a key member of the North American Electrical Reliability Corp.'s Critical Infrastructure Protection Committee, which is the standard-setting body which developed the continent's—not just the province's—electrical grid enforcement regime, which is known by the alphabet soup of NERC CIP standards. These standards are focused on the protection of critical assets, including critical cyber assets. Here's how they define them: "Facilities, systems, or equipment which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the bulk electric system" and "cyber assets essential to the reliable operation of critical assets."

Now, local distribution companies do have to meet the threshold. They've particularly got to ensure reliability of the bulk electricity system. Large distributors would typically have their own cyber protection plans as part of ensuring their business operations. Let's do a couple of examples: Hydro Ottawa has a cyber security response plan and actively participates in North American security exercises to test its emergency preparedness, including cyber threats. Another one close to home: Burlington Hydro was a utility partner with the company I just mentioned, N-Dimension. On that pilot, they were a global leader in cyber security solutions for the electricity distribution sector, and their Smart Grid Fund project demonstrated a solution to secure smart meter communication.

Now, the standards that I spoke of earlier are also being enhanced, with the next version becoming subject to enforcement as of April 2016, which will be known—if this actually happens to interest you—as CIP version 5. This version will be even more stringent and will require additional measures from—and I'm going to use their words—"responsible entities," which means distributors or transmitters, and require them to ensure that their assets, whether they be physical or virtual assets, are protected appropriately based on their relative importance to the functioning and/or security of the grid or the bulk system.

The member did mention a few things. Most of the problems that he mentioned—I'm going to use a couple that he did. He talked about a problem in Puerto Rico. The tampering scheme appeared to have been perpetrated by former employees of the meter manufacturer and the utility who were altering meters—okay, an inside job. He mentioned an episode in Germany. The attack was made possible by an employee opening a malicious link which compromised the company network and enabled access. So, Speaker, while it is possible for an open port on either a software or a firmware to be accessed by a knowledgeable hacker, you normally have to have inside knowledge to do it.

Now, the member doesn't go into a lot of the details other than to quote newspaper headlines. While we welcome the member's approach in this bill—his approach is to vest regulation-making and authority in cabinet for these measures—I think to ensure a consistent approach I am sure he will support the same approach for the measures that are contained in Bill 135, the Energy Statute Law Amendment Act, which is before this House. That would be a very progressive step by the member. I think it's curious that the member would want to prioritize cyber security as a concern for the Minister of Energy over all other considerations in the energy sector, such as greenhouse gas emissions.

The province is already taking significant measures on smart grid cyber security. We welcome their discussion in this House, and we don't think this resolution has much effect on the current situation, so we will trust in the members' judgment.

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

**Mr. Tim Hudak:** I know my colleagues from Chatham–Kent–Essex and from Prince Edward–Hastings will be speaking to this bill, so I'll be relatively quick about it.

First of all, I'll commend the member for Toronto–Danforth. I always enjoy seeing what the member puts forward in question period and in the time for private members' bills. I was surprised by this a little bit because the member, I think, has a very strong reputation around environmental issues; that's been sort of a core belief for the member in the shape of his energies in the Legislature. Energy is another one that he talks about as well.

I hadn't seen the technology side and I hadn't really thought about the importance of this issue, so I commend the member for advancing the energy debate and including cyber technology. He walked through a number of international threats that have taken place. So I'm going to be supporting his legislation today. I think it's a valuable piece of legislation, and I think this is the first time the topic has been discussed here. I don't remember anybody raising it, so good for you in thinking of it and advancing the debate.

It's amazing how time flies and how things change. I remember being at the University of Washington in 1991. I was doing my master's degree at the University of Washington in economics and I was dating a girl in the computer science faculty at the time. She was doing her M.Sc., and she started explaining email to me. I remember the conversation. I said to her, "Jean, come on. This is never going to catch on. Let's just go get a beer." She ended up working for Microsoft and I suspect making a hell of a lot more money than we do as MPPs, so I think she might have made the right choice. But I've had a lot of fun since.

But since then—

**Hon. Jeff Leal:** I hope you stayed in touch.

**Mr. Tim Hudak:** We actually do.

Since 1991, it's amazing the advances that have happened. You know, usually when we talk about building electronic infrastructure for communications, we tend to err on the side of the free flow of information, which has been a good thing. When you think about the access to knowledge that we all have as a result, the increase in productivity, individual prosperity, empowering individuals to make better choices, individual liberty, it's been a great thing.

The trade-off, increasingly, when it comes to public goods particularly, has been on the security side, and now we've seen in governments and in the military and such a greater emphasis on that. Certainly with the vast array of connections now through the smart grid, the member is right to hit on this issue today.

Boy, time flies, Speaker. I'm almost done my time to share with my colleagues.

Suffice to say that I think the approach he has taken when it comes to the privacy-by-design principles—Dr. Ann Cavoukian, who was in this place for some time as the commissioner, I thought, had given us good advice. I think that's a sensible way to go forward.

I think in the interests of time that we already agreed to split, I'm now past that, so—

**Mr. Todd Smith:** Oh, no, you're not. Keep going. You've got another minute to go.

**Mr. Tim Hudak:** I know you enjoy my stories about being a—oh, it's four minutes and three speakers. All right.

So I like this. I think it is good and I think it is getting the right balance of security while at the same time allowing the free flow of information here for efficiency in the system.

I think the member raises some good points as well. Certainly the history of Hydro One has not been an exemplary one when implementing particular policies. The smart grid—we all know about the history there, so I suspect that what the member from Mississauga said is probably not accurate. I just don't believe that the privacy by design was put in the smart grid, because they had trouble even getting the basics done, so it meant this is the proper approach.

Look, privacy by design means the individual experience must be taken into account from step one, an early mitigation of privacy concerns—and importantly, too, to actually hold people accountable at the end of the day, not simply to set up the structure and design, but to hold those who implement it accountable from step one to the end of the process.

I'll leave it at that, Speaker, but congratulations to the member for Toronto–Danforth. I think it's a good initiative.

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

**Ms. Teresa J. Armstrong:** I'm always proud to stand in the House on behalf of my residents of London–Fanshawe. Today, I am happy to speak in support of my colleague from Toronto–Danforth's private member's bill, Bill 140, the Smart Grid Cyber Security and Privacy Act.

I'd like to commend the member from Toronto–Danforth for introducing this piece of legislation, which is so important to the safety and security of Ontarians.

1630

My colleague has done some excellent work in his critic portfolio of energy, environment and climate change. Whether it is his work to ensure that seniors in this province aren't tricked into signing fraudulent energy agreements or his continued work on keeping Hydro One in the hands of all Ontarians, I just wanted to take a moment to thank him for all the work he does for his constituents and also in this Legislature.

*Interjections.*

**Ms. Teresa J. Armstrong:** That's right. We should applaud Peter, because he is a wonderful member.

Speaker, this bill will help fix the mistakes this government made when they were introducing smart meters here in Ontario. I'd like to start by going over some of the background information as to why this bill is so important and why it needs to be passed.

Over the past decade, the Liberal government has installed over four million smart meters at homes and businesses across Ontario. The cost came in at close to \$2 billion, with virtually no savings for homeowners or the electricity system, according to the Ontario Auditor General. Not only was this expensive system a failure in terms of costs, but it diverted almost \$2 billion that could have been used as a rotating loan fund to help families and businesses retrofit their homes and buildings to cut energy use and costs.

Speaker, I'm not here today to say that smart meters were a bad thing to do, but it was another idea that this government did not think through. They have done this time and time again, whether it was the lack of consultation for things like the Green Energy Act or for all-day kindergarten, or what they are doing now with selling off our public hydro—half-baked ideas; not all bad ones, in reference to green energy or education, but all ideas that did not go through the right and appropriate channels before moving forward.

With smart meters, Ontarians are put in a situation where the price tag for this project has skyrocketed to a number that I don't think anyone expected. It also puts our province in a vulnerable situation because of privacy and security concerns. Speaker, insecure smart meters pose a privacy risk to individual consumers, a financial risk to electricity consumers as a whole and a safety risk to the entire grid.

Interestingly enough, this government has acknowledged for years the need for better cyber security with respect to smart meters, but has not acted. This bill will make sure that it finally does. This bill does a few different things.

First, the minister must have regard for the cyber security of the smart grid and related privacy matters when conducting periodical reviews of the energy system.

Second, it requires persons responsible for a distribution system, the Smart Metering Entity, relevant service providers, the IESO and other prescribed persons to comply with prescribed requirements respecting cyber security and the protection of privacy.

It also ensures that the OEB periodically audits compliance.

These are all steps in the right direction, and I'm glad and very happy that the member from Toronto–Danforth has introduced this bill for the betterment of all Ontarians.

Listening to the member from the Liberal Party denying the fact that there are privacy issues that consumers are exposed to is really kind of disappointing. The member from Toronto–Danforth does his homework when he presents legislation. He's a very knowledgeable member when it comes to energy and environment, and we should be listening to his opinions and his expertise in this House.

I hope the members across the way on the government side will support this legislation, because we do have to keep our security and privacy interests first and foremost when it comes to consumers.

When someone gets hold of that information, it can be misused. It unravels people's lives when there are hackers into their privacy, and it's devastating. And correcting those wrongs when that happens to a consumer is like a rabbit hole. It's one thing after another, and the stress it can cause on a life, when it comes to financial distress if someone hacks into your personal banking or personal Internet, medications, benefits or whatever the case may be—all your information—is devastating.

I commend the member again for bringing this forward. It's a very important issue that we should take seriously, and I hope this government will support the bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Todd Smith:** Thanks to the member from Toronto–Danforth for this piece of legislation that he's introduced here for debate this afternoon.

The member from London–Fanshawe, however, shouldn't be surprised when the Liberal member stands up and denies, because that's what they do best over there: deny, deny, deny. You can have all the evidence in the world stacked up, proving the case, but they're still going to deny.

Issues of cyber security and privacy are a growing area of concern in today's increasingly technologically filled lives. With the growing amount of private information being stored electronically, this government needs to do more to ensure that the energy sector safeguards the security and privacy rights of the people of Ontario.

First of all, the people of Ontario don't have a lot of faith in their smart meters as it is; they just don't. The Auditor General's report has proven that their doubt or their lack of trust in the smart meter is warranted. The act respecting smart grid cyber security and privacy is an important step to ensure the cyber security in the energy sector. The smart meters that the government decided to begin implementing back in 2006 track sensitive information about the electricity usage of homes and businesses right across Ontario. Although the Auditor General already stated in her report last year that the smart metering initiative has exceeded both the anticipated costs for the program and resulted in minimal benefits, this government has also not done enough to protect the information that these meters track.

Smart meters collect information on an hourly basis from every single one of the 4.8 million homes and businesses that they're attached to. As the AG pointed out, this data can reveal when people are out of their homes, their daily routines and any changes in their day-to-day lives, yet this sensitive information is not being protected from malicious use.

In Ontario, over 800 distribution company employees have access to view and edit metered data. That's 800 people with access to the 4.8 million smart meters across the province.

With few controls in place, this information can be used to tamper; it can be used to disrupt the grid, it can be used to monitor daily routines and potentially be used

in breaking into people's homes, or other criminal activity.

What's more, 85% of distribution companies have indicated they haven't even completed a basic privacy impact assessment, with the IESO stating that they don't hold the responsibility to review who gets granted access to electricity usage information.

By insisting to press on with an idea that is far from smart, this government, at a minimum, needs to guarantee that the people of this province have their information protected.

With videos circulating on the Internet on how to hack your smart meter, the government has let a serious security gap jeopardize our electricity grid, and exposes the province to millions of dollars in potentially lost revenue, like the potentially lost revenue that has already occurred in another jurisdiction, Puerto Rico, back in 2010, when they were losing \$400 million annually from a smart meter security breach that occurred in that country.

In order to guarantee the safety and security of smart meters, I support the act respecting smart grid security and privacy. The bill helps to address the first steps in ensuring that the people of Ontario are at ease and their electricity usage information is safe, and that our electricity grid is protected.

Thank you to the member from Toronto–Danforth for introducing this bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Ms. Peggy Sattler:** I'm very pleased to rise, on behalf of the people I represent in London West, to offer some comments in support of this Smart Grid Cyber Security and Privacy Act, the private member's bill introduced by my colleague the member for Toronto–Danforth.

As we've heard other MPPs acknowledge, certainly the member for Toronto–Danforth is one of the most well informed and knowledgeable members in this Legislature. He demonstrates consistently his deep understanding of the energy file and his laser-like focus on some of the policy impacts associated with the Liberal government's approach to energy planning. I suppose that is not particularly welcomed by members on that side of the House.

**1640**

Regardless, this week we all received a report from the Standing Committee on Public Accounts on the smart metering initiative, and that report makes the bill before us today especially relevant. The report included a recommendation that the Independent Electricity System Operator report back to the committee on the steps it has taken to strengthen cyber security, such as the use of encryption with respect to smart meter data at both the provincial data centre and locally with the local distribution companies.

The standing committee undertook its review of smart metering because of the Auditor General's report last year, which I am sure that all of us in this House remember—the Liberals in particular—and which showed that



the government had not bothered to do any analysis of the costs and benefits of smart meters before it pushed through the program. They didn't do any kind of a business plan. They didn't do any kind of due diligence on what the costs would be. They didn't assess whether the program would be able to achieve what it was supposed to achieve and whether the investment that was required would be good value for Ontarians.

Smart metering was intended to allow for time-of-use electricity pricing, which would—so claimed the government—encourage ratepayers to shift electricity usage to times of off-peak demand. The government then directed the OEB to implement the smart metering program after the fact. The OEB was not given an opportunity to review the program in advance, to hold a hearing or to test the assumptions on which the investment would be based.

Of course, we all remember how that played out. The costs of the program ballooned to \$2 billion, almost double what was originally projected. None of the promised savings for consumers materialized. There was no shift in usage patterns and there was no reduction in energy consumption. There were rate increases, however—very significant rate increases—because of the cost to the system of implementing this very expensive program. In her investigation of the smart meter debacle, the Auditor General also found that the business case that was eventually prepared by the government overstated the \$600 million in likely benefits of smart meters by more than \$500 million.

As if this wasn't bad enough, the Auditor General also found that the government had neglected to properly consider the cyber security and privacy risks associated with smart meters and that there were serious gaps in cyber security, including the IESO's failure to use two-step verification and other best-practice security protocols, that could put Ontarians' safety and privacy at risk. What are some of the threats this could pose? One industry analyst identifies seven ways that hackers can attack smart meters. They can replace legitimate ICs with fakes. They can succumb to social engineering and load bad software during manufacturing. They can steal software to clone a smart meter. They can replace legitimate meters with fakes. They can recalibrate meters with insider access. They can monitor and hack communication channels. They can launch physical attacks on a meter to change codes and retrieve keys.

According to the Auditor General's report, the smart meter data could reveal when people are out, their daily routines and changes in their routines. As a result, electricity use patterns could be mined, for example, for marketing and advertising purposes. As has happened in other jurisdictions, smart meter data can be hacked in order to lower electricity bills, resulting in lost revenue to electricity companies and higher rates for legitimate consumers. There is also the potential of disruption of the entire energy grid if unauthorized network access allows the exploitation of electrical control systems.

Speaker, smart meters that do not have proper safeguards pose a significant privacy risk to individual con-

sumers as well as a financial risk to electricity consumers as a whole. Finally, there is, of course, the safety risk to the entire grid.

The government has acknowledged for years the need for better cyber security with respect to smart meters but has not yet acted. This bill will make sure that the government finally does. It creates an oversight mechanism to better protect Ontarians from security breaches related to smart meters. It requires the minister to look specifically at the cyber security of the smart grid and other privacy matters during energy system reviews, and makes cabinet responsible for regulating standards in connection with cyber security and the protection of privacy.

It requires persons responsible for a distribution system, the Smart Metering Entity, relevant service providers, the IESO and other prescribed persons, to comply with requirements respecting cyber security and the protection of privacy, and also gives the OEB the authority to audit compliance.

Currently, there are about 800 distribution company employees in Ontario who have access to smart meter data. All they need is a computer connected to the Internet to hack into it.

I urge all MPPs to support this bill to safeguard the security of Ontarians.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mr. Rick Nicholls:** It's my pleasure to rise today and speak to Bill 140, the Smart Grid Cyber Security and Privacy Act, 2015. Imagine that.

It's very clear to everyone on this side of the House that the government's smart meter program has been a complete disaster. We already know that it has delivered very little value for taxpayers in terms of dollars. That was confirmed, by the way, by the Auditor General just last year. The auditor said, "Based on a \$2-billion investment, there doesn't seem to be \$2 billion of value coming yet."

The auditor also noted that the Liberal government had decided to dive headfirst into the smart meter program without proper planning. Gee, imagine that: diving in headfirst. It's like being on a dock that you're unfamiliar with and just diving into the water, only to find out that water is only three feet deep—sad, sad, sad.

This program has cost far more than it should, it yielded little in terms of benefits for the province, and it was implemented poorly. Now there are concerns that smart meters are vulnerable to attack, which could in fact jeopardize homeowners' security.

Did you know, Speaker, that a November National Post article stated, "Around the world, people have been able to break into the electronic monitors of power usage to lower their own bills, steal power or potentially even disrupt the whole power grid"?

While there have been no incidents reported in Ontario yet, it is critical that we do tackle this security issue now.

We've seen this government's slow response time to hacking incidents in the past. In 2012, a number of

ServiceOntario kiosks were compromised. Attempts were made to gain access to important credit and debit card data that would allow for the replication of these cards, which was obviously a major concern for Ontarians. In response to this serious security issue, the province left Ontarians in limbo for—count 'em—five months until they decided to shut it all down. Because of the government's inability to protect the data of its citizens, they removed a popular and efficient service.

There is potential for an incredible amount of disruption to the grid, and we cannot leave gaps in homeowners' security open. The province has in fact forced its citizens to participate in the program, and it has collected untold amounts of data along the way. It's the basic responsibility of government to do all that it can to ensure safety and security of the power grid and to protect the private data of its citizens.

I applaud the member from Toronto—Danforth for bringing this bill forward before a serious data breach occurs. As we've seen, the government moves slowly when it comes to correcting data breaches, and the only responsible course of action is to take immediate steps to close the gaps in homeowners' security that were in fact created by the disastrous smart meter program.

Speaker, in case you haven't noticed, I will be supporting Bill 140 at second reading, and I certainly hope that the government will do the same. To do otherwise would only leave Ontarians at risk.

**The Deputy Speaker (Mr. Bas Balkissoon):** I now return to the member for Toronto—Danforth. You have two minutes.

**Mr. Peter Tabuns:** Thank you, Speaker. I appreciate the opportunity to respond. I want to thank the members from Niagara West—Glanbrook, London—Fanshawe, Prince Edward—Hastings, London West, Chatham—Kent—Essex and, of course, Mississauga—Streetsville for their comments.

1650

Many people had useful things to say about this bill and about the situation that we're confronting, but I want to note that the member from Mississauga—Streetsville seemed to feel that this bill was unnecessary because things were so advanced in Ontario that of course it was all protected.

I have to say, as of December last year, that the Auditor General recommended, in her report on smart metering, in recommendation 10, "To ensure that smart meter data is processed and stored securely, the Independent Electricity System Operator should work with the distribution companies to improve their system and data security controls in order to prevent and detect unauthorized access to smart meter data."

As of December last year, the Auditor General was of the opinion that a lot more work had to be done in this area. She had found that 85% of local distribution companies hadn't done the most basic work to protect the privacy of their ratepayers, had not put in place a privacy impact assessment.

Speaker, you can talk about all the software and firmware you want to talk about, but if you don't actually

have the rules in place, if you don't have a body that's overseeing the system as a whole, if you don't have an audited performance so that you can tell whether people are actually implementing what you've required, then you don't have the protection for Ontario's families, you don't have cyber security, and you don't have privacy protection.

I have to note that in terms of setting priorities for the Minister of Energy, I was in estimates a few weeks ago and the minister himself expressed that cyber security was one of the greatest challenges confronting the grid in North America.

Speaker, I urge members to support this bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** The time provided for private members' public business has expired.

#### DISCLOSURE OF INFORMATION RELATING TO THE PROTECTION OF CHILDREN ACT, 2015

#### LOI DE 2015 SUR LA DIVULGATION DE RENSEIGNEMENTS CONCERNANT LA PROTECTION DES ENFANTS

**The Deputy Speaker (Mr. Bas Balkissoon):** We will deal first with ballot item number 6, standing in the name of Miss Taylor.

Miss Taylor has moved second reading of Bill 146, An Act to amend the Employment Standards Act, 2000 and the Public Service of Ontario Act, 2006 with respect to the disclosure of specified information relating to children and services in respect of children.

Is it the pleasure of the House that the motion carry?

I declare the motion carried.

*Second reading agreed to.*

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98(j), the bill is being referred to—the member for Hamilton Mountain?

**Miss Monique Taylor:** Justice Policy.

**The Deputy Speaker (Mr. Bas Balkissoon):** Justice Policy. Agreed? Agreed.

#### SMOKE-FREE SCHOOLS ACT, 2015

#### LOI DE 2015 FAVORISANT DES ÉCOLES SANS FUMÉE

**The Deputy Speaker (Mr. Bas Balkissoon):** Mr. Smith has moved second reading of Bill 139, An Act to amend the Smoke-Free Ontario Act and the Tobacco Tax Act.

Is it the pleasure of the House that the motion carry?

I declare the motion carried.

*Second reading agreed to.*

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98(j), the bill is being referred to?

**Mr. Todd Smith:** General government, Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** General government. Agreed? Agreed.

SMART GRID CYBER SECURITY  
AND PRIVACY ACT, 2015  
LOI DE 2015 SUR LA CYBERSÉCURITÉ  
DU RÉSEAU INTELLIGENT  
ET LA PROTECTION DE LA VIE PRIVÉE

**The Deputy Speaker (Mr. Bas Balkissoon):** Mr. Tabuns has moved second reading of Bill 140, An Act respecting smart grid cyber security and privacy.

Is it the pleasure of the House that the motion carry?

I declare the motion carried.

*Second reading agreed to.*

**The Deputy Speaker (Mr. Bas Balkissoon):** Pursuant to standing order 98(j), the bill is being referred to?

**Mr. Peter Tabuns:** The Standing Committee on General Government.

**The Deputy Speaker (Mr. Bas Balkissoon):** The member is requesting it be referred to general government. Agreed? Agreed.

## ORDERS OF THE DAY

ENERGY STATUTE LAW  
AMENDMENT ACT, 2015  
LOI DE 2015 MODIFIANT  
DES LOIS SUR L'ÉNERGIE

Resuming the debate adjourned on November 24, 2015, on the motion for second reading of the following bill:

Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning / Projet de loi 135, Loi modifiant plusieurs lois et abrogeant plusieurs règlements en ce qui concerne la conservation de l'énergie et la planification énergétique à long terme.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Ms. Peggy Sattler:** I am happy to be able to participate in the debate on Bill 135, the Energy Statute Law Amendment Act, 2015. I am going to be offering some comments on behalf of the people I represent in London West about what is probably one of the most critical issues we deal with as legislators, and that is the issue of energy planning and decision-making in this province.

This bill, Bill 135, is one of three bills that have been brought forward by the government during the fall session to deal with energy planning. The culminating effect of these three bills taken together is a fundamental altering of the process of how government energy decisions are made. Together, these three bills—Bill 135, Bill 112 and Bill 144—provide the legislative scaffolding for the government's sell-off of Hydro One and pave the way for further energy privatization in this province.

With Bill 135, we see the official abandonment of an independent and transparent long-term energy planning and approval process, a process that has been in place in this province since 2004 and that did include statutory requirements for public consultation and input in power planning, even if the government has, in the past, chosen to ignore those statutory requirements.

We have seen over this past year—and long before—that the government has never been truly committed to an independent and transparent long-term energy planning and approval process. Despite the current provisions of the Electricity Restructuring Act for integrated power system plans to be completed and updated every three years, not a single plan has ever been approved in Ontario.

Most recently, we saw the government refuse to submit its Hydro One privatization scheme to the Ontario Energy Board for review or even to disclose the analyses that were prepared for the Ed Clark panel—this as part of a process that the Premier said would be “transparent, professional and independently validated.” We saw the Financial Accountability Officer try to get access to government documents about the sale but be blocked by invocations of cabinet secrecy.

Clearly, this government has no interest in giving the public the ability to analyze and provide input into their energy policies. They have no interest in having independent third-party assessments of their energy plans and they have no interest in getting the kind of analysis that they need so that they can decide whether or not to proceed with energy projects. This is particularly important when we look at the costs of these projects, like the more than \$1 billion that was spent on the gas plants and the \$2 billion that was spent on the smart meters.

However, at least we currently have in place an energy planning and approval system that provides some—a modicum of—transparency and accountability. At least we currently have legislative requirements for mandatory hearings and disclosures by the Independent Electricity System Operator and the Ontario Energy Board.

With this bill, with Bill 135, all of those protections are lost. The unaccountable, closed process that the government has consistently followed becomes formalized. It now becomes written into law with the Energy Statute Law Amendment Act.

Bill 135 removes planning and approval authority from the Ontario Energy Board and the IESO and relegates both organizations to the role of being implementers of the government's plan. This will make it even easier than it already is for private interests to lobby the government to get their approval for costly and risky energy projects without being subject to any kind of independent public scrutiny. No longer will there be any public process for citizens to intervene and to grill the minister about energy planning.

**1700**

Bill 135 further erodes the power of the Ontario Energy Board, an erosion which we saw starting earlier

this fall in Bill 112. That legislation exempted large-scale electricity transmission and distribution projects from OEB review once they had been deemed by the government as priority projects.

This morning, we saw the government move to close third reading debate on Bill 112, which means that very soon the Liberals will have the authority to exempt projects like the privatization of Hydro One. The changes that the government is making mean that no longer will Ontarians have the formal, legislated right to be part of the decision-making on energy projects.

Speaker, if the Ontario Energy Board is supposed to protect Ontarians from skyrocketing hydro rates that will be associated with a privatized Hydro One—and that, certainly, is what we hear over and over again from the government: not to worry, your rates will be kept low because the Ontario Energy Board will make sure of that—then why is the government undermining the Ontario Energy Board's independence and its regulatory authority over the energy system?

In 2006, the government relegated the OEB to the role of implementing ministerial directives related to the Smart Metering Initiative with no independent scrutiny, and we know from the Auditor General that this came at a financial cost of \$2 billion.

We heard earlier this afternoon, during the debate on the Smart Grid Cyber Security and Privacy Act, that it also made our citizens vulnerable to cyber attack.

The government ignored the OEB as a regulator when it brought in smart meters. It is removing the OEB from review of the transmission sector with Bill 112—a transmission sector that is dominated by private investors; and now, with Bill 135, it is excluding the OEB from playing any role in the energy planning process.

Essentially, with this legislation, the government is changing the regulatory framework around Hydro One to maximize the opportunity for profit, as part of its marketing strategy for the broadening of ownership.

Just as Bill 112 means that setting priorities for power lines will no longer be discussed or debated in public, Bill 135 means that the minister alone assumes all the power to do energy planning, all of the power to tell the OEB and the IESO to implement the energy plan. There is no longer any accountability, because the right to an environmental assessment on energy projects is also taken away in this legislation.

I now want to review some of the most troubling provisions of this bill: the amendments that it proposes to the Electricity Act and the Ontario Energy Board Act.

Bill 135 amends the Electricity Act so that the IESO is no longer responsible for preparing an integrated power system plan to be reviewed by the OEB and updated every three years. Instead, the bill says that the minister shall, subject to cabinet approval, “issue a long-term energy plan setting out and balancing the government of Ontario's goals and objectives respecting energy.” It puts the minister in charge of energy planning instead of the IESO and the OEB.

It also introduces amendments that require the IESO and the OEB to implement the plan that is developed by

the minister. The minister is able to issue a directive to the IESO to develop an implementation plan. The minister is also able to issue a directive to the OEB to develop an implementation plan.

Finally, the bill also amends the Electricity Act to exempt the Environmental Assessment Act from any planned directive, direction or other document that is introduced by the new sections of this act.

The other, most troubling provision of Bill 135 is the amendment to the Ontario Energy Board Act. I think this is the key concern of this bill. Bill 135 now requires the OEB to implement directives as issued by the minister and approved by cabinet with respect to the construction, expansion or re-enforcement of transmission systems.

This is one of the biggest expansions of ministerial directive authority that this province has ever seen. Although this may be under the radar of many Ontarians, it is a serious concern, and this bill should be opposed.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mrs. Cristina Martins:** It gives me great honour to rise today to speak to Bill 135, the Energy Statute Law Amendment Act, 2015. I support this bill for a number of reasons. First and foremost, Ontarians have made it clear that they want long-term energy planning that is clean, reliable and affordable. Bill 135 will ensure that Ontarians have that and much more.

This bill will allow us to not only put a process in place that is both transparent and efficient, but also one that enables us to respond to future changes in policy and system needs. Our province needs a simplified system that is predictable, efficient and with increased responses that will allow us to plan well into the future. Ontarians have also been clear that they want to play a larger role in our government's long-term energy planning process.

Our government has listened. This is why the Energy Statute Law Amendment Act, 2015, would ensure that a consistent, transparent and long-term planning process is followed. It would also enshrine in law a requirement for extensive consultation with the public, stakeholders and aboriginal groups in the development of energy plans. As well, it will amend the Green Energy Act, 2009, to introduce two new initiatives to help Ontario families, businesses and the province as a whole conserve energy and water to manage costs. Crucially, it will support increased competition and enhanced ratepayer value by empowering the IESO to undertake competitive processes for transmitter selection or procurement where necessary.

I am proud that one of our government's key goals is energy conservation. As I mentioned earlier, Bill 135 would introduce two new initiatives to help Ontario families, businesses and the province as a whole conserve energy and water to manage costs.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mr. Todd Smith:** It's a pleasure to rise and speak to Bill 135, one of the worst pieces of legislation we have had cross our desks here at Queen's Park in the last four

years. I think the member from London West did an excellent job outlining some of her concerns. I'm sure she could have gone on for another 20 minutes, because she was just getting warmed up. I think she was getting to her most grave concern when her time ran out. Perhaps she can expand on that a little bit more in the two minutes she has remaining.

We have a lot of concerns with this terrible piece of legislation, Bill 135. When I talk about it being the worst piece of legislation, we're talking about a bill that takes control of the energy sector and puts it in the office of the Minister of Energy. This government has done so much damage to our electricity grid by playing politics with it that the last thing we need is to centralize control in the Minister of Energy's office, which really means the Premier's office.

Every time I meet with a power stakeholder in the energy sector, whether they're from the IESO or OPA or the engineers, they say this government has done it completely backwards and made a mockery of our electricity grid in Ontario. The member opposite talks about wanting a clean, green, reliable and affordable electricity grid. We have anything but that now—especially the affordable part—because of the mistakes they have made, like running a \$100-million electricity corridor to nowhere. That's just one example of the mistakes this government has made. These aren't the planners or the engineers who are making these mistakes; this is the government of Ontario that has interfered in the energy sector, and they're doing it wholeheartedly in Bill 135. They're making another grave mistake in our power policy in Ontario with this bill.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mr. Peter Tabuns:** I want to commend the member for London West for her comments about Bill 135. I think she got right to the substance of what we're dealing with here. There's all kinds of greenwash and all kinds of lipstick put on this particular bill, but the guts of it, really, is that the public is going to be locked out. The public ability before the OEB to question decision-makers, test evidence under oath and actually get at the substance is being washed away—gone, Speaker.

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The member from Davenport commented that this will make the system simpler, more efficient. No doubt. I think that when you have one-person-rule, that's very simple and very efficient as well. But I have to say that there is great value in making sure the public has the opportunity, in an open forum, to go through all the assumptions.

We've seen some very strange assumptions on the part of the government when it comes to electricity planning in the last 12 years. We saw a government that spent a fortune on gas-fired power plants when it could have spent substantially less, meeting Ontario's power needs by investing in conservation. Now that they've built out about as much power generation capacity as the province can handle—frankly, more—now they're talking about conservation for the future.

Speaker, when you have a system where the minister really doesn't have to answer to the public, and has not answered to the public, frankly, since 2003, you get huge distortions; you get investments in useless infrastructure; you get bills piled on bills on people's electricity rates; and frankly, you get a system that is not ready to deal with the climate change issues or the cyber security issues.

The member is quite correct: The government is going down a path that facilitates privatization but does not facilitate democratic intervention in our energy system.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mrs. Laura Albanese:** I'm pleased to join the debate on Bill 135, the energy system planning section, and to follow the comments from the member from London West.

I would like to specify that this legislation would enshrine the long-term energy planning process that developed the 2010 and 2013 long-term energy plan, to ensure that future long-term energy plans are developed consistent with the principles of cost-effectiveness, reliability, clean energy, community and aboriginal engagement.

The proposed legislation would give the government the ability to set the goals and objectives for the energy sector, after consideration of independent technical information on the sector from the IESO, and after consulting with the public, stakeholders and aboriginal groups. Once the long-term energy plan has been developed, the IESO would be responsible for independently—implementing the government's goals and objectives.

I also want to say that the act would support increased competition and enhanced ratepayer value by empowering the IESO to undertake competitive selection and procurement of transmission projects. The current process, the Integrated Power System Plan, is slow; it's unresponsive to the changing environment of the energy sector; and it is also costly.

Unlike the current process, the long-term energy plan process would be able to respond in a timely manner to changing policy, program and technology needs, and it would reduce the complexity of the process and reflect a more integrated approach to planning, to consulting and to implementation.

I'm out of time, Mr. Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** I thank everyone for their comments. I now return to the member for London West. You have two minutes.

**Ms. Peggy Sattler:** I would like to thank the member for Davenport, the member for Prince Edward-Hastings, the member for Toronto-Danforth and the member for York South-Weston for their contribution to this debate.

The member for Prince Edward-Hastings talked about the Liberal government's penchant for playing politics with the energy sector. Speaker, in some respects, I am a beneficiary of that. I was elected in London West following the resignation of the former Minister of Energy,

Chris Bentley, who carried the can for the Liberals on the gas plant debacle. That allowed me to get elected, because people had no support for the Liberals' approach to energy policy: this brazen political decision about the siting of the gas plant, regardless of the cost to taxpayers.

What we have seen over the fall in the three bills I mentioned—Bill 135, Bill 112 and Bill 144—is the Liberals trying to sneak in their framework of privatization of energy in this province: in Bill 135 under the guise of energy conservation, in Bill 112 under the guise of consumer protection, and in Bill 144 under the guise of budget measures in an omnibus bill.

This bill puts control of the energy sector directly in the office of the Minister of Energy. It pays lip service to consultation and does not enable any kind of meaningful opportunities for citizens to participate in the development of energy policy in this province, in testing the assumptions on which energy policy is based, and in questioning what is the long-term impact of these energy decisions that this government is making.

**The Deputy Speaker (Mr. Bas Balkissoon):** Further debate?

**Mrs. Julia Munro:** I'm pleased to join the debate on Bill 135, An Act to amend several statutes and revoke several regulations in relation to energy conservation and long-term energy planning.

Bill 135 proposes a number of changes to the Green Energy Act, 2009, the Electricity Act, 1998, and the Ontario Energy Board Act, 1998.

If enacted, Bill 135 will effectively remove independent electricity planning and procurement authority from the Independent Electricity System Operator, the IESO, and transmission approval from the Ontario Energy Board, the OEB. Both of these types of authority will be transferred to the Minister of Energy.

Recognizing that Ontario's energy planning should be more scientific than political or ideological, I'd like to start with a quote from McCarthy Tétrault's George Vegh's analysis of Bill 135, found in *Canadian Energy Perspectives*:

"... although Bill 135 is clear that authority for every electricity decision will reside with the government, it does not address how the government will exercise that authority. Given the magnitude of the issues involved, one can only hope that the government will develop new governance models to guide the exercise of its apparently unrestricted powers."

I sense that the government does not share that concern and will plow ahead regardless of evidence.

This afternoon, I will focus on specific parts of the proposed legislation and will question the government's motive and rationale for the legislative changes proposed to Ontario's electricity generation, transmission, distribution and now storage. This government never seems to cease interfering with the energy file. Whether it's the asset fire sale of Hydro One to balance the budget on time or cancelling power plant projects to win elections, the only constant throughout is higher electricity prices, and I predict the same outcome from Bill 135.

Since they are so germane to this discussion, what are the IESO and the OEB?

According to the website, the Independent Electricity System Operator "works at the heart of Ontario's power system—ensuring there is enough power to meet the province's energy needs in real time while also planning and securing energy for the future." I must say that I have recommended to many people, to gather a greater understanding of the way in which energy is provided in this province, to go to the IESO website, where they can see in real time what in fact is generating their energy.

But back to the responsibilities of the IESO. It balances the supply of and demand for electricity in Ontario, directing its flow across the province's transmission lines, and it plans for the province's medium- and long-term energy needs and securing clean sources of supply to meet those needs.

**1720**

Complementary to the IESO, the Ontario Energy Board oversees the energy sector in Ontario. The OEB makes sure that electricity and natural gas companies follow the rules. Its objective is to promote a viable, sustainable and efficient energy sector that serves the public interest and assists consumers to obtain reliable energy services that are cost-effective. The OEB is an impartial public agency that licenses and oversees energy companies, including utilities, generators and companies that offer energy under contracts. It creates codes, rules and guidelines for companies it licenses and rate regulates to follow. It approves the rates that utilities can charge their customers for natural gas supply, delivery and transportation. It sets time-of-use prices and times for electricity supply. It approves new construction of or changes to existing natural gas pipeline and storage facilities and to electricity transmission lines that are more than two kilometres long. It creates and makes changes to regulatory energy policies. It supplies information and tools to help consumers make informed choices about energy matters. It makes decisions by carrying out public hearings, working groups and consultations to review and process hundreds of applications in a year.

As you can tell from these descriptions, the IESO and OEB perform important functions independent of government. In fact, it appears imperative that these organizations stay separate and independent from the Minister of Energy, but Bill 135 will do just the opposite. It is impossible to assess all the possible impacts of Bill 135 since most of the important details are left up to the Premier and her cabinet to decide behind closed doors. We do know that when this majority Liberal government passes Bill 135, the energy minister will produce long-term energy plans that will be binding on both the OEB and the IESO, both of whom must issue implementation plans designed to achieve the objectives of the government's plan.

The government's new planning authority is broader than the IESO's and also extends to distribution systems. The government's existing procurement authority will

also be extended, as Bill 135 gives the government additional powers to direct the procurement of energy storage and transmission. The McCarthy Tétrault analysis makes the government's intentions clear: "The net result of Bill 135 is therefore to ensure that the main energy institutions—the IESO and the OEB—are focused almost exclusively on implementing government plans and directives. The government has always been steering the direction of energy policy. It is now rowing as well: It is in direct control of every policy instrument available. From a governance perspective, it could lead one to wonder whether there are any checks and balances left in the system."

At this point, I would like to remind the members of this House and all Ontarians of the \$1.1-billion gas plants scandal that the opposition pried open a few years ago. The government cancelled two large gas-fired power plant projects in the middle of an election to win seats. The more expensive of the two was the Mississauga project that the Liberals cancelled during the 2011 provincial election. These plants were cancelled in order to get votes, and the Minister of Energy was at the centre of it all. The government concocted a scheme called Project Vapour, among other code names, used to attempt escape from forensic audit. With a partisan, premeditated plan, the government admitted publicly that "Ontario's Minister of Energy cited changes in electricity demand and supply that made the proposed natural gas plant no longer needed."

If there is anything that the gas plant scandal taught us, it would be that the Minister of Energy should not have the power to unilaterally override the province's energy plan on a whim. The Minister of Energy should have less power over energy system planning, not more, due to perceived and real conflicts of interest, and, further, the minister is not an expert in planning electrical systems.

Bill 135 raises a number of questions for both the agencies and the government. There are more questions than answers with this bill. Bill 135 continues this government's approach to Ontario's electrical system: ever-changing, misguided and unscientific. Since the Minister of Energy only used less than 40% of his allotted time to explain Bill 135 to Ontarians, questions remain and fester.

This bill should not be supported. I would go back to where I began with the quote that "one can only hope that the government will develop new governance models to guide the exercise of its apparently unrestricted powers."

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mr. Peter Tabuns:** Well, Speaker, I want to thank the member from York-Simcoe for her commentary about Bill 135. I think she is quite correct in saying that we should all be apprehensive about a government that has tried to throw off as many checks, as many opportunities for public intervention in power planning, as this government has done.

She's quite correct to be skeptical about the results of that kind of process. We've seen those results with the

smart meter boondoggle. We saw with it the gas plant scandal. We see with it a government that, on a regular basis, does everything it can to make sure that certain private operators are extraordinarily happy with the hydro system in Ontario and that many, many ratepayers are in a very difficult situation.

Don't expect Bill 135 to address either of those things; in fact, expect that Bill 135 will make things worse. I think the member was quite correct in being very skeptical and also noting that the government didn't use its full time to explain or defend the bill that they brought forward. It's as if, for them, this chamber is simply a formality, and not a terribly important one, either. If you're bringing forward a substantial bill that changes the way energy planning is done in Ontario—to be honest, the government has ignored the law for easily most of the last decade—then you should at least appear in this chamber and explain and outline the background of why this change is necessary.

Simply having a system that's more simple—as I said in an earlier comment—doesn't necessarily mean things will be better for Ontarians. In fact, I think the member from York-Simcoe is correct: It's more likely things will be fundamentally and sharply more difficult for all of us.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Hon. Michael Coteau:** I'm happy to respond to the statement by the member from York-Simcoe and, of course, the member from Toronto-Danforth.

When it comes to energy in the province of Ontario, I think being a Liberal makes people feel proud, because if you look at our record over the last decade in this province, we have drastically changed the way energy has been delivered in this province, and I'm very proud of our track record.

You know, Mr. Speaker, when I decided to run as a Liberal back in 2011, I remember going over the material and looking at the policies and our track record. You look at it from this perspective from today and you talk about the coal plants. I don't think the Conservatives supported that initiative.

I know when it comes to conservation here in the province of Ontario, I think the NDP has voted against any of the initiatives we've put forward. If you look through Bill 135, there are initiatives for further conservation of energy and water here in province of Ontario.

Closing those coal plants was a political decision. It was a political decision here in the province of Ontario, and Mr. Speaker, we've drastically reduced asthma cases here in the province of Ontario. It was the equivalent of taking half a million cars off the road.

**1730**

As a Liberal, I'm proud of our approach to energy. I'm proud of our approach to the environment and making sure that we've brought forward some green policies. And I'm very, very proud of what we've been able to do.

This bill, Bill 135, is about being cost-effective. It's about building a reliable energy system that's clean, that is built on engagement with communities and aboriginal

communities here in the province of Ontario. When we talk about conservation here in the province of Ontario, this bill addresses those pieces. In the long run, it will help families save money, it will help businesses save money and it will reduce the need for additional expensive infrastructure because it deals with—

**The Deputy Speaker (Mr. Bas Balkissoon):** Thank you.

**Hon. Michael Coteau:** Thank you, Mr. Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mrs. Gila Martow:** I would remind the member opposite it was Elizabeth Witmer who announced—as she was the Minister of Energy—closing Lakeview, one of the dirtiest coal power plants. I wasn't that involved in politics and I still remember that it was an argument not about whether or not to close the coal plants but who was going to be able to close them sooner. The PCs felt it was going to take a little bit longer, an extra couple of years, and the Liberals said, "No, we can close them sooner." But in the end, they delayed and delayed and they ended up closing them, I think, around the same time or slightly after the PCs said they were going to close the coal plants.

I shouldn't bang on the desk. Sorry about the microphone, people in the booth.

Save money: How are you suggesting that businesses and residents are going to save money when we have the highest electricity costs in North America? How is that possible?

**Mr. Chris Ballard:** No, we don't.

**Mrs. Gila Martow:** Name an area that has higher, because I haven't been able to find one and I've been searching, okay? We certainly have the highest energy costs, probably, in Canada; I think, in North America. That's what I'm being told.

We're being told by the government that we should just trust. We should allow more power; we should become like China. Our new Prime Minister said that he admired China because they got things done. Why do they get things done? Because there's no oversight. Obviously, this Liberal government, as well as the federal Prime Minister, believe in that type of governance—undemocratic, no oversight, just get things done their way and the hell with the costs of electricity, the hell with businesses that are leaving the province, the hell with the fact that we're cutting doctors' fees because we say we don't have money.

In the meantime, electronic health records: \$1 billion. The ambulances: very quietly you see in the Toronto Star that they have to order new ambulances because you didn't have oversight and you didn't make sure that the proper ambulances were ordered in the first place.

A two-minute hit doesn't give us enough time to list all the scandals, unfortunately.

**Hon. Michael Coteau:** Point of order.

**The Deputy Speaker (Mr. Bas Balkissoon):** Point of order, the Minister of Tourism and Culture.

**Hon. Michael Coteau:** Can I correct my record? I said that it was the equivalent of half a million cars taken off the roads by closing the coal plants. It's actually seven million cars. I'm sorry about that, Mr. Speaker.

**The Deputy Speaker (Mr. Bas Balkissoon):** Every member is allowed to correct their record.

Questions and comments?

**Ms. Peggy Sattler:** I am pleased to rise to offer some comments on the remarks from the member for York-Simcoe. I think she really has uncovered what is the poison pill in this legislation that the Liberals would so desperately like us to think is about energy conservation. Essentially what this bill is doing is saying to the citizens of this province, "Trust us." Speaker, the citizens of this province have seen too many times the kinds of scandals that trusting Liberals can get Ontario into. We saw over \$1 billion wasted on the gas plant scandal. We saw \$2 billion wasted on the smart metering initiative.

Currently, there are legislative requirements already within existing statutes that require independent review and oversight from the IESO and the OEB. This bill before us today, Bill 135, removes that power, that authority, that independent oversight from the OEB and the IESO. It centralizes total control for energy policy in the office of the Minister of Energy. It depends on the whim of the minister what kind of consultation will take place. It does not include any kind of obligation on the part of the government to take into account the input that citizens might want to offer. It does not require the government to be accountable for what they are proposing to do with energy policy.

This is a very dangerous bill, Speaker. It takes us on a very dangerous path, and I urge all members to oppose it.

**The Deputy Speaker (Mr. Bas Balkissoon):** I now return to the member for York-Simcoe. You have two minutes for your reply.

**Mrs. Julia Munro:** I would like to thank the member from Toronto-Danforth, the Minister of Culture, Tourism and Sport, the member for Thornhill and the member for London West.

There are a couple of things that I need to highlight in the comments that were made. The one from the member for Toronto-Danforth talked about the checks and balances. That's the fundamental process that democracy has, that there's a balance and you have to hear both sides, and you have to have checks and balances.

The other members have raised the issue of the role that the Progressive Conservative Party of this province introduced, through Elizabeth Witmer—it was, of course, to set up the decommissioning of the generating stations, which, by the way, took the Liberals as long to close as we had identified it would take.

The other thing that I think is a part of the theme of the people who spoke was the whole issue of how fundamentally wrong this bill is. When the minister says he's proud to be a Liberal and of their energy policy, I would like to transfer to him all my emails that deal with the angst and the shortages that seniors and people on fixed incomes have in managing their hydro bill.



Their notion of conservation, I think, is turning off the lights; for mine, it's lowering the heat. We have people who actually have to choose between eating and heating. So I certainly couldn't stand and be proud of that as the record.

I think that this is an affront to democracy, it is an affront to the systems that have been in place of consultation, of balancing it off, and the whole idea of the minister having that kind of power—

**The Deputy Speaker (Mr. Bas Balkissoon):** Thank you very much.

Further debate?

**Ms. Teresa J. Armstrong:** I am always proud to stand in the Legislature on behalf of my constituents in London-Fanshawe.

I rise today to speak to Bill 135, the Energy Statute Law Amendment Act. I'd like to thank my colleagues for sharing their thoughts on this bill. I strongly believe that all pieces of legislation in this House should go through a process in which members can speak to their merits and also share their thoughts on behalf of their constituents. Unfortunately, Speaker, time and time again we have seen this government time-allocate pieces of legislation without due process. We are elected to this House with a job to introduce, review, amend and pass legislation.

In the last election, the millions of Ontarians who voted did not put us here to rush through bills and motions without having a thorough understanding of how they will affect this province. I know that the residents of my riding of London-Fanshawe would be appalled to know that this government is pushing through legislation without having as many members speak to it as possible. This kind of behaviour reminds me of a similar government that has fortunately been kicked to the curb on the federal level in this country: the Conservative government under Stephen Harper.

In June 2015, the federal Conservatives cut off debate for the 100th time in the House of Commons. According to the members of the opposition, the Conservatives had denied Parliament the right to fully debate nearly 60 pieces of legislation containing over 11,000 pages—that is unheard of.

Unfortunately, this Liberal government here in Ontario is on a dangerous mission to end debate here in this Legislature, just like the federal Conservatives did. I am hoping that in future pieces of legislation, this government will learn not to time-allocate and to, instead, have an open and thorough debate on the bills in this House.

Just this morning, we voted on a time allocation motion for Bill 144 that the government put through, which was the Budget Measures Act.

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So again the time allocation, and there were members on our side of the House, in the NDP caucus, who really had a true burning desire to speak to Bill 144, and they were shut down because of time allocation. I was fortunate enough to speak for 20 minutes and I gave the government my opinions about this time allocation and the fact that they're kind of hiding the sell-off of Hydro.

It's an omnibus bill, this Bill 144, and they were covering it up there.

But let's get back to Bill 135. Simply put, Bill 135 further moves Hydro One into private hands. The OEB and the IESO become less relevant to energy planning in Ontario. So there is less oversight. This government says they want to invest in infrastructure and transit, but they are selling off one of our most important public assets here in Ontario to do that. I know that Ontarians are not on the same page, so I have one question for this government: Who will they listen to? One hundred and eighty-five municipalities across Ontario have said, "Keep hydro public." Thirty-six chambers of commerce have said, "Keep hydro public." All the independent officers of the Legislature have said, "Keep hydro public." Just a couple of weeks ago, the Financial Accountability Officer said, "Keep hydro public." It's astounding that this government is continuing its sale of Hydro One even though so many Ontarians have spoken out against it.

I'd like to read a quote from the Financial Accountability Officer on what he thinks will be the result of this sale:

"The province's fiscal position will deteriorate compared to if they didn't undertake this sale ... The sale of Hydro One will have an immediate improvement to the province's balance sheet, but because of the loss of the net income that results from the partial sale of Hydro One, there will be subsequent worsening of the government's fiscal position relative to if this sale had not occurred."

This report is further proof that this government is off track with its plan to sell off Hydro One. It shows that the province's annual loss from the sale will ultimately be between \$300 million and \$500 million.

Over the past several months, we have received hundreds of emails from people all over the province who are opposed to the Hydro One sale. Amy wrote my office, saying, "We need to ensure reliable power for future generations. The government needs to look long term—not short term." Speaker, this government does not have a long-term plan for this province. If they really wanted to invest in infrastructure, build transit and help Ontarians, they would not be selling off Hydro.

I will ask the question once again: Who will this government listen to? If not 185 municipalities, 36 chambers of commerce, all independent officers of the Legislature and thousands of Ontarians like Amy, who will they listen to? Will it be Ontarians, who have been loud and clear opposing Hydro One, or will they turn their backs on this province, like they have done so many times before?

A group that has seen little attention from this government on the sale of Hydro One are First Nations and Métis populations. Frankly, this government has ignored their concerns on the Hydro One sale. In fact, the Chiefs of Ontario leader Isadore Day has said that the government failed in its constitutional duty to consult with First Nations groups on this issue. And the prospectus noted

that a perceived failure by the crown to sufficiently consult a First Nation or Métis community could result in legal challenges and injunctions.

Another court action that's possibly on the burner for this government: This morning, our labour critic from Welland asked a question with respect to schedule 2 of Bill 109 and taking away the democratic right of workers to vote for a union. This government doesn't seem to understand that there's a civil rights issue there and they again can be challenged on that legislation.

Do we really need another court action from this government? Are Ornge, the deleted emails, misleading gas plants and eHealth really not enough for this government? Why is this government turning their back on aboriginal communities and trading off their interests for those of private companies? That's just wrong.

Finally, I'd like to talk about what the Premier and her finance minister had said over the past year on this issue. In April 2014, the finance minister said at the Economic Club, "Continuing public ownership, however, remains a key priority...."

"We will not do what the previous PC government did ... with the fire sale of Highway 407."

After the provincial election, the Premier continued to deny that the selling of Hydro One was part of their plan by blowing off questions in this House. She has said, "It must actually be very hard for the leader of the third party to ask these questions. She knows that we're not selling off the assets.... She knows that we are keeping these assets in public hands "

Well, Mr. Speaker, it seems that, like my colleagues and I have been saying all along from the beginning, this government has been planning to sell off Hydro One and our public assets this entire time. They are making deals in the dark. There is no accountability and transparency to Ontarians.

I get calls every day and emails to my office from constituents in London-Fanshawe but also from Ontarians from across the province on their opposition to the sale of Hydro One. I'm sure all the members here in this House also get these emails and phone calls. So I'm not sure where the stubborn attitude of this government is coming from when it comes to the sale of Hydro One.

This bill makes it easier for the privatization of public assets in this province, and I cannot support this bill that endangers the future of our generations.

Thank you for the opportunity to speak to this bill, Speaker. The question I ask is: Who will this government listen to? It would be nice if they could answer. Who will you listen to, if not the 83% of Ontarians who are opposed to selling off Hydro One, if not to the voices across the way who are trying to get across to you that selling a public asset that is a revenue-generating asset isn't the right way to go when you're talking about building Ontario up? You're building Ontario down as far as revenues that are coming in, and you're putting people backwards, not forwards, when it comes to selling off a public asset.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Hon. Jeff Leal:** The member from London-Fanshawe, in a very thoughtful way, of course, put her comments on the record regarding Bill 135. Somebody was asking us who we're listening to. Well, I think one of the great sources was a book that was written by a former leader of the New Democratic Party, one Howard Hampton. I remember he had a book called Public Power, and in that Public Power he talked at length about the role that private entities might provide and play in the role of Ontario in providing power. In fact, if I'm correct, between 1990 and 1995, when the NDP had the privilege of forming government in the province of Ontario, they procured a number of private power options during their time in power.

So I always think it's appropriate to make sure that we look at things in the historical context in terms of policy here in Ontario.

But, more importantly, one of the things that I think is really important that's contained in this bill is water efficiency standards. I was saying to the Ontario Federation of Agriculture, in a speech that I delivered last Monday morning, that the two great policy issues of the 21st century will be clean water and food security. One of the ways that we can go about our water security, of course, is implementing water efficiency standards not only to our buildings but our appliances.

We can talk about all aspects of the bill, but if you're really looking at the future of humanity, one of the great things we need to do is to be water-efficient. Look at the state of California today. Their water table has gone down dramatically after a series of droughts that have hit that state. Many of the water courses in California have now turned into salt flats, and they can't service their agricultural sector. So a very important aspect of this bill is water efficiency.

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**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments? The member for Wellington-Halton Hills.

**Mr. Ted Arnott:** Well, I want to thank you, Mr. Speaker, for recognizing me, and thank the member for London-Fanshawe for her thoughtful presentation this afternoon on Bill 135.

Of course, we're coming to the end of a very busy legislative week and it's good to see some of the members still here to debate Bill 135. I'm not sure whether there's going to be the opportunity for another speech this afternoon. That will be in your hands and you have the discretion, Mr. Speaker. But I certainly do want to acknowledge the member for London-Fanshawe for her remarks.

During the course of this debate, there have been a number of related issues brought up. The government has taken credit for the closure of the coal plants. There was even a statement made this afternoon suggesting that the official opposition, the Progressive Conservative Party, was opposed to the closure of coal plants. That statement

is absolutely false. In fact, in 2002, as has been pointed out, the environment minister of the day, Elizabeth Witmer, was the first environment minister to announce the closure of a coal-fired generating station in Ontario. That was the Lakeview Generating Station. It was certainly our position in 2003 in the election that we would, in a thoughtful and responsible way, close the coal-fired generating capacity in the province of Ontario over a period of years. But we were truthful and honest: We said it couldn't be done immediately—couldn't be done responsibly immediately—and in fact it would take until 2014-15, as I recall was the statement of the Minister of Energy of the day.

The Liberals, in opposition at that time, claimed that they could close the coal-fired generating stations by 2007. That promise was broken. I think over a period of years there were two or three promises broken in terms of the time frame for the closure of the coal-fired plants.

But I would also add that the member for Mississauga South, Margaret Marland, our former colleague, had worked for years to draw attention to the need to close the Lakeview Generating Station. So our party has a long history of responding to this issue in the appropriate way. I don't think that the government seems to appreciate it, and they need to be reminded of it.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mr. John Vanthof:** It's always an honour to stand in the House and respond to the remarks by my colleague from London-Fanshawe. I might not get another chance because you never know if this bill might not come up again in time allocation, so I'd like to respond to the Minister of Agriculture.

Water efficiency and energy efficiency is a huge challenge, but it's not the biggest challenge. I'd like to make that clear. This bill is all about transferring power from the public, the power of public scrutiny, to the Minister of Energy. That's what this bill is about.

But there is a bit about water efficiency. You know who were the first people who brought this to my attention? It wasn't the minister. It was the Ontario Greenhouse Alliance. Remember them? They brought us nice poinsettias. Do you remember them?

They were the first ones who said, "You know what? The government is thinking about putting regulations on how much power and how much water buildings can use, and we're worried that greenhouses are going to be involved in that." They said that they don't have a problem with the scrutiny, but the one thing that the government has to keep in mind is that efficiency is also about how much that building produces. Greenhouse A could use more water than Greenhouse B, but if Greenhouse A produces twice as much production than Greenhouse B, it's actually much more efficient, both with energy and with water.

If we're going to talk about energy efficiency and water efficiency, we have to look at the whole picture, and not just create regulations where we don't really know what is going to be the result of those regulations, which this government has done, like with smart meters.

Smart meters aren't doing what they were proposed to do when this government put them in and we don't want to go around the same with energy, with water meters that don't take into account how much is actually produced by a given building.

**The Deputy Speaker (Mr. Bas Balkissoon):** Questions and comments?

**Mr. Chris Ballard:** It's a privilege to be able to stand and speak for a couple of minutes about Bill 135, and to respond and make some comments on what I'm hearing from members opposite.

I'm always intrigued when members of the official opposition talk about how anti-coal they were, because I remember those days, Mr. Speaker, living where I lived, north of Toronto, watching the sky turn more and more yellow as coal-fired plants kicked in.

I think there's a statistic out there that says that during the PC era, coal use went up 127% in this province, as we burned coal furiously to make electricity. I'm so glad that this government is the government that ended that and that this government is the one that made sure we will not burn coal to produce energy anymore.

Just to carry on and to change the topic slightly: One of the things that really intrigues me and I'd really like to support in this bill is water efficiency standards for energy-consuming products and appliances. But before I get there, because the Minister of Agriculture is in the House: I'm a big supporter of exporting water, provided it's in the form of processed Ontario vegetables. I know that we all would have to agree with that.

When we look at, as consumers—and I have a background in consumer advocacy. We used to spend a lot of time helping consumers make wise choices when they purchased appliances. One of the things that they needed to look at was energy efficiency. What I like about this bill is that it also talks about water efficiency because that's just as important in today's world.

The final thing that I want to talk about, just for a split second, is that, as a municipal councillor, the research that we did would tell us, and the Minister of the Environment and Climate Change would tell us as well, that the biggest energy use of North American municipalities is moving water.

**The Deputy Speaker (Mr. Bas Balkissoon):** The member for London-Fanshawe, you now have two minutes for a reply.

**Ms. Teresa J. Armstrong:** I would like to thank the members who contributed to my debate: the Minister of Agriculture, Food and Rural Affairs, the member from Wellington-Halton Hills, the always wonderful member from Timiskaming-Cochrane and the member from Newmarket-Aurora.

One of the questions in my speech—and the minister actually spoke to it—was, "Who will they listen to?" There have been stakeholders who have spoken out on this issue. I don't know if they've listened to them, but I'm going to read some of their statements.

Energy consultant and lawyer George Vegh wrote a thorough review of the governance changes in Bill 135. He says that they "could lead one to wonder whether

there are any checks and balances left in the system at all.” He wrote a thorough review. I would ask the members of the government, if they haven’t read his review, to google it online and read it.

Energy consultant Tom Adams is fiercely opposed to the further erosion of the independent OEB/IESO authority in Bill 135 and the mandatory efficiency closures—

*Interjection.*

**Ms. Teresa J. Armstrong:** I’m so glad that the member from Eglinton–Lawrence has decided to join us. He’s always a joy to have in this House.

Let’s Fix Hydro is another group that’s deeply concerned about the energy governance changes in Bill 135.

As the member from Timiskaming–Cochrane talked about, it’s a shift in power. It’s a shift to allow more privatization to happen. It’s the wrong decision and it’s the wrong bill. We don’t agree with it, Speaker.

*Second reading debate deemed adjourned.*

**The Deputy Speaker (Mr. Bas Balkissoon):** Seeing the time on the clock, this House stands adjourned until Monday, November 30, at 10:30 a.m.

*The House adjourned at 1758.*

**LEGISLATIVE ASSEMBLY OF ONTARIO**  
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Anderson, Granville (LIB)	Durham	
Armstrong, Teresa J. (NDP)	London–Fanshawe	
<b>Arnott, Ted (PC)</b>	Wellington–Halton Hills	First Deputy Chair of the Committee of the Whole House / Premier vice-président du comité plénier de l'Assemblée
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Baker, Yvan (LIB)	Etobicoke Centre / Etobicoke-Centre	
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Hardeman, Ernie (PC)	Oxford	
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Han Dong, Michael Harris  
Sophie Kiwala, Todd Smith  
Monique Taylor  
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Lisa MacLeod, Harinder Malhi  
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sexuel**

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Han Dong, Sylvia Jones  
Marie-France Lalonde, Harinder Malhi  
Kathryn McGarry, Eleanor McMahon  
Taras Natyshak, Peggy Sattler  
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Committee Clerk / Greffier: Katch Koch









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**Toronto Hydro-Electric System Limited (Appellant / Respondent in  
Appeal) and Ontario Energy Board (Respondent / Appellant in Appeal)**

K. Feldman, S.E. Lang, J. MacFarland JJ.A.

Heard: October 9, 2009  
Judgment: April 20, 2010  
Docket: CA C49980

Proceedings: reversing *Toronto Hydro-Electric System Ltd. v. Ontario (Energy Board)* (2008), 93 O.R. (3d) 380, 2008  
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Counsel: Glenn Zacher, Patrick G. Duffy for Appellant, Ontario Energy Board  
James D.G. Douglas, Morgana Kellythorne for Respondent, Toronto Hydro-Electric System Limited

Subject: Public; Corporate and Commercial; Civil Practice and Procedure

**Related Abridgment Classifications**

Administrative law

III Standard of review

III.2 Reasonableness

III.2.c Miscellaneous

Public law

IV Public utilities

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APPEAL by board from judgment reported at *Toronto Hydro-Electric System Ltd. v. Ontario (Energy Board)* (2008), 93 O.R. (3d) 380, 2008 CarswellOnt 5372, 298 D.L.R. (4th) 231, 53 B.L.R. (4th) 48 (Ont. Div. Ct.), allowing appeal by corporation regarding terms of dividend payments.

***J. MacFarland J.A.:***

1 This is an appeal with leave of this court from the order of the Divisional Court (Kiteley, Swinton JJ., Lederman J. dissenting) dated September 9, 2008. The court declared that the Ontario Energy Board exceeded its jurisdiction and erred in law when it imposed, as a condition in its rate decision for 2006, a duty on Toronto Hydro-Electric System Limited to obtain the approval of a majority of its independent directors before declaring any future dividends payable to its affiliates (the "condition").

**Overview**

2 Toronto Hydro-Electric System Limited ("THESL") is an electricity distributor licensed and regulated by the Ontario Energy Board ("OEB"). THESL is a wholly-owned subsidiary of Toronto Hydro Corporation ("THC"). All of the shares of THC are owned by the City of Toronto (the "City").

3 In 2004-2005, THC paid over \$116 million to the City in the form of dividends and interest payments. THC funded a significant part of these payments through substantial annual increases in dividends from THESL and by charging THESL an above-market rate of interest on an inter-company loan. At the time THESL made the payments it had not completed a capital plan for reinvestment in its aging infrastructure.

4 When THESL applied to the OEB for approval of its distribution rates to be effective May 2006, the OEB expressed concern about the level of dividend payments and the above-market rate of interest being paid by THESL. Evidence before the OEB disclosed that the City anticipated a significant shortfall in its 2006 operating budget; that the City regarded THC as "a revenue source in the 2006 operating budget"; and that the City demanded substantial increases in dividends from THC which, in turn, demanded increased dividends from THESL.

5 The OEB is the regulator of Ontario's electricity industry, and is statutorily mandated to "protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service." The OEB manages this mandate primarily by setting just and reasonable rates.

6 In its decision, the OEB disallowed as a regulatory expense any interest charges above market rates, and required a majority of THESL's independent directors to approve any future dividend payments. In reaching this decision, the OEB noted that if a utility like THESL was to pay all of its retained earnings to its shareholders, this could adversely affect its credit rating, which in turn could harm ratepayer interests by causing higher costs and degradation in services. THESL appealed this decision.

7 In the Divisional Court, THESL argued that the OEB had no jurisdiction to impose the condition it did, either by statute or at common law, and further that the imposition of such a condition represented an unwarranted and indeed unlawful restriction on the authority of the board of directors to declare a dividend.

8 The majority in the Divisional Court accepted THESL's position on both bases advanced, allowed the appeal and set aside the part of the OEB decision that imposed the condition.

9 The OEB argues that the majority of the Divisional Court panel failed to appreciate and distinguish the principles that govern regulated utilities like THESL, which operate as monopolies, from those that apply to private sector companies, which operate in a competitive market. The OEB submits that this distinction is critical because whereas the directors and officers of an unregulated company have a fiduciary obligation to act in the best interests of the company (which usually equates to the interests of the shareholders), a regulated utility must operate in a manner that balances the interests of the utility's shareholders against the interests of its ratepayers. If a utility fails to operate in this way, it is incumbent on the OEB to intervene in order to strike this balance and protect the interests of ratepayers.

10 For the reasons that follow I would allow the appeal, set aside the order of the Divisional Court and restore the part of the rate decision that imposed the condition.

11 The issue for this court is whether the OEB had the ability, as part of its 2006 rate decision, to require THESL to obtain the approval of a majority of its independent directors before declaring any dividends.

### Analysis

12 This court has held that the OEB is a highly specialized expert tribunal with broad authority to regulate the energy sector in Ontario and to balance competing interests: see *Natural Resource Gas Ltd. v. Ontario (Energy Board)* (2006), 214 O.A.C. 236 (Ont. C.A.), at para. 18.

13 The analysis must begin with the legislation that establishes the OEB and gives the OEB its powers. The OEB's objectives in respect of electricity are stated in s. 1 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch. B (the "Act"):

#### Boards objectives, electricity

1.(1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.<sup>1</sup>

14 In short, the OEB is to balance the interests of ratepayers in terms of prices and service while at the same time ensuring a financially viable electricity industry that is both economically efficient and cost effective.

15 The *Electricity Act, 1998*, S.O. 1998, c. 15, Sch. A, requires a distributor of electricity to sell electricity to every person connected to the distributor's distribution system (s. 29). However, the distributor can only charge for the distribution of electricity in accordance with an order of the OEB. Section 78 of the Act provides in part:

78(2) No distributor shall charge for the distribution of electricity or for meeting its obligations under section 29 of the *Electricity Act, 1998* except in accordance with an order of the Board, which is not bound by the terms of any contract.

(3) The Board may make orders approving or fixing just and reasonable rates for the transmitting or distributing of electricity and for the retailing of electricity in order to meet a distributor's obligations under section 29 of the *Electricity Act, 1998*.

16 In relation to its ability to make orders the Act provides:

23(1) The Board in making an order may impose such conditions as it considers proper, and an order may be general or particular in its application.

17 In order to determine the appropriate standard of review, the inquiry must begin with a consideration of the nature of the OEB's decision.

#### I. Avoiding the "Jurisdiction" Trap

18 In recent years administrative law has undergone a significant transformation. Ever since Dickson J. championed the notion of increased deference to specialized administrative tribunals in *C.U.P.E., Local 963 v. New Brunswick Liquor Corp.*,

[1979] 2 S.C.R. 227 (S.C.C.) ("*CUPE*"), courts have sought to avoid labelling matters as jurisdictional where such a label might lead to a more searching review of the administrative decision than is appropriate in the circumstances. In *New Brunswick (Board of Management) v. Dunsmuir*, [2008] 1 S.C.R. 190 (S.C.C.), Bastarache and LeBel JJ. underlined the importance of *CUPE* in this regard at para. 35:

Prior to *CUPE*, judicial review followed the "preliminary question doctrine", which inquired into whether a tribunal had erred in determining the scope of its jurisdiction. By simply branding an issue as "jurisdictional", courts could replace a decision of the tribunal with one they preferred, often at the expense of a legislative intention that the matter lie in the hands of the administrative tribunal. *CUPE* marked a significant turning point in the approach of courts to judicial review, most notably in Dickson J.'s warning that courts "should not be alert to brand as jurisdictional, and therefore subject to broader curial review, that which may be doubtfully so" (p. 233). Dickson J.'s policy of judicial respect for administrative decision making marked the beginning of the modern era of Canadian administrative law.

19 Support for the *CUPE* conceptualization of jurisdiction is also found in the majority reasons of Abella J. in *VIA Rail Canada Inc. v. Canadian Transportation Agency*, [2007] 1 S.C.R. 650 (S.C.C.), at paras. 88-89:

The Federal Court of Appeal also concluded that the standard for reviewing the Agency's decision on the issue of whether an obstacle is undue, is patent unreasonableness. I agree. I do not, however, share the majority's view that VIA raised a preliminary, jurisdictional question falling outside the Agency's expertise that was, therefore, subject to a different standard of review. Applying such an approach has the capacity to unravel the essence of the decision and undermine the very characteristic of the Agency which entitles it to the highest level of deference from a court — its specialized expertise. It ignores Dickson J.'s caution in [*CUPE*] that courts "should not be alert to brand as jurisdictional, and therefore subject to broader curial review, that which may be doubtfully so".

*If every provision of a tribunal's enabling legislation were treated as if it had jurisdictional consequences that permitted a court to substitute its own view of the correct interpretation, a tribunal's role would be effectively reduced to fact-finding. Judicial or appellate review will "be better informed by an appreciation of the views of the tribunal operating daily in the relevant field". Just as courts "should not be alert to brand as jurisdictional, and therefore subject to broader curial review, that which may be doubtfully so", so should they also refrain from overlooking the expertise a tribunal may bring to the exercise of interpreting its enabling legislation and defining the scope of its statutory authority. [Emphasis added; citations omitted.]*

20 Genuine questions regarding the boundaries of administrative authority under statute do arise. Administrative bodies must be correct in answering these questions. It is crucial to distinguish, however, between these "true" matters of jurisdiction and the wider understanding of jurisdiction that Dickson J. rebuked in *CUPE*. This point was highlighted by Bastarache and LeBel JJ. in *Dunsmuir* at para. 59:

Administrative bodies must also be correct in their determinations of true questions of jurisdiction or *vires*. We mention true questions of *vires* to distance ourselves from the extended definitions adopted before *CUPE*. It is important here to take a robust view of jurisdiction. We neither wish nor intend to return to the jurisdiction/preliminary question doctrine that plagued the jurisprudence in this area for many years. "*Jurisdiction*" is intended in the narrow sense of whether or not the tribunal had the authority to make the inquiry. In other words, true jurisdiction questions arise where the tribunal must explicitly determine whether its statutory grant of power gives it the authority to decide a particular matter. The tribunal must interpret the grant of authority correctly or its action will be found to be *ultra vires* or to constitute a wrongful decline of jurisdiction. An example may be found in *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, [2004] 1 S.C.R. 485. In that case, the issue was whether the City of Calgary was authorized under the relevant municipal acts to enact bylaws limiting the number of taxi plate licences. That case involved the decision-making powers of a municipality and exemplifies a true question of jurisdiction or *vires*. These questions will be narrow. We reiterate the caution of Dickson J. in *CUPE* that reviewing judges must not brand as jurisdictional issues that are doubtfully so. [Emphasis added; citations omitted.]



21 David Phillip Jones and Anne S. de Villars offer a helpful analysis of the difference between the "narrow" and "wide" meaning of jurisdiction in their text, *Principles of Administrative Law*, 5<sup>th</sup> ed. (Toronto: Carswell, 2009) at pp. 140-41:

In its broadest sense, "jurisdiction" means the authority to do every aspect of an *intra vires* action. In a narrower sense, however, "jurisdiction" means the power to commence or embark on a particular type of activity. A defect in jurisdiction "in the narrow sense" is thus distinguished from other errors - such as a breach of a duty to be fair, considering irrelevant evidence, acting for an improper purpose, or reaching an unreasonable result - which take place *after* the delegate has lawfully started its activity, but which cause it to leave or exceed its jurisdiction.

.....

It is important to remember that virtually all grounds for judicial review of administrative action depend upon an attack on some aspect of the delegate's jurisdiction (in the wider sense) to do the particular activity in question. Consequently, it is equally important to remember that any behaviour which causes the delegate to *exceed* its jurisdiction is just as fatal as any error which means that it never had jurisdiction "in the narrow sense" even to commence the exercise of its jurisdiction. [Italics in original; footnotes omitted.]

22 Further guidance in terms of defining exactly what constitutes "true" questions of jurisdiction can be gleaned from the reasons of Abella J. in *VIA Rail*. At para. 91, she cited *Pasiecznyk v. Saskatchewan (Workers' Compensation Board)*, [1997] 2 S.C.R. 890 (S.C.C.), at para. 18, for the proposition that "[t]he test as to whether the provision in question is one that limits jurisdiction is: was the question which the provision raises one that was intended by legislators to be left to the exclusive decision of the Board?" In the same paragraph, Abella J. also referred to *Syndicat national des employés de la commission scolaire régionale de l'Outaouais v. U.E.S., local 298*, [1988] 2 S.C.R. 1048 (S.C.C.), at p. 1087, where Beetz J. held that "the only question which should be asked [is], 'Did the legislator intend the question to be within the jurisdiction conferred on the tribunal?'"

23 Thus, the focus is on discerning legislative intent with respect to the scope of a tribunal's authority to undertake an inquiry. This reading is consistent with Bastarache and LeBel JJ.'s observation that "[d]eference will usually result where a tribunal is interpreting its own statute or statutes closely connected to its function, with which it will have particular familiarity" (*Dunsmuir* at para. 54), and Abella J.'s conclusion that "[a] tribunal with the power to decide questions of law is a tribunal with the power to decide questions involving the statutory interpretation of its enabling legislation" (*VIA Rail* at para. 92). It also accords with Jones and de Villars observation at p. 146:

[A] conscious and clearly-worded decision by the legislature to use a subjective or open-ended grant of power has the effect of widening the delegate's jurisdiction and, therefore, narrowing the ambit of judicial review of the legality of its actions.

24 Courts should hesitate to analyze the decisions of specialized tribunals through the lens of jurisdiction unless it is clear that the tribunal exceeded its statutory powers by entering into an area of inquiry outside of what the legislature intended. If the decision of a specialized tribunal aims to achieve a valid statutory purpose, and the enabling statute includes a broad grant of open-ended power to achieve that purpose, the matter should be considered within the jurisdiction of the tribunal. Its substance may still be reviewed for other reasons - on either a reasonableness or correctness standard - but it does not engage a true question of jurisdiction and cannot be quashed on the basis that the tribunal could not "make the inquiry" or "embark on a particular type of activity". In contrast, where a tribunal is pursuing an illegitimate objective, or is engaging in actions that clearly defy the limits of its statutory authority, then a reviewing court may properly declare its decisions to be *ultra vires*. These principles are consistent with Abella J.'s reasoning in *VIA Rail* at para. 96:

It seems to me counterproductive for courts to parse and recharacterize aspects of a tribunal's core jurisdiction... in a way that undermines the deference that jurisdiction was conferred to protect. By attributing a jurisdiction-limiting label, such as "statutory interpretation" or "human rights", to what is in reality a function assigned and properly exercised under the enabling legislation, a tribunal's expertise is made to defer to a court's generalism rather than the other way around.

## II. Broad Powers of the OEB

25 The case law suggests that the OEB's power in respect of setting rates is to be interpreted broadly and extends well beyond a strict construction of the task.

26 For example, in *Advocacy Centre for Tenants-Ontario v. Ontario Energy Board* (2008), 293 D.L.R. (4th) 684 (Ont. Div. Ct.), the majority of the court held that the OEB had the jurisdiction to establish a rate affordability assistance program for low-income consumers purchasing the distribution of natural gas from the utility. Section 36(3) of the Act states that "[i]n approving or fixing just and reasonable rates, the Board may adopt any method or technique it considers appropriate." In paras. 53-56, the majority noted the breadth of the OEB's rate-setting power when its actions were in furtherance of the statutory objectives:

[T]he Board is authorized to employ "any method or technique that it considers appropriate" to fix "just and reasonable rates."... the Board must determine what are "just and reasonable rates" within the context of the objectives set forth in s. 2 of the Act. Objective #2 therein speaks to protecting "the interests of consumers with respect to prices."

[T]he Board in the consideration of its statutory objectives might consider it appropriate to use a specific "method or technique" in the implementation of its basic "cost of service" calculation to arrive at a final fixing of rates that are considered "just and reasonable rates." This could mean, for example, to further the objective of "energy conservation", the use of incentive rates or differential pricing dependent upon the quantity of energy consumed. As well, to further the objective of protecting "the interests of consumers" this could mean taking into account income levels in pricing to achieve the delivery of affordable energy to low income consumers on the basis that this meets the objective of protecting "the interests of consumers with respect to prices."

The Board is engaged in rate-setting within the context of the interpretation of its statute in a fair, large and liberal manner.

27 The jurisdiction of the OEB was also reviewed in *Enbridge Gas Distribution Inc. v. Ontario (Energy Board)* (2005), 74 O.R. (3d) 147 (Ont. C.A.). In *Enbridge*, the OEB issued a rule permitting the gas vendor to determine who will bill its customers for the gas they buy from a vendor and for its transportation to them by the distributor. The appellants argued that this rule went beyond the jurisdiction conferred on the OEB by s. 44(1) of the Act, which provides that the OEB may make rules "governing the conduct of a gas distributor as such conduct relates to [a gas vendor]". Goudge J.A. ultimately found that the OEB had the jurisdiction to issue the rule. He endorsed a broad understanding of the Act in paras. 27-28:

[The appellants] say that the intention of this subsection is to limit the Board's jurisdiction to a rule governing only the part of a gas distributor's conduct that relates to its business relationship with a gas vendor, such as when the gas vendor acts as agent on behalf of its gas supply customer to arrange with the gas distributor for delivery of that gas supply to that customer. ...

In my view, there is nothing in either the language of s. 44(1)(b) or its statutory context to suggest such a narrow interpretation. ... Moreover, such a narrow reading would be inconsistent with the broad purpose of the Act, which is to regulate all aspects of the gas distribution business, not simply those aspects that involve a direct business relationship with gas vendors.

28 A recent decision from the Divisional Court offers further support for the proposition that the OEB enjoys a wide ambit of power in its rate-setting function. In *Toronto Hydro-Electric System Ltd. v. Ontario (Energy Board)* (2009), 252 O.A.C. 188 (Ont. Div. Ct.), leave to appeal to Ont. C.A. refused, the OEB allocated THESL's net after-tax gains on the sale of three properties to reduce THESL's revenue requirement, and thereby also reduce electricity distribution rates to ratepayers. The court unanimously held that the proper approach to a review of the OEB decision did not involve a "true" jurisdictional analysis as contemplated in *Dunsmuir*. Rather, a reasonableness standard applied because the decision in the case - whether and how the OEB may allocate the net after-tax gains on the sale of properties to reduce THESL's revenue requirement - was squarely within the rate-setting authority of the OEB and went to very core of the OEB's mandate. The court noted the expansive content of the rate-setting power at para. 17:

An OEB decision may well engage or impact principles of corporate law, given that it regulates incorporated distributors, but the nature of the issue must be viewed in light of the regulatory scheme. While the decision in this case may have the effect of curtailing the appellant's ability to otherwise distribute or invest the net after tax gains from the sale of the properties, the substance of the OEB's decision relates to whether and how to apply those gains in its rate setting formula. Unlike the cases relied upon, this issue directly relates to the OEB's determination of rates and goes to the heart of its regulatory authority and expertise. There is no dispute that the OEB has rate-setting powers under the *OEBA* which are broad enough to encompass the power to determine reduced revenue requirements as a result of the sale of non-surplus assets. Although there is no privative clause, the OEB is a highly specialized expert tribunal with broad authority to regulate the energy sector in Ontario and to balance competing interests. [Citations omitted.]

29 The present appeal does not engage a "true" question of jurisdiction. As confirmed above, *the Act* is to be interpreted broadly. It is clear that the legislative intent of *s. 78 of the Act* is that the OEB have the principal responsibility for setting electricity rates. *The Act* specifies that in carrying out its responsibilities the OEB *shall* be guided by the objectives in *s. 1(1)*, which include protecting the interests of customers with respect to prices and the adequacy, reliability and quality of electricity service. *The Act* also permits the OEB in making an order, to impose such conditions as *it* considers proper, and states that these conditions may be general or particular in application (*s. 23(1)*). Thus, the legislation reflects a clear intent by legislators to use both a subjective and open-ended grant of power to enable the OEB to engage in the impugned inquiry in the course of rate setting.

30 Further, it is apparent that as part of its rate-setting function, the OEB was entitled to consider the history of THESL's dividend payments. This was part of the inquiry into whether and how to control outgoing cash flows from THESL in order to ensure adequate capital. This line of inquiry goes to the heart of the OEB achieving its statutory objectives. In its reasons, the OEB noted that at the hearing there was considerable discussion of the dividend issue and that information concerning the dividend payouts had been filed. An inquiry into dividend payments was an inquiry that all parties believed was within the OEB's jurisdiction. The "true" nature of the respondent's challenge cannot be characterized as a matter of jurisdiction. Of course, it does not follow that the methods chosen are insulated from review (see Part IV).

### ***III. The ATCO Decision***

31 THESL argues that the Supreme Court of Canada's recent decision in *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006] 1 S.C.R. 140 (S.C.C.), militates in favour of reviewing OEB decisions using a correctness standard. *ATCO* involved an application by ATCO to have the sale of a property approved by the Alberta Energy and Utilities Board as required by the statute. The Board approved the sale and imposed a condition requiring that a certain portion of the sale proceeds be allocated to rate-paying customers. The *Alberta Energy Board Utilities Act* set out that with respect to an order, the Board may "impose any additional conditions that the Board considers necessary in the public interest".

32 Writing on behalf of three other justices, Bastarache J. divided the inquiry into two questions. The first question was whether the Board had the power pursuant to its enabling statutes to allocate the proceeds from the sale of the utility's asset to its customers when approving the sale. The second question was whether the Board was permitted to allocate the proceeds of the sale in the way that it did. Bastarache J. concluded that the first question was to be reviewed on a correctness standard and the second question was to be reviewed on a more deferential standard.

33 This case is distinguishable from *ATCO*. The statutory grant of power in *ATCO* to "impose any additional conditions that the Board considers necessary in the public interest" is different than the statutory grant of power in this case. Bastarache J. referred to this provision as vague, elastic, and open-ended. In the present case, the OEB's imposition of a condition it considers proper (*s. 23(1)*) has to be guided by the legislated objectives set out in *s. 1(1)*. These objectives are not vague, elastic, and open-ended. To the extent that there is uncertainty with respect to the achievement of the *s. 1(1)* objectives, that is a matter undeniably within the expertise of the OEB. Further, unlike the *ATCO* provision, the objectives in *the Act* require that the OEB protect the interests of *both* the customer and the utility.



34 There are four other factors that support distinguishing *ATCO* from this case. First, the decision in *ATCO* reveals that Bastarache J. reasoned that *ATCO* was not a rate-setting case. He noted that the provision granting the power to impose conditions could not be read in isolation. Rather, he explained that the provision had to be considered within the context of the purpose and scheme of the legislation. Bastarache J. stated that the main purpose of the Board is rate setting. The allocation of the sale proceeds did not fit within the limits of the powers of the Board, which "are grounded in its main function of fixing just and reasonable rates ('rate setting') and in protecting the integrity and dependability of the supply system" (para. 7).

35 Second, at para. 30, Bastarache J. determined that the Board's protective role -safeguarding the public interest in the nature and quality of the service provided to the community by public utilities by ensuring that utility rates are always just and reasonable- did not come into play. This factor pointed to a less deferential standard of review. In the present case, the OEB's "protective role" was central to the dividend condition.

36 Third, Bastarache J., viewed the issue in *ATCO* as the Board's power to transfer proprietary rights in the assets of the utility to the customers. In this case, the dividend condition did not result in the transfer of proprietary rights.

37 Fourth, in giving examples of conditions that could attach to the approval of a sale, Bastarache J. stated at para. 77 that the Board "could also require as a condition that the utility reinvest part of the sale proceeds back into the company in order to maintain a modern operating system that achieves the optimal growth of the system." As will be explained, the OEB placed the condition on the payment of dividends to ensure that dividends would not be paid when there was insufficient capital for plant maintenance.

#### ***IV. Reviewing the Exercise of OEB Jurisdiction: The Reasonableness Standard***

38 Having determined that the OEB did not exceed its statutory grant of power, the question remains whether it could order that the declaration of a dividend requires the approval of the majority of THESL's independent directors. This question is reviewable on a reasonableness standard.

39 Recently, a reasonableness standard was used by this court in *Natural Resource Gas Ltd. v. Ontario (Energy Board)* (2006), 214 O.A.C. 236 (Ont. C.A.). The case arose from the application by a gas distributor seeking an order increasing its rate over a 12-month period, in order to allow for the recovery of unrecorded costs which were the result of an accounting error. Writing for the panel, Juriansz J.A. reviewed some of the recent appellate jurisprudence and concluded that reasonableness was the appropriate standard of review as the question was one of mixed fact and law, and also involved policy considerations:

In two recent decisions, *Graywood Investments Ltd. v. Toronto Hydro-Electric System*, [2006] O.J. No. 2030 (C.A.) and *Enbridge Gas Distribution Inc. v. Ontario (Energy Board)*, [2006] O.J. No. 1355 (C.A.), this court has considered the standard of review of decisions of the OEB.

In *Enbridge*, while the result did not turn on the standard of review, Doherty J.A. did note (at para. 17) that the OEB had advanced a "forceful argument that the standard of review should, at the highest, be one of reasonableness".

In *Graywood*, MacPherson J.A. recognized the expertise of the OEB in general (at para. 24):

First, the OEB is a specialized and expert tribunal dealing with a complicated and multifaceted industry. Its decisions are, therefore, entitled to substantial deference.

In order to take this case outside the application of this general conclusion, [the distributor] must establish that the nature of the question in dispute and the relative expertise of the OEB regarding that question are different in this case than in *Graywood*. [At paras. 7-10.]

.....

It is clear that the Act constitutes the OEB as a specialized expert tribunal with the broad authority to regulate the energy sector in Ontario. In carrying out its mandate, the OEB is required to balance a number of sometimes competing goals. On the one hand, it is required to protect consumers with respect to prices and the reliability and quality of gas service, but

on the other hand, it is to facilitate a financially viable gas industry. The legislative intent is evident: the OEB is to have the primary responsibility for setting gas rates in the province.

The Act does not contain a privative clause. Section 33 provides a right of appeal to the Divisional Court from an order of the OEB "only upon a question of law or jurisdiction". [At paras. 18-19.]

While the question does involve the meaning of the phrase "just and reasonable", it requires the application of that phrase to the particular and unusual facts of this case. The question is one of mixed fact and law and involves policy considerations as well. The OEB possesses greater expertise relative to the court in determining the question.

Consequently, I conclude that the OEB's decision is reviewable on a standard of reasonableness. [At paras. 23-24.]

40 The facts of this case do not warrant departure from the reasonableness analysis. In my view, the nature of the OEB decision - structuring a condition that will protect the long-term integrity of THESL's energy infrastructure - falls squarely within the category of "mixed fact and law" with "policy considerations".

41 One of the reasons given by the majority below for applying a correctness standard was because the case dealt with principles of corporate law. When dealing with a regulated corporation the fact that corporate law principles are at play does not alone suggest a correctness standard of review. Corporate law principles will often be engaged when making decisions in respect of regulated corporations. It is the regulator's duty to use its expertise to apply corporate law principles within the context of its objectives; this implies a reasonableness standard.

#### ***V. Is the Decision a Reasonable One?***

42 At para. 47 of *Dunsmuir*, Bastarache and LeBel JJ. described the two inquiries involved in assessing the reasonableness of a decision:

Reasonableness is a deferential standard animated by the principle that underlies the development of the two previous standards of reasonableness: certain questions that come before administrative tribunals do not lend themselves to one specific, particular result. Instead, they may give rise to a number of possible, reasonable conclusions. Tribunals have a margin of appreciation within the range of acceptable and rational solutions. A court conducting a review for reasonableness inquires into the qualities that make a decision reasonable, referring both to the process of articulating the reasons and to outcomes. *In judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision-making process. But it is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law.*

[Emphasis added.]

43 The first inquiry of the reasonableness analysis is into the "existence of justification, transparency and intelligibility within the decision-making process." The second inquiry is "concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of facts and law." Thus, the first inquiry deals with the justification process as articulated in the reasons for the decision and the second inquiry looks at the outcome. As noted in *Dunsmuir*, the reasonableness analysis will concern mostly the first inquiry.

#### ***(a) Justification, transparency and intelligibility***

44 The inquiry into the justification, transparency and intelligibility of the decision-making process is focused on the reasons for the decision. In an oft-cited passage from *Ryan v. Law Society (New Brunswick)*, [2003] 1 S.C.R. 247 (S.C.C.), Iacobucci J. at para. 55 articulated the relationship between the reasons of a tribunal and the ultimate reasonableness of its decision:

A decision will be unreasonable only if there is no line of analysis within the given reasons that could reasonably lead the tribunal from the evidence before it to the conclusion at which it arrived. If any of the reasons that are sufficient to support the conclusion are tenable in the sense that they can stand up to a somewhat probing examination, then the

decision will not be unreasonable and a reviewing court must not interfere. *This means that a decision may satisfy the reasonableness standard if it is supported by a tenable explanation even if this explanation is not one that the reviewing court finds compelling.* [Emphasis added; citations omitted.]

45 Further, as Abella J. explained in *Via Rail* at para. 104:

Where an expert and specialized tribunal has charted an appropriate analytical course for itself, with reasons that serve as a rational guide, reviewing courts should not lightly interfere with its interpretation and application of its enabling legislation.

46 And as more recently noted by Binnie J. in *Khosa v. Canada (Minister of Citizenship & Immigration)*, [2009] 1 S.C.R. 339 (S.C.C.), at para. 59:

Reasonableness is a single standard that take its colour from the context. ... [A]s long as the process and the outcome fit comfortably within the principles of justification, transparency and intelligibility, it is not open to a reviewing court to substitute its own view of a preferable outcome.

and at para. 63:

*Dunsmuir* thus reinforces in the context of adjudicative tribunals the importance of reasons, which constitute the primary form of accountability of the decision-maker to the applicant, to the public and to a reviewing court.

47 The OEB's reasons provide an intelligible explanation for the condition. The reasons both disclose a concern relating to "prices and the adequacy, reliability and quality" of service and explain how the chosen remedy will help to alleviate this concern.

48 Before addressing these two elements, it is important to note one factor about the context of the decision. THESL is what has been described as a "regulated monopoly". As Bastarache J. explained in *ATCO* at para. 3, "utility regulations exist to protect the public from monopolistic behaviour and the consequent inelasticity of demand while ensuring the continued quality of an essential service". In other words, the OEB's regulatory power is designed to act as a proxy in the public interest for competition: see *Advocacy Centre for Tenants-Ontario*. Because there is no competition, THESL could easily pass on the expense of business decisions to ratepayers through increased utility prices, or through the degradation of the quality of service, without the usual risk of losing customers. As was explained in para. 39 of *Advocacy Centre for Tenants-Ontario*, "[t]he Board's mandate through economic regulation is directed primarily at avoiding the potential problem of excessive prices resulting because of a monopoly distributor of an essential service."

49 While THESL is incorporated, as is required by s. 142 of the *Electricity Act*, under the provisions of the *Business Corporation Act*, R.S.O. 1990, c. B.16, ("*OBCA*") it is publicly regulated rather than a private corporation. This distinction is an important one. As Lederman J. noted in his dissenting reasons in the court below at para. 78:

At the heart of a regulator's rate-making authority lies the "regulatory compact" which involves balancing the interests of investors and consumers. In this regard, there is an important distinction between private corporations and publicly regulated corporations. With respect to the latter, in order to achieve the "regulatory compact", it is not unusual to have constraints imposed on utilities that may place some restrictions on the board of directors. That is so because the directors of utility companies have an obligation not only to the company, but to the public at large.

50 The principles that govern a regulated utility that operates as a monopoly differ from those that apply to private sector companies, which operate in a competitive market. The directors and officers of unregulated companies have a fiduciary obligation to act in the best interests of the company (which is often interpreted to mean in the best interests of the shareholders) while a regulated utility must operate in a manner that balances the interests of the utility's shareholders against those of its ratepayers. If a utility fails to operate in this way, it is incumbent on the OEB to intervene in order to strike this balance and protect the interests of the ratepayers.

51 The decision reveals that the OEB was concerned about the aging plant and the lack of necessary capital. At the hearing it was argued that there appeared to be underinvestment in the physical plant over the past several years (para. 4.4.1). Evidence was presented that 30 to 40 per cent of the plant in service had exceeded its expected life (para. 4.5.3). The Board concluded that increased capital spending was required to address the issues of the aging plant (para. 4.7.1) and to maintain system reliability (para. 4.10.8).

52 However, despite the need for capital, the evidence was that there was a very dramatic increase in the dividend payouts in 2004 and 2005. As the OEB noted at para. 6.4.1, "[t]he level of dividends appears to be greater than the net income of the utility over at least a two year period." At para. 6.4.4 the OEB explained why these events were of concern:

The question arises as to whether the Board should restrict the dividend payout by the utility. To the extent a utility pays all of its retained earnings to the shareholder, it will become more dependent on borrowing and this may have an adverse effect on its credit rating.

53 In sum, the OEB was concerned because THESL was paying THC very large dividends even though increased capital spending was going to be needed to maintain system reliability. THESL was either going to ignore its aging infrastructure or have to borrow funds to address it. Both courses of conduct would ultimately, as the OEB explained, have adverse effects on ratepayers. Lederman J. effectively summarized these circumstances at paras. 80 and 85:

The setting of rates will accomplish little in terms of public protection if the revenue can be stripped out of the company without any controls.

.....

The OEB had evidence before it that THESL was paying increased dividends and an above market rate of interest while it was under investing by about \$60 million in its capital expenditures. The OEB noted that if a utility like THESL was to pay all its retained earnings to its shareholder, this could adversely impact its credit rating, which in turn, could cause higher costs and degradation in service to electricity consumers.

54 The OEB also explained how it reached the conclusion that an appropriate response to the concerns raised by the substantial dividend payouts, was to require that any dividend paid by THESL be approved by a majority of its independent directors.

55 At the time of the hearing, the composition of the board of directors of THESL was identical to the THC. The reasons reveal that the OEB was very concerned about the about the relationships between THESL, THC, and the City. For example, at para. 3.2.3 the OEB questioned the percentage of THC's costs recovered from THESL:

It is readily apparent to the Board that allocating these costs based on gross revenues produces an unwarranted bias against the ratepayers. The revenues of the utility are inflated by the high cost of wholesale power. That is an ever increasing amount. Because these costs are increasing, it does not follow the utility's share of the overhead costs should be increasing. In short, there is no necessary relationship between the revenue share and the share of overhead cost.

56 The reasons also discuss the above-market interest rate THESL was paying the THC on a loan (s. 5.3), as well as the purchase of the City's street lighting business (para. 6.4.3). According to the OEB, the above-market interest rate resulted in THESL paying approximately an additional \$16 million per year which was being borne by the ratepayers. Amplifying the concern was the City's decision after the hearing, but before the decision was released, to extend the loan to 2013. This led the OEB to note at para. 5.3.8, it is "apparent that the financing decisions are being made unilaterally by the City, which is the sole shareholder of the utility."

57 With respect to dividends, as already noted, the OEB was concerned about the very dramatic increase in the dividend payouts in 2004 and 2005. At para. 5.3.18 the OEB stated:

*Nor is it any defence to say this is not a decision of the utility but is being made unilaterally by the City of Toronto. That is exactly the problem. In fact it could be argued that this is part of a pattern. The City has extracted extensive dividends*

from this utility in recent years. It is likely one of the rare occurrences in Canadian financial markets where the level of dividends exceeds the net income. [Emphasis added.]

58 Moreover, the OEB was aware of a change in a shareholder direction and the payment of special dividends. These facts are referred to in para. 6.4.2:

At one time, there was a shareholder direction that limited the dividend payout to 40% of the utility's income, but that was changed to 50% of consolidated income. Moreover, it appears that there were special dividends over and above that amount.

59 Thus, the OEB was of the opinion that one of the reasons for the THESL's unusual dividend payouts was the THC's, and ultimately the City's, control over THESL's decision making. The OEB explained at paras. 6.4.5 and 6.4.6 of the decision:

A related question is the independence of the directors. The evidence in the hearing is that the directors of the utility and the parent, Toronto Hydro Corporation are currently identical.

And none of the members of management are to be on the Board. This is an unusual situation.

There is a requirement that at least one third of the directors of the distributor must be independent but that rule will not apply to this utility until July 1, 2006. In the course of these hearings the utility has confirmed that it will comply with the requirement and at that time, the independent directors will be appointed.

60 Concern about affiliate transactions is not unique to THESL. The decision notes that there is extensive jurisprudence in gas cases with respect to transactions between a regulated utility and an affiliate (para. 5.3.17). The OEB has also established the *Affiliate Relationship Code for Electricity Distributors and Transmitters* ("ARC") with a separate compliance procedure to guard against harm to ratepayers that may arise as a result of dealings between a utility and its affiliates. One of the provisions of the ARC required that one third of the board of directors of a distributor be independent from any affiliate by July 1, 2006. It is evident that independence is viewed as a guard against harmful decisions that arise as a result of dealings between a utility and its affiliates.

61 Following this line of reasoning, the Board concluded at paras. 6.4.7 to 6.4.9 that the condition was needed to balance the interests of *both* the customer and the shareholder:

Given the unusual high level of dividend payout and the concern expressed by a number of parties, the Board believes that it is appropriate that any dividend paid by the utility to the City of Toronto should be approved by a majority of the independent directors.

Much of the controversy in this case has been dominated by discussion about non arms length transaction between the utility and the City of Toronto, whether it relates to dividend payouts, payment of interest on loans or the purchase of goods and services. *The introduction of independent directors will be a step in the right direction. The requirement that independent directors approve dividend payouts to affiliates will give the public greater assurance that the interests of ratepayers are not subservient to those of the shareholders.* The Board believes this is in keeping with the policy intent of Section 2 of the ARC.

This provision will be reviewed by the Board in the next rate case. At a minimum it will signal the Board's serious concern with the state of inter-affiliate relations. [Emphasis added.]

62 For the reasons set out above, this was a reasonable decision.

(b) *Acceptable Outcomes*

63 To reiterate, the second inquiry in a reasonableness analysis is that the decision fall "within a range of possible, acceptable outcomes which are defensible in respect of the facts and law." It is in this part of the analysis where, in my opinion, this court should address THESL's argument that the imposed condition violated corporate law.

64 THESL argued at the Divisional Court, and argues before this court, that the OEB order was contrary to settled principles of corporate law that the directors of a public company cannot delegate their power to declare dividends. Section 127(3)(d) of the *OBCA* confirms this prohibition by expressly excluding any delegation of the board of directors' power to declare a dividend from the general rule permitting delegation to a managing director or committee of directors.

65 The OEB submits that the authority to approve dividends was not taken away from the directors. Approval by the entire board is still required before a dividend can be issued. The independent directors are simply an additional check on the authority of the full board. The OEB also relies on [s. 128\(1\) of the Act](#) which provides that, "[i]n the event of a conflict between this Act and any other general or special act, this Act prevails."

66 The majority judgment below accepted THESL's argument, and found that the OEB had effectively delegated the power to declare dividends to the majority of the independent directors contrary to the *OBCA* and long-standing corporate law principles.

67 In dissenting reasons, Lederman J. accepted the submission of the OEB - that the order leaves the discretion to declare a dividend in the hands of THESL's directors, albeit with an additional check by THESL's independent directors.

68 In the context of a regulated corporation, I agree with Lederman J. As he explained at para. 81, "the OEB has crafted a reasonable and less intrusive remedy that balances the interests of THESL's shareholder and its ratepayers and is consistent with the 'regulatory compact'."

## Conclusion

69 For these reasons, I would allow the appeal, set aside the order of the Divisional Court and in its place make an order in accordance with these reasons. In the circumstances, I would not order costs.

***K. Feldman J.A.:***

I agree.

***S.E. Lang J.A.:***

I agree.

*Appeal allowed.*

## Footnotes

1 On September 9, 2009, three additional objectives were added to [s. 1\(1\)](#).

**TAB 3**



2008 CarswellOnt 8806

Ontario Energy Board

Hydro One Networks Inc., Re

2008 CarswellOnt 8806

**In the Matter of the Ontario Energy Board Act 1998, S.O.1998, c.15, (Schedule B)**

In the Matter of an Application by Hydro One Networks Inc., for an order or orders granting Leave to Construct transmission facilities in Norfolk County for the Vanessa - Norfolk Transmission Reinforcement Project

C. Spoel Member, P. Sommerville Member, P. Vlahos Presiding Member

Judgment: August 14, 2008

Docket: EB-2008-0023

Counsel: None given

Subject: Natural Resources; Public

**Related Abridgment Classifications**

Public law

IV Public utilities

IV.2 Operation of utility

IV.2.f Equipment

IV.2.f.i Construction and alteration of supply lines

**Headnote**

Public law --- Public utilities — Operation of utility — Equipment — Construction and alteration of supply lines

**Table of Authorities**

**Statutes considered:**

*Environmental Assessment Act*, R.S.O. 1990, c. E.18

Generally — referred to

*Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B

s. 92 — referred to

s. 96(1) — referred to

**Decision of the Board:**

**1.0 The Application**

1 Hydro One Networks Inc. ("Hydro One" or the "Applicant") has filed an application with the Ontario Energy Board (the "Board") dated March 13, 2008 under [section 92 of the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B](#). The Applicant has applied for an order or orders of the Board granting leave to construct transmission facilities for the Vanessa - Norfolk Transmission Reinforcement Project. The work involves reinforcing the existing 12 km 115 kilovolt ("kV") single-circuit transmission line in Norfolk County between Vanessa Junction and Norfolk Transformer Station by:

- replacing the existing conductors with higher capacity conductors;
- installing a new set of conductors to establish a second 115 kV circuit on the existing structures; and
- constructing a short (20 metre) line tap to connect Bloomsburg Municipal Transformer Station to the 115 kV line.



(collectively, the "Project")

2 The proposed in-service date for the Project is April 2009.

3 The Board has assigned File No. EB-2008-0023 to this application.

## **2.0 The Proceeding**

4 The Board issued a Notice of Application and Hearing on March 28, 2008. The Notice was published and served by the Applicant as directed by the Board. Two parties were granted intervenor status in this proceeding: (i) the Independent Electricity System Operator (the "IESO"); and (ii) property owners Allan and Carol Skoblenick.

5 The Board has proceeded with this application by way of a written hearing.

6 Board staff issued written interrogatories on May 23, 2008. No other party submitted interrogatories. Responses to the interrogatories were filed by Hydro One on June 2, 2008. On July 4, 2008, the Board issued a letter to Hydro One requesting clarification and additional information pertaining to Hydro One's responses to Board staff interrogatories as well as other evidence on the record. Hydro One filed its response on July 18, 2008.

## **3.0 The Public Interest Test**

7 Section 96(1) of the Act provides that if, after considering an application under section 92 of the Act, the Board is of the opinion that a proposed work is in the public interest, then the Board shall make an order granting leave to carry out the work.

8 In the context of this Application, the main issues for the Board are as follows:

- Is the Project needed and have appropriate alternatives been considered?
- Have the cost responsibility principles set out in the Transmission System Code been appropriately interpreted and applied?
- What impact will the Project have on transmission rates?
- What impact will the Project have on reliability of supply?
- Have the Environmental Assessment requirements been met?
- Have the land-related matters been addressed?
- Have consultations with Aboriginal Peoples been conducted appropriately?

9 Each of these issues is considered below.

### ***3.1 Project Need and Alternatives Considered***

10 Hydro One stated that this is a non-discretionary transmission project, as that term is used in the Board's Filing Requirements for Transmission and Distribution Applications, because it allows Hydro One:

- to satisfy reliability standards and guidelines within a specified operating timeframe; and
- to address near-term equipment or facility loading or ratings when their capacities are, or are about to be, exceeded.

11 Based on Hydro One's evidence, the Project is needed to: (i) increase the capacity of the existing Vanessa Junction to Norfolk TS 115 kV line in order to meet the forecast load on the line; and (ii) improve reliability of supply by making available a second circuit in the event that one of the circuits is out of service.

12 Hydro One submitted that it undertook a study in 1998 to develop a long term plan for electricity supply in Norfolk County. Three alternatives were considered and the alternative chosen was to install a 230-115 kV autotransformer station at Caledonia TS to establish a new source of 115 kV supply in the area and refurbish existing 115 kV lines as needed. Much of the work for the preferred alternative, including the provision for a second 115 kV circuit on the Vanessa Junction to Norfolk TS line has been completed since 1998. The Project is the next and final stage to implement the preferred alternative.

13 Hydro One considers the Project to be superior to any other reasonable option since those alternatives would involve a new greenfield right-of-way or conversion of the existing 115 kV line and Stations to 230 kV supply at significantly higher cost.

14 The Board accepts Hydro One's evidence that the Project is needed and that it is the best alternative to fulfill the need, especially considering that much of the work related to installation of the second circuit has already been carried out.

### 3.2 Cost Responsibility

15 Hydro One's pre-filed evidence indicates that the total cost of the Project is estimated to be \$3,580,000 broken down as follows:

(i)	Transmission Line Facilities:	
	(a) Upgrading Existing Circuit	\$ 1,097,000
	(b) Adding New Circuit	\$ 1,695,000
(ii)	Station and Telecommunication Facilities:	\$ 447,000
(iii)	Line Tap to Bloomsburg MTS and Associated Facilities	\$ 341,000
		\$ 3,580,000

16 Hydro One submitted that:

- The proposed line facilities, (i)(a) and (i)(b), are considered line connection assets and will be included in the Line Connection Pool. The cost for (i)(a) was assigned to customers for cost responsibility purposes and the cost for (i)(b) was assigned to the Line Connection Pool for cost responsibility purposes.
- The proposed transformation assets (ii) will be included in the Transformation Connection Pool. These costs are assigned to customers for cost responsibility purposes.
- The line tap to Bloomsburg MTS and associated facilities (iii) will be funded 100% by Norfolk Power.

17 Hydro One submitted that its proposal to assign the cost of the addition of a new circuit (item (i)(b) above) to the Line Connection Pool is consistent with section 6.3.6 of the Transmission System Code, which states that a transmitter is obligated to

develop and maintain plans to meet load growth and maintain the reliability and integrity of its transmission system. The transmitter shall not require a customer to make a capital contribution for a connection facility that was otherwise planned by the transmitter, except for advancement costs.

18 Hydro One further explained that the Vanessa to Norfolk transmission reinforcement project, including provision of a second circuit, was originally included in Ontario Hydro's plans in the late 1990's and that, in 1999, the existing Vanessa to Norfolk transmission line was re-built to accommodate a second circuit, at a cost of approximately \$4.2 million. Hydro One also submitted that the plan to add a second circuit was initiated by Hydro One and not based on a request from Norfolk Hydro.

19 Hydro One carried out a 25-year Discounted Cash Flow (DCF) calculation for each pool based on the economic evaluation requirements of the Transmission System Code and the above-noted cost responsibility allocations. The results of the DCF analysis show that the customer capital contribution amounts (rounded) are:

- Transmission Line Facilities	\$ 0.5 million
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- Station and Telecommunication Facilities:	\$ 0
- Line Tap to Bloomsburg MTS and Associated Facilities	\$ 0.4 million
Total customer contributions	\$ 0.9 million

20 The Board accepts Hydro One's evidence that the proposed cost responsibility for the Project is appropriate and consistent with Section 6.3.6 of the Transmission System Code.

21 More specifically, the Board accepts Hydro One's determination that the proposed new circuit from Vanessa Junction to Norfolk TS is a "connection facility that was otherwise planned by the transmitter" and as such the transmitter shall not require a customer to make a capital contribution for that facility, in accordance with Section 6.3.6 of the Transmission System Code.

### ***3.3 Impact on Transmission Rates***

22 Hydro One submitted that the Project will not affect the Network Pool revenue requirement and that there would be only minor changes in the Line Connection Pool revenue requirement and the Transformation Connection Pool revenue requirement.

23 The Board accepts Hydro One's submission that there would be no impacts in the Network Pool revenue requirement and only minor changes in the Line and Transformation Connection Pool revenue requirements.

### ***3.4 Reliability and Quality of Service***

24 *System Impact Assessment ("SIA")*: The evidence includes two SIAs carried out by the IESO related to the Project - one dated November 12, 2002 and the other dated January 18, 2008. The IESO supports the Project and concludes that the proposed facilities will result in an improved level of load supply reliability to the Norfolk TS connected customers. Hydro One submitted that the IESO's connection requirements will be implemented.

25 *Customer Impact Assessment ("CIA")*: Hydro One did not file a CIA for the Project. In its pre-filed evidence and responses to interrogatories, it submitted that a CIA is not required for the Project since the addition of the second circuit does not negatively impact the customers.

26 The Board notes that Section 6.4.3 of the Transmission System Code as well as Section 2.4 of the Transmission Connection Procedures state that a CIA is required in cases where an SIA is required.

27 The Board therefore concludes that a CIA is required for the Project and that Hydro One must carry out the CIA prior to commencing construction of the Project.

### ***3.5 Environmental Assessment***

28 Hydro One advised that the Project falls within the definition of the projects covered by the Class Environmental Assessment for Minor Transmission Facilities ("Class EA"), under the [Ontario Environmental Assessment Act](#). Hydro One submitted that, in accordance with the Class EA process, it completed and filed an Environmental Study Report in March 1999 with the Ministry of the Environment in relation to the upgrading of the existing 115 kV line from Vanessa Junction to Norfolk TS.

29 Hydro One further submitted that, for due diligence purposes, it has completed an environmental screening which included updating of existing data bases and a field visit. The screening report was provided to the Ministry of the Environment on January 8, 2008 and there have been no concerns expressed by the Ministry.

30 The Board accepts Hydro One's submission that it has fulfilled the requirements of the [Ontario Environmental Assessment Act](#) for the Project.

### ***3.6 Land Matters***

31 Hydro One submitted that it will be using its existing land rights along the corridor from Vanessa Junction to Norfolk TS, and no additional land rights are expected to be required. Temporary access rights may be required.

32 Hydro One also submitted that it provided landowner intervenors Allan and Carol Skoblenick, who own a farm through which the transmission line passes, with a copy of the application and evidence for this case and that no further inquiries have been received from the Skoblenicks.

33 Hydro One further submitted that its Property Agent, as a representative of Hydro One, will, as part of the owner contact program, advise affected landowners of the construction timing and advise them to call the Property Agent if they have any questions concerning the Project.

34 Furthermore, Hydro One submitted that it will make every attempt to minimize any damage to the property of landowners and will fully compensate landowners if damage does occur.

35 The Board is satisfied that Hydro One has appropriately addressed the land-related matters.

### ***3.7 Aboriginal Peoples Consultations***

36 Hydro One submitted that it identified the following five Aboriginal groups that may be affected by the Project: the Six Nations of the Grand River; the Mississaugas of the New Credit River Nation; the Chippewas of the Thames Nation; the Oneida Nation of the Thames; and the Munsee-Delaware Nation.

37 Hydro One has contacted in writing the five Aboriginal groups that may be potentially affected or have an interest in the Project. The letters to the first four groups were sent on January 31, 2008 and the letter to the last group was sent on May 30, 2008.

38 The Six Nations of the Grand River ("Six Nations") responded by a letter dated May 20, 2008. The letter mentions their treaty rights with the Province of Ontario but adds no specific comments with respect to the Project.

39 Hydro One submitted that there was no response from the other four Aboriginal groups and, during May and June 2008, Hydro One made follow-up calls with them. In all cases the Chiefs were not available and detailed messages were left but no responses have been received to date.

40 The Board accepts Hydro One's evidence that it has taken appropriate steps with respect to Aboriginal Peoples consultations and concludes that the steps taken are in line with existing Board guidelines for such consultations.

## **4.0 Conclusion**

41 Based on the evidence provided and the above findings, the Board has determined that the Project is in the public interest and that, in accordance with Section 96(1) of the Act, an order granting leave to construct the Project should be made.

42 *THE BOARD THEREFORE ORDERS THAT:*

43 Hydro One Networks Inc. is granted leave to construct facilities associated with the Vanessa to Norfolk Transmission Reinforcement Project which include:

- replacing the existing conductors with higher capacity conductors;
- installing a new set of conductors to establish a second 115 kV circuit on the existing structures; and
- constructing a short line tap to connect Bloomsburg Municipal Transformer Station to the 115 kV line.

44 This approval is subject to the Conditions of Approval set forth in Appendix A to this Order.

## **APPENDIX A**

*TO BOARD DECISION AND ORDER  
IN THE MATTER OF EB-2008-0023  
DATED AUGUST 14, 2008  
CONDITIONS OF APPROVAL  
CONDITIONS OF APPROVAL  
EB-2008-0023  
HYDRO ONE NETWORKS INC.  
VANESSA - NORFOLK TRANSMISSION REINFORCEMENT PROJECT*

## 1.0 General Requirements

1.1 Hydro One Networks Inc. ("Hydro One") shall construct the facilities and restore the land in accordance with its application, evidence and undertakings, except as modified by this Order and these Conditions of Approval.

1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2009, unless construction has commenced prior to that date.

1.3 Except as modified by this Order, Hydro one shall implement all the recommendations of the Environmental Study Report that has been prepared for the Project.

1.4 Hydro One shall satisfy the Independent Electricity System Operator ("IESO") requirements and recommendations as reflected in the System Impact Assessment documents dated November 12, 2002, and January 18, 2008 and such further and other conditions which may be imposed by the IESO.

1.5 Hydro One shall, prior to the start of construction, carry out a Customer Impact Assessment ("CIA") in accordance with Section 6.4 of the Transmission System Code and Section 2.4 of Hydro One's Transmission Connection Procedures. Hydro One shall address any requirements identified in the System Impact Assessment in accordance with the process set out in the Transmission System Code and Hydro One's Transmission Connection Procedures. Hydro One shall send a copy of the CIA report to the Board's designated representative immediately upon completion of the report.

1.6 Hydro One shall advise the Board's designated representative of any proposed material change in the Project, including but not limited to changes in: the proposed route; construction techniques; construction schedule; restoration procedures; or any other impacts of construction. Hydro One shall not make a material change without prior approval of the Board or its designated representative. In the event of an emergency the Board shall be informed immediately after the fact.

1.7 Hydro One shall obtain all necessary approvals, permits, licences, certificates and easement rights required to construct, operate and maintain the Project and shall provide copies of all such written approvals, permits, licences and certificates upon the Board's request.

## 2.0 Project and Communications Requirements

2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Facilities.

2.2 Hydro One shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfillment of the Conditions of Approval on the construction site. Hydro One shall provide a copy of the Order and Conditions of Approval to the project engineer within ten (10) days of the Board's Order being issued

2.3 Hydro One shall give the Board's designated representative ten (10) days written notice in advance of the commencement of construction.

2.4 Hydro One shall furnish the Board's designated representative with all reasonable assistance needed to ascertain whether the work is being or has been performed in accordance with the Board's Order.

2.5 Hydro One shall develop, as soon as possible and prior to start of construction, a detailed construction plan. The detailed construction plan shall cover all activities and associated outages and also include proposed outage management plans. These plans should be discussed with affected transmission customers before being finalized. Upon completion of the detailed plans, Hydro One shall provide five (5) copies to the Board's designated representative.

2.6 Hydro One shall furnish the Board's designated representative with five (5) copies of written confirmation of the completion of construction. This written confirmation shall be provided within one month of the completion of construction.

### 3.0 Monitoring and Reporting Requirements

3.1 Both during and after construction, Hydro One shall monitor the impacts of construction, and shall file five (5) copies of a monitoring report with the Board within fifteen months of the completion of construction. Hydro One shall attach to the monitoring report a log of all complaints related to construction that have been received. The log shall record the person making the complaint, the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.

3.2 The monitoring report shall confirm Hydro One's adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction and the condition of the rehabilitated land and the effectiveness of the mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained. Within fifteen (15) months of the completion of construction, Hydro One shall file with the Board a written Post Construction Financial Report. The report shall indicate the actual capital costs of the Project with a detailed explanation of all cost components and shall explain all significant variances from the estimates filed with the Board.

### 4.0 Environmental Assessment Act Requirements

4.1 Hydro One shall comply with any and all requirements of the Environmental Assessment Act relevant to this application.

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, Sched. B, as amended (the “**Act**”);

**AND IN THE MATTER OF** an Application by Hydro One Networks Inc. (“**HONI**”) pursuant to Sections 92 and 97 of the Act

**AND IN THE MATTER OF** Ontario Energy Board Proceeding EB 2022-0140  
Procedural Order No. 4 dated September 27, 2022

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***ONTARIO ENERGY BOARD***

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**BOOK OF AUTHORITIES OF THE ROSS FIRM GROUP OF LANDOWNERS  
SUBMISSIONS ON THE APPLICATION**

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**OCTOBER 6, 2022**

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