

Third Session – Forty-Second Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Jon Reyes
Constituency of Waverley

Vol. LXXV No. 5 - 6 p.m., Monday, April 12, 2021

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Monday, April 12, 2021

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Jon Reyes (Waverley)

**VICE-CHAIRPERSON – Mr. Ian Wishart
(Portage la Prairie)**

ATTENDANCE – 6 QUORUM – 4

Members of the Committee present:

Hon. Mr. Fielding, Hon. Mrs. Guillemard

Messrs. Lindsey, Reyes, Wasyliw, Wishart

APPEARING:

Mr. Dougald Lamont, MLA for St. Boniface

PUBLIC PRESENTERS:

Bill 8 – The Pension Benefits Amendment Act

Mr. Kevin Rebeck, Manitoba Federation of Labour

Mr. Romeo Ignacio, Amalgamated Transit Union, Local 1505

Ms. Michelle Gawronsky, Manitoba Government and General Employees' Union

Mr. Don Mackinnon, private citizen

Mr. Martin McInnis, Co-operative Superannuation Society Pension Plan

Mr. Robert Moroz, Manitoba Association of Health Care Professionals

Mr. Jeff Traeger, United Food and Commercial Workers, Local 832

Mr. Mike Sutherland, Manitoba Nurses Union

Mr. Matt McLean, Canadian Union of Public Employees

Mr. Paul McKie, Unifor

Bill 11 – The Workplace Safety and Health Amendment Act

Mr. Kevin Rebeck, Manitoba Federation of Labour

Mr. Romeo Ignacio, Amalgamated Transit Union, Local 1505

Ms. Michelle Gawronsky, Manitoba Government and General Employees' Union

Mr. Robert Moroz, Manitoba Association of Health Care Professionals

Mr. Mike Sutherland, Manitoba Nurses Union
Mr. Stephen Terichow Parrott, Canadian Union of Public Employees, Manitoba

Bill 18 – The Workers Compensation Amendment Act

Mr. Kevin Rebeck, Manitoba Federation of Labour

Mr. Romeo Ignacio, Amalgamated Transit Union, Local 1505

Ms. Michelle Gawronsky, Manitoba Government and General Employees' Union

Mr. Curt Martel, private citizen

Mr. Robert Moroz, Manitoba Association of Health Care Professionals

Mr. Mike Sutherland, Manitoba Nurses Union

Mr. Phil Kraychuk, private citizen

WRITTEN SUBMISSIONS:

Bill 8 – The Pension Benefits Amendment Act

Margaret Myles, private citizen

MATTERS UNDER CONSIDERATION:

Bill 8 – The Pension Benefits Amendment Act

Bill 11 – The Workplace Safety and Health Amendment Act

Bill 18 – The Workers Compensation Amendment Act

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Mr. Chairperson: Good evening. Will the Standing Committee on Legislative Affairs please come to order.

Our first item of business is the election of a Vice-Chairperson.

Are there any nominations for this position?

Hon. Sarah Guillemard (Minister of Conservation and Climate): I nominate Mr. Wishart.

Mr. Chairperson: Mr. Wishart has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Wishart is elected Vice-Chairperson.

This meeting has been called to consider the following bills: Bill 8, The Pension Benefits Amendment Act; Bill 11, The Workplace Safety and Health Amendment Act; Bill 18, The Workers Compensation Amendment Act.

I would like to inform all in attendance of the provisions in our rules regarding the hour of adjournment.

A standing committee to consider a bill must not sit past midnight to hear public presentations or to consider clause by clause of a bill, except by unanimous consent of the committee.

A written submission for the following person has been received and distributed to committee members: Margaret Myles, private citizen.

Does the committee agree to have this document appear in the Hansard transcript of this meeting?
[Agreed]

Prior to proceeding with public presentations, I would like to advise members of the public regarding the process for speaking in a committee. In accordance with our rules, a time limit of 10 minutes has been allotted for presentations, with another five minutes allowed for questions from committee members.

If a presenter is not in attendance when their name is called they will be dropped to the bottom of the list, including the other two bills if they're presenting at each—for each bill. If the presenter is not in attendance when their name is called a second time, they will be removed from the presenters' list.

The proceedings of our meetings are recorded in order to provide a verbatim transcript. Each time someone wishes to speak, whether it is an MLA or a presenter, I first have to say the person's name. This is the signal for the Hansard recorder to turn the mics on and off.

Also, if any presenter has any written materials for distribution of the committee, please send the file by email to the moderator who will distribute it all to the committee members.

Thank you for your patience. We will now proceed with public presentations.

Bill 8—The Pension Benefits Amendment Act

Mr. Chairperson: I will now call upon Kevin Rebeck from the Manitoba Federation of Labour, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Kevin Rebeck (Manitoba Federation of Labour): Good evening. Hello.

Mr. Chairperson: Yes, hello. Good evening, Mr. Rebeck. Please proceed with your presentation.

Mr. Rebeck: Thank you. Can I just have clarity which bill is first? I had a different list in the email than I see on the screen.

Mr. Chairperson: Mr. Rebeck, it is Bill 8.

Mr. Rebeck: Bill 8, there we go. Great, thank you.

I'm Kevin Rebeck, president for the Manitoba Federation of Labour. The Manitoba Federation of Labour is Manitoba's central labour body, representing the interests of more than 100,000 unionized workers.

Every worker has the right to live in dignity after they retire from working life, and Canada's pension system is set up to combine workplace pension plans with the Canada Pension Plan, Old Age Security and Guaranteed Income Supplement in supporting Canadians after they've retired from working life. Together, this system has made a profound impact on lowering senior poverty rates in Canada.

The labour movement has always fought for expanded retirement supports like the CPP, as well, to protect and extend workplace pension plans.

We believe that the government should be pursuing three overarching goals in securing greater retirement stability for working families: No. 1, they should protect existing workplace pension plans in both the public and private sectors, and ensure any legislative changes do not allow employers to convert existing pension plans to weaker ones; No. 2, should enhance retirement security by extending strong pension plans to more Manitoban workers; and No. 3, we should ensure that Manitoban—advocates for national approaches to strengthening retirement security for all workers.

Working families in Manitoba are increasingly worried about making ends meet and saving enough to live a good life when they retire from their working lives. We also know that without robust retirement security options, retired workers are often forced to rely on social supports like the GIS, which increases the costs borne by government. At a time of rising economic inequality and worries about the future,

government should be doing what they can to increase retirement stability and security for working families.

This bill follows the rerelease of the Pension Commission report over three years ago, a review that raised a number of very troubling proposals. We're pleased to see that this government has listened somewhat to the labour movement and chosen not to pursue some of the report's most extreme recommendations to weaken retirement security for Manitoban workers contained in that report.

For instance, we're glad to see that the government has dropped the idea floated in the pension committee's review of allowing for the conversion of strong, defined benefit pension plans to weaker targeted benefit plans.

We're also encouraged to see that the government is not pursuing the idea of ending universal participation in workplace pension plans. I'm also glad that the earlier proposed changes to reduce planned solvency requirements to 85 per cent from 100 have been removed. This would have been the wrong approach, and we're firmly opposed to an across-the-board reduction in solvency requirements.

Weakening solvency requirements could open the floodgates to allowing pension plans to run chronic deficits, putting current and future pension incomes at great risk. We hope the new rules creating a solvency reserve account will provide greater supports to pension plans to ensure workers' deferred wages are there for them at retirement.

We are, however, concerned that this bill creates greater ability for workers to unlock their retirement savings in whole and in part prior to their retirement. As a rule, workers are almost always financially better off if they leave their retirement income locked in until retirement.

This is especially true with respect to pension benefits. Unlocking retirement funds can be very risky for individual plan members, leaving workers exposed to inadequate—or even poverty-level—retirement income in their later years.

But we certainly acknowledge that there may be specific cases of severe financial hardship which could warrant some unlocking of retirement savings. The risks associated with depleting one's retirement income prematurely and the required investment and financial planning knowledge required to mitigate such losses would likely not be available to the average person should they choose to unlock their pension.

We recommend the government act to educate working people about the financial advantages of leaving retirement funds in place for retirement and only permit unlocking of retirement funds in cases of extreme financial hardship.

There are a number of excellent financial literacy organizations here in Manitoba who could assist on developing resources, including SEED Winnipeg and community financial counselling services.

Making it easier for workers to unlock these funds raises the likelihood their retirement income may not be—extend as planned through retirement. We have concerns that the government's motivation for the expansion of unlocking is rooted in freeing up a larger portion of secure pension funds for access by the private investing industry and shifting financial liabilities away from government and employers.

The MFL is unequivocal. The changes to unlocking provisions meet a high threshold for determining the existence of financial hardship, and that labour including worker representatives with pension expertise be engaged to define what constitutes financial hardship to ensure that their rules are in the best interests of workers.

In the exceptional circumstances when unlocking is to be permitted, we urge government to provide a clear path for workers to be able to buy back any lost time and requalify for future benefits.

Governments should consider a low cap on unlocked funds so as to help ensure that workers are not sabotaged for the future, but this bill goes beyond just allowing greater flexibility for workers to unlock retirement savings in case of financial hardship. In fact, it allows workers to unlock 100 per cent of their pension savings at the age of 65, a provision that carries extreme financial risk.

Allowing workers to withdraw 100 per cent of the funds and placing them in a private savings vehicle, the government's putting people at risk of losing significant amounts of their savings in the case of market decline or recession at a time in their life when they're unlikely to have the ability to recover from a major financial loss.

There's also the elephant in the room: that Canadians pay the highest mutual fund fees in the world, and moving one's retirement savings to private savings funds means exposing more of the money earned by working people to these fees.

In fact, according to research by pension expert Hugh Mackenzie, if you consider the accumulation of a typically balanced investment portfolio—60 per cent equities, 40 per cent fixed income—over a working lifetime invested in a typical Canadian mutual fund, you'll see roughly 45 per cent of the retirement savings invested ends up in the hands of mutual fund managers rather than in the hands of the original saver.

Compared with keeping your money in a workplace pension plan, I don't think anyone could justify that it's a good deal for workers to pay nearly half of your savings to a mutual fund manager.

Finally, I want to raise an issue which could impact many Manitobans as this bill currently stands. Employment and Income Assistance advocates are concerned: with making it easier to unlock pension benefits, particularly for those experiencing severe financial hardship, could lead to EIA offices encouraging workers to unlock their pension plans before qualifying for EIA on the grounds that EIA is intended to be a benefit of last resort.

* (18:10)

We're concerned the proposed rules around loosening unlocking provisions will encourage the consideration of retirement savings as potential disposable income to be exhausted prior to EIA eligibility. We assume this isn't the intent of the unlocking changes proposed in the bill, but we've raised this as a potential issue that could impact people seeking EIA with Department of Finance officials.

We'd be happy to work with the ministers of Finance and Families (Ms. Squires) on a solution. This would likely involve some formal change to the EIA regulations to specifically exempt pension benefits in the calculation of an applicant's financial resources.

I want to thank the labour movement in Manitoba for strongly opposing the troubling aspects of the Pension Commission report, and I want to acknowledge this government for listening to some of labour's concerns.

That being said, the bill still needs some improvement in order to ensure a stronger pension plan system for Manitoba workers when they enter their well-earned retirements. And to ensure I understand government's intent with this bill, I'd end—like to end with a question for clarity.

I spoke earlier, thanking the government for abandoning the solvency requirement changes. I didn't read it in the bill. Government said, in a news release from November 27th, 2019, that it intends to relax the solvency funding rules for a defined benefit pension plan. Currently, these rules are funded on the basis that 100 per cent of the funds are available to cover obligations of a defined benefit pension plan should a plan terminate and the employer be required to pay out member's benefits.

The news release states that it was government's intent to change the funding requirement to 85 per cent. As I know this bill's been reintroduced since that time, is it still government's intent to reduce solvency requirements from 100 per cent to 85 per cent? We certainly hope not.

I'll end there. Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Scott Fielding (Minister of Finance): Thank you, Kevin, for your presentation, and I do appreciate meeting with you on this. Although we probably differ, in terms of the unlocking piece, really what our intent to do—just to unpack a few things you mentioned, was the unlocking piece. Of course, you can do that 50 per cent right now under the current legislation.

The financial hardship piece, it's something that most jurisdictions have done, and so that's, of course, you know, someone's got, let's say, health issues or maybe their kid or child needs to go to the States or something for some medical conditions or whatever it is, or you're kind of behind in your rent or your mortgage. So you're able to unlock some of the—your pension, essentially, to deal with those important issues.

So, you know, this is something that I get calls on quite a bit from the minister's office, just people looking to unlock some of their savings. You know, I think we're probably going to disagree. I generally think, for the most part, it is, you know, it is a worker's money, and so they can make their own choices.

You know, a little bit different from Saskatchewan, where they're allowing, I think after 55, 100 per cent of their pension to be unlocked. Now that doesn't force them to do that. They can keep it in some sort of, you know, fund or they can move it to

some other vehicle to have savings or they can use it whichever way they would like.

So, again, there's three ways to do it: unlocking under kind of a severe, you know, any—some sort of circumstances that are there; No. 2 is the 50 per cent parameter that's already in place in the legislation; No. 3, at 65 you're able to unlock that.

Also, just in terms of the education, I do want to thank you for the letter you sent me, in terms of the education. I think you're right. It is important to educate people on these types of things.

Those are kind of some of the comments.

Are you just—and just a question, so in regards to the solvency piece, so, like, are you confusing maybe the temporary relief we announced by suspending the solvency test temporary or what are you referring to?

There isn't any changes from this, in terms of the 85 per cent. That is based on what other provinces have done. Ontario, for instance, moved in that general direction. I think Quebec has 75 per cent. Nova Scotia, I believe, is moving in that direction and the other few of the provinces are looking at it.

Essentially, it's kind of a best practice in pensions, I guess I would suggest and, you know, if you are able to move to the solvency piece, what it probably prevents is people moving their pensions from a defined benefit to defined contribution.

So, I guess that's maybe some points I would make in respect to all of those.

Mr. Rebeck: Yes, no, I think I'm hearing a mixed message there that I'm not clear on.

My question was: in a news release it talked about moving from 100 per cent to 85 per cent. I think you're saying that is the intent. I don't see that written in the bill, so I assumed we were leaving it at 100 per cent funding. I hope that's the case and that we aren't moving to 85 per cent, but I think I hear you saying that the intent is to move to 85 per cent solvency funding.

Mr. Tom Lindsey (Flin Flon): Thank you for coming out and presenting yet again, Mr. Rebeck. It's good to see you.

So can you just give us a little more insight into what you see the problem being, going from 100 per cent solvency down to 85 per cent solvency?

Mr. Rebeck: Yes. My worry is that when a company goes bankrupt, like Sears, that workers don't get paid

their deferred wages. Pension plans are workers' deferred wages; it's money that they've earned, that they've put away, that's being held in trust and to be there for when they retire. And when we aren't funding things at 100 per cent solvency rate and things go bad, workers are the losers in that scenario.

So we think it's important to keep it at 100 per cent solvency, that there may be situations where an exception may need to be made, and that should be with the support of plan members being part of that call for government relief to give a variance. But an across-the-board blanket rule giving that variance is problematic because it puts workers' retirement security at risk.

Mr. Lindsey: Thank you for that, Kevin.

I guess the other question I have is by the government deciding to change the solvency rate, and yet the minister says it's the workers' money, and yet by changing that solvency requirement, he's allowing employers to take a break at the workers' expense that, if a place goes bankrupt, like you said, with Sears, there isn't money in the pension plan and then along with other changes that they proposed here, it's all about weakening the collective power of that pension plan, which will leave all workers worse off.

Is that kind of a fair statement?

Mr. Rebeck: Yes. I think that's a fair statement. I think when you've released solvency rules, you're really giving an employer a free access to a loan of employers' money, and in the event that things go wrong or bankruptcy occurs, they don't have to pay that back and they've used workers' money to finance things.

There have been times when employers—

Mr. Chairperson: Thank you, Mr. Rebeck. The time for questions is over.

Mr. Rebeck: Thank you.

Mr. Chairperson: You're welcome.

I will now call on Romeo Ignacio, Amalgamated Transit Union, Local 1505.

Mr. Ignacio, please unmute yourself and turn your video on.

Mr. Ignacio, please proceed with your presentation.

Mr. Romeo Ignacio (Amalgamated Transit Union, Local 1505): Thank you, Mr. Chair. Thank you, everyone.

Good evening. This is Romeo Ignacio. I'm the president of the Amalgamated Transit Union, Local 1505. As far as the presentation for Bill 8, I don't have a lengthy presentation. I understand there's a lot of delegates and I, you know, I appreciate that you have given me the opportunity to speak today.

I do have to—hearing Mr. Rebeck, I do have to speak regarding the solvency as well. I believe 100 per cent solvency should be the goal of any pension just because, you know, our—any member who was on [*inaudible*] pension deserves that, and I believe, you know, when you retire you shouldn't be having to worry about what's going to happen when you're too old to work.

I think—I know not everyone has a pension—has any pension, for that matter—but those who have contributed to any kind of pension, whether it's the City or the Province, or even private pensions, there has to be a perfection because this is, you know, this is where—what retired people depend on.

I know I've dealt with some retirees who, you know, took early retirement benefits and now have to deal with repaying it. There's a provision about not just advance and recovery benefit, and for somebody who was retired and have to deal with pretty much fixed income, it's very difficult.

* (18:20)

And so we don't want to be finding anybody having to worry about that, what they're going to do when they do retire and have this issue about solvency.

Also, we support—as a union, we definitely support a strong pension, and it should be extended to other private sectors as well.

As you may know, we do have a new bargaining unit; it's a private contractor, under the Winnipeg Transit Plus department. And it's unfortunate that they don't come with their own pension, being a private contractor. However, they are providing service to the City, and, you know, when they get to a point where they can no longer work—and obviously, for bus operators and any employee or contractor, for that matter, that works in the transportation business, it's very difficult. There's a lot of things—there's a lot of factors that could affect your employment, particularly old age. And so you don't want to be seeing our members work beyond 60 or 65 when they're, you know, not in their peak of physical, you know, abilities. And so a strong pension should be—is definitely necessary in order to protect them from

losing—from having to worry about their retirement and, you know, what they're going to be doing if they ever reach a point where they can no longer operate the vehicle.

And so I would advocate for a strong education and any program to support providing a pension, whether it's private contractors or private companies or public. And, you know, to me, it's a win-win situation for everyone. It just gives everyone, you know, those who have retired, who have provided their service to the City or to the Province, the ability to actually enjoy life and, you know, contribute back to the province.

That is all, and I'm available for any questions.

Thank you, Mr. Chair.

Mr. Chairperson: Thank you for your presentations.

Do members of the committee have questions for the presenter?

Mr. Fielding: No. Thank you very much for your presentation. Appreciate your time here tonight, and I understand you're speaking a few other bills, so we'll wait for the other bills to come as well. Thank you.

Mr. Lindsey: Thank you for your presentation here tonight. And pensions are something that's so important.

Do you think that now would be the right time to start loosening the requirements that keep pensions locked in? People are obviously suffering in a lot of cases with COVID, the downturn in jobs and all the rest of that. But would you say that allowing people to unlock their pension now may help them very short term, but down the road, it's going to leave them worse off?

Mr. Ignacio: Yes, well, thank you for the question, Mr. Lindsey. Yes, I actually wanted to speak on that as well. And it is unfortunate that we have some members within our union that have relied on that, but it is our position that we shouldn't have to go there because the pension is to protect our members in the future, and we don't want to be taking the risk in taking the money that's available to invest it somewhere or even, you know, use it, because that defeats the purpose of a pension. It's a protection for your future.

So I would also advocate for education, not just for those plan members, our plan members, but for all plan members because at the end of the day, this is a protection for their future.

Mr. Lindsey: Well, thank you for that.

And would you agree that maybe it'd be a better thing for the government—particularly now with jobs the way they are, precarious due to COVID—would we be further ahead for the government to institute some other programs that may financially help people either make the rent or the mortgage payment or keep themselves active as opposed to selling off their future, getting rid of their pension? Would there be a better way of helping working people right now?

Mr. Ignacio: Thank you for that question.

Yes, definitely, I would support something like that. I believe there's a lot of reasons, definitely. There's probably some exceptions to the rule as well, but it's important that we try and provide options for plan members to take rather than depend on that pension, because once you take it, you know, you put your future at risk.

Mr. Chairperson: Are there any other questions from the floor?

Mr. Fielding: Thanks, going to ask one more question—I think I'm allowed through the rules, right? To ask another question?

Just want to—just maybe it's a—are you aware—just we, as a government, we did—to your comment about providing some other supports—not sure if you're aware that we, in our recent budget, just introduced rent control. So that's going to be something that will save residents—depending on what you look at it—about 1.7 per cent is generally for the most part what it has gone up over the last number of years. So there is some dollars and cents where people would be saving.

Not sure if you're aware too that we also introduced during the pandemic support programs for individuals. There's actually about 360,000 individuals that got some sort of direct—kind of direct support—some being the Risk Recognition Program—not sure if some of your members were a part of that, depending on what income level you were but there was upwards of about just 79,000 people that got some sort of support; it's about \$1,500. There's about 235,000 seniors that got a \$200 cheque for some senior support, as well as the disabled community; you got a \$200 cheque from the government. And then, I guess, on a final point there was also a subsidy program that was similar to the risk recognition for people maybe that were lower-income that were working in personal-care homes that got a top-up on

their salary; I think it was about a \$5 top-up that ended up being about \$1,000.

So, just a question: Are you aware that 360,000 Manitobans of the 1.1 million people above the age of 15 got some sort of direct supports beyond kind of the tax relief measures, the 2020 tax relief that we provided as well as the education's tax reductions upwards of 50 per cent would be part of it. So just want to know if you're aware of that?

Mr. Chairperson: Mr. Ignacio, very quickly, because your time has—is running out.

Mr. Ignacio: Thank you, Mr. Chair. Thank you, Mister—Honourable Mr. Fielding.

Yes, I am aware of that and some of the items there about the budget, we're still reviewing that. I do appreciate the heroes appreciation, or—forgot the term there—but we have some members who actually benefited from that, not all our members.

However, we're talking about the future here. I think it's important that we take care of the future, not just for the current year or the next couple years or even within—during the pandemic. So I'm more concerned about the future of those who have provided services to the government.

Mr. Chairperson: Thank you, Mr. Ignacio, for your presentation. The time for questions is over.

I will now call on Michelle Gawronsky, president of Manitoba Government and General Employees' Union. I'd ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Floor Comment: I can do that. Good evening, everyone.

Mr. Chairperson: Ms. Gawronsky, go ahead with your presentation.

Ms. Michelle Gawronsky (Manitoba Government and General Employees' Union): Thank you, Mr. Chairman, and good evening, honourable members.

The Manitoba Government and General Employees' Union represents over 32,000 working Manitobans. The MGEU members live and work throughout Manitoba in a wide variety of workplaces, including members employed directly by the Province of Manitoba, Crown corporations, universities and colleges, health-care facilities, social-service agencies, and arts and culture organizations, to

name a few. The majority of MGEU members are contributors to defined benefit pension plans such as the Civil Service Superannuation Fund, Healthcare Employees' Pension Plan, the Winnipeg Civic Employees' Benefits Plan and the Community Agencies Benefit Plan; while others are members of the defined contribution pension plans, such as home-care pension plan and group RRSP programs.

* (18:30)

Several years ago, the government released a report on pensions posing significant changes to pension regulation provisions in Manitoba. The anxiety that this caused our members—Manitobans—was serious, and the sheer number of members who became engaged in the issue was astounding.

The continued stability of pensions plans and the importance of secure retirement are extremely important to MGEU members. That's why the potential for any changes to provincial pension legislation and regulation currently being considered are met with concern from our membership.

We believe members and retirees who have worked hard, dedicated their lives to public service and invested their own monies—pensions for many years deserve a secure retirement. This is why I will repeat again: we oppose any move away from defined benefit pension plans which enable damaging changes to occur. We occur—we oppose any changes that could weaken the pensions that members have worked so hard for.

We are seeing a growing trend in defined benefit pensions converting to defined contribution or hybrid models which jeopardize many of the positives that defined benefit plans provide to employees, communities and the economy.

Studies have shown that defined benefit pension plans, like the civil service superannuation plan, play a significant role in powering economies, supporting growth and creating confident consumers whose spending is vital to the health of our economies.

Defined benefit pension recipients are less reliant upon federal and provincial supplementary benefits such as the Guaranteed Income Supplement and Manitoba 55 PLUS. Defined benefit pension plans are less costly to manage than the defined contribution or the hybrid pension plans such as target benefits and shared risk plans.

Secure and predictable pensions provided by defined benefit pension plans are even more important

for women who tend have a longer life expectancy and are more likely to have gaps in their earnings due to leave of absence from the workplace such as maternity, parental leave and for raising children.

One of the proposals in this bill presses the expansion of conditions permitting workers to unlock their pension benefits. Workers are generally better off if they leave their retirement income locked in until retirement, including those who participate in a defined contribution pension plan.

This is especially true with respect to the defined benefit pension plans. Unlocking retirement funds can be a risky venture, with statistics over the years identifying that a predominant number of workers who withdraw their funds at or prior to retirement and without significant financial expertise are exposed to inadequate retirement income in their later years.

Defined benefit pension plans reduce the investment and longevity risk on behalf of members, allowing for a greater likelihood of income stability throughout retirement.

Easing unlocking restriction for pension plans without careful consideration and alignment with the plan's benefit objectives and funding model can serve to erode the very stability that it was intended to provide to workers. This is certainly true when regulations permit large groups of members to remove their commuted values without due consideration of the individual and plan risks in doing so.

We are unequivocal that any changes to unlocking provisions would have to meet a high threshold for determining the existence of financial hardship. Should amendments to the regulations be contemplated, it is essential that workers and labour have a meaningful role in defining financial hardship within the scope of unlocking pension funds.

While we were relieved that the most severe changes proposed in the pension review have not been adopted in this legislation, we disagree with any changes that could directly or indirectly weaken the pension that our members and the public have worked hard for and have planned for their retirement.

The Premier (Mr. Pallister) made a commitment that he would not make any changes to public pension plans in Manitoba, and we expect this government to keep this commitment to MGEU members.

These Manitobans who have dedicated their lives to public service and have deferred their wages deserve to retire with dignity. A defined benefit plan

is the most stable and secure pension system that must be maintained to ensure benefits into the future. Now, more than ever, when there is so much instability in the world, we need retirees to have a stable and secure income when they leave working life. They deserve to retire with respect and dignity.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members and committee have questions for the presenter?

Mr. Fielding: Thank you, Michelle. Appreciate your call, and I'm guided towards this camera now. I understand I was looking at the wrong camera, the virtual settings here.

And so just, you know, I mean, just further to your point, Michelle, thank you for the comments. I appreciate that. But, you know, to be fair, that is why we established an expert panel on the commission, right, and—to address this.

Just unpack a little bit more what you're talking about, the financial hardship. So, access to locked-in pension funds due to financial hardship will be permitted. The conditions for a financial hardship unlock can be eviction for rent arrears; foreclosure; medical, dental expenses not covered by other insurance government programs. And also an individual will be entitled to withdraw the amount of unpaid rent for mortgage payments in arrears and for things like prescription drugs and dental, that sorts.

The amount is based on prescription drug receipts, invoices on estimates of medical and dental treatment, estimates—invoices of estimates for renovations, for alterations, for an individual's main home due to medical reasons; so, let's say you've got to have your home changed. And you're able to do that once a year.

So, it is—in fact, it is exactly the same parameters that the federal government has and most of the provinces with that being put in place. I think there's enough, what I guess I would say, safeguards in place to make sure people aren't using it for other purposes that could lead to hardship later on down the line. It's—if you've got a medical issue or what have you, you provide the receipts. And I get a lot of calls from my office. I can be honest with you. This is the—probably the No. 1 issue with the pensions that I get, that people can't access—they need something for some particular reason.

So, you know, just my comments. I want to thank you for your presentation. And I'll turn it back to you, Mr. Chair.

Ms. Gawronsky: Minister, with all due respect, when folks are retired or just before they're going to retire or if people are having dental problems or they're having problems with housing, I don't believe that their retirement funds should be what is used to make sure that these Manitobans feel secure living in Manitoba. I think there's got to be another way to make sure that these Manitobans are looked after without them having to take away from their actually hard-earned retirement packages.

I'd be very fearful that everything I've worked for could be gone because I have to renovate my house because I've had a stroke. I'm really hoping that this government would actually step up to help out any Manitoban that needs the help. There's many different avenues that they can go down. Unlocking and taking money out of their pensions is not the best way for them or for the pension plans or for anyone else in the future.

Mr. Lindsey: Thank you, Ms. Gawronsky, and, yes, I think you've made some pretty strong points there, that the minister has suggested a whole raft of reasons why somebody could unlock their pension funds, things that perhaps maybe a universal pharmacare program or other programs could alleviate some of those hardships.

People that are living on minimum wage—you know, the government has allowed such miniscule increases in minimum wage that it's really forcing workers into a hard spot to decide that they have to take money out of their pension plan to try and survive today. But it's going to leave them down the road without enough income to look after themselves.

So do you think the extensive list of reasons that the minister read out, is that a strong enough safeguard to make sure that workers' pensions are protected? Or should there be a whole lot shorter list of exemptions and, really, stronger safeguards around making sure that workers aren't taking their pension out to meet obligations now that somehow should have been met under a different set of circumstances?

* (18:40)

Ms. Gawronsky: Thank you, Mr. Lindsey.

Yes, I agree that there needs to be stronger governance overtop of any time that they're going to—you know, for an undue hardship. If they're going to

call it as a hardship then that has to actually meet the standards.

When you have a grocery list that long that people can shop through to start taking money out of their pension, that will just erode the pensions that much quicker.

And if, as elderly—I see enough of them on the streets of Winnipeg now that don't have—that are homeless. We don't need to see any more than that.

What we need to see is exactly what you're saying, a Pharmacare system that actually looks after our seniors. They need to have their retirement income there to make sure that they have the house and they can have the house that they have today, to look after it. To—you know, if they have a stroke and they need to do an addition onto their house, then they lose their house in the end anyway, nothing has done them any good.

So we need to protect those retirement funds that they have paid for through their working lives, and respect these people.

Mr. Chairperson: Thank you for your presentation.

Do members—thank you for your presentation.

We'll now move on to the next presenter. I will now ask Jim Huggard, private citizen, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

I understand that Mr. Jim Huggard is not present, so we'll now move on to the next presenter.

I will now call on Molly McCracken, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

I understand Molly McCracken is not present currently, so we'll drop her to the bottom of the list.

I will call upon Mr. James Spencer, private citizen, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. James Spencer is not present and he'll move to the bottom of the list.

I will now call upon Don Mackinnon, private citizen, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Floor Comment: Hello?

Mr. Chairperson: Mr. Mackinnon, please proceed with your presentation.

Mr. Don Mackinnon (Private Citizen): Thank you very much, Mr. Chairman, honourable ministers and members. I'm a 69-year old retiree with career-specific training, as well as a number of university degrees, including a BA in justice and law enforcement, a BA honours in political science, a juris doctor, and a masters degree in public administration, all of which I obtained in the mid-1980s.

From the age of 18, I've either gone to school or worked without interruption over a long period of time. Most recently I was employed for nine and a half years by the Province of Manitoba as the director of planning at the Emergency Measures Organization. I was laid off in June of 2017.

I've asked to appear before this committee to be—very briefly on Bill 8, and in particular on section 7 of the bill, more specifically 21.3.1(1) which regards—is regards to the withdrawal or transfer of a prescribed plan at or after age 65.

I would like to begin with by applauding the government for introducing amendments to the existing pension legislation. I intend to restrict my presentation of proposed subsections 21.3.1(1) and (2), and only briefly refer to 21.3.2(1).

If passed into law, these amendments will give retirees greater control over the use and management of their money in a prescribed plan or fund, such as a lift—or a LIF, rather. Nevertheless, I respectfully ask that the committee consider some minor changes that may enhance this bill.

Read in conjunction with those parts of the existing act that are not amended or repealed in this bill, both proposed subsections 21.3.1(1) and 21.3.2(1), which addresses the issue of hardship, serve the purpose of giving prescribed plan owners greater control over the use and management of their own money, while still providing for protection of money in a prescribed plan and flexible investment strategies.

However, in the proposed paragraphs 21.3.1 (a) and (b), unlike section 21.3.2(1), appear to limit a retiree 65 years and older to an all-or-nothing choice. In other words, under paragraph (a), the retiree must draw the entire amount out of the prescribed plan. No provision is made to withdraw part of the plan and leave the remainder—or, for the part of it in—the event it is required in the future.

While the withdrawal of the entire balance may be appropriate for some, many retirees would just as soon draw out some portion to meet their short-term needs or pay down a debt and leave the balance in the prescribed plan where it can grow tax-free until it is withdrawn.

And a point I make is that right now, if you don't have any access—in some cases—to six-figures you're in a situation all too often where you may have short-term debts, particularly credit card debt, which is extremely expensive to carry, but it's necessary to use that credit card debt because you don't have access to the LIF. So the result is that your debt, in effect, is compounded when it could easily be eliminated simply by accessing some portion of money under the—in the LIF or in the prescribed plan.

The real problem with the existing legislation is not that a prescribed plan is inherently bad, rather that the limitation on maximum withdrawal is too rigid and often leaves retirees with inaccessible monies while they simultaneously struggle to pay for essentials or pay down high-interest debt such as the credit card debt I mentioned earlier.

This has been a particular problem during COVID where, with the exception of a small amount of money given by the provincial government in Manitoba, most seniors have had to bear the brunt of increased food costs, costs for masks and drugs, etc., etc., without any significant support.

Respectfully, I think the objectives of the bill would be better met by clearly setting out that a retiree need not make an all-or-nothing choice; that a retiree 65 or older may withdraw the balance or part of the balance from a prescribed plan. Therefore, my recommendation with respect to 21.3.1(1) is at the end of the phrase of the balance and add or a part of the balance into that provision. Similarly, in paragraph (b), again the same thing, transfer the balance and add or a part of the balance to clarify that you can leave the monies in a LIF or prescribed plan.

I think, to some extent, that is a nice choice, or at least it gives you a mid-point between no—making no changes, to leave funds locked in forever where they may not be able to be used appropriately by the retiree—and of course each retiree's circumstances are different—versus allowing—or requiring, in fact—that all the monies be taken out at once. Obviously, that creates—in addition to the potential for tax implications—it also creates some other issues.

Some of these are dealt with in 21.3.1(2), but without having seen the proposed regulation—or, pardon me—in (b), rather, where it appears to permanent transfer of the balance to various investment vehicles. But nowhere does it mention leaving part of the balance in the existing prescribed plan.

And some of the other investment vehicles that are mentioned in paragraph two have problems with them. RRSPs particularly have both contribution limitations and age restrictions, and as a result, may not be available to some retirees.

So what I'm recommending, again, is that it be made very clear that the retiree, in taking money in portion out of the plan, is not required to take it all out but can leave some of it in a prescribed plan or LIF.

That concludes what I would like to say to you folks tonight.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you very much for your presentation. You've obviously put some thought into it.

It's unfortunate; I'm sorry to hear that you got laid off. That's never good news.

I guess my question is, recognizing that some people are really good at understanding how to invest and all of that, that taking money from a future pension and investing it for growth might be a good thing. I've seen any number of workers that took money out of a pension and had to go back to work because their investment knowledge wasn't that good.

* (18:50)

Do you really think that at a younger age, in particular, a worker taking that money out to pay immediate bills, to pay for a mortgage, for a house that they probably couldn't afford anyway, does that not weaken their potential future ability to support themselves?

Mr. Mackinnon: Let me put it to you this way. If you had \$100,000 in a bank account and you had control over, and somebody came along and said to you, I'm acting in your best interest; you can't have that \$100,000; we're going to keep it locked in, and we're going to allow you a maximum of \$8,000 a year out of that money, what would you say to them? Would you say, yes, you're looking after my best interests, or would I—or would you say to them, you

know, I really wish you would just leave well enough alone and let me run my affairs the way I see fit.

Mr. Lindsey: Thank you for that.

I guess, for me, I wish I had \$100,000 in a bank account somewhere; I don't, so. And, really, it all depends, I guess, like I said, some people are better equipped to manage their own money. Other people would see this, even at 65, being able to take all the money out of their pension and buy a house or do any number of other things that will leave them potentially unable to support themselves properly in the future.

So, do you not agree that there should be some controls on that? And I think you do because you've already said that it shouldn't be an all or nothing, that there should be the ability to leave some in there, so.

Mr. Mackinnon: Personally, sir, I understand that. I think that LIFs have certain advantages, for example, as an investment vehicle. I would rather not take all of my money out of my LIF, but I certainly would like to have control over the amount of money that I do take out. I consider myself to be—and most people my age are grown-ups; they may not always make good decisions, but since they've lived their lives, they ought to be able to better control their own resources without a stranger from afar telling what they can and can't do because they perceive there to be a greater good.

Mr. Fielding: Thanks, Don, for your presentation. Appreciate it. Well thought out and as well as well documented.

To your point, No. 1, that wasn't presented by the commission. Now, that being said, you can have further decisions being made. I guess that's something that could be considered in regulations. Your point, it's a valid point, right, that amount. It doesn't stop you from putting it in another vehicle, right, for retro savings, you know, anything similar to that. So there is some options if there's ability to look at this in regulations; that's something I guess we could consider.

I do agree with you, right, at the end of the day, you know, if you're 65 years of age and you have means and you like to kind of keep your money or invest it somewhere else, doesn't necessarily mean you're going to spend it elsewhere. At some point, it is your money, and we think that it makes entire sense to have access to it.

So I want to thank you for your presentation, and, you know, we're looking for some flexibility with this, so thank you very much for your presentation.

Mr. Mackinnon: Thank you very much, Mr. Minister.

Mr. Chairperson: Are there any other questions?

Mr. Dougald Lamont (St. Boniface): I appreciate your presentation, especially the idea of a sliding scale.

The one thing I'm interested in is if there were other options—I mean, sometimes I think of this as breaking into a pension as being an option of last resort. If there were better services, like, or if you could get access to debt relief or debt eradication for things like high-interest debt for seniors, would that be something you'd also be interested in? Just, is that something that you'd be interested or that you would think as an alternate to sort of breaking into your pension?

Mr. Mackinnon: Not personally, I wouldn't. I mean, I—there's already various programs for debt relief, including bankruptcy and proposals and whatnot. For most of us, especially at my age, you would think of that as something like a last resort. If we incur an obligation, most of us feel duty bound to pay it if it's at all possible to do it. But I find it particularly frustrating that I have to struggle to pay my rent, buy food and buy medication; while all of this is going on I have \$100,000 sitting in a LIF that I can't touch.

Mr. Chairperson: Thank you for your presentation.

This concludes this presenter.

I will now call on Martin McInnis and ask the moderator to invite them into the meeting.

Mr. McInnis, please proceed with your presentation. *[interjection]* Mr. McInnis, please proceed with your presentation.

Mr. Martin McInnis (Co-operative Superannuation Society Pension Plan): Okay. Thank you.

You can hear me?

Mr. Chairperson: Yes, we can hear you. Please proceed.

Mr. McInnis: Okay. Thank you very much, Mr. Chair and honourable committee members, for the opportunity to present this evening.

I'd also like to extend my thanks to the legislative staff who provided me their assistance in preparing to present this evening.

I represent the Co-operative Superannuation Society Pension Plan, or CSS for short, one of the oldest and largest defined contribution pension plans in Canada. It's been in operation since 1939. We have over \$5 billion in members' assets under management and serve 313 co-operative and credit union employers across Canada and over 51,000 current and past employees. Our pension plan is administered by a not-for-profit pension society.

As of December 31st, 2020, there were over 10,000 active, inactive, and retired employee members in our pension plan whose province of employment is or was Manitoba. And there are over 70 Manitoba co-operative and credit union employers participating in the CSS pension plan. Many of these employers were recently recognized in Manitoba's Top Employers 2021 competition.

CSS is a multi-jurisdiction defined contribution plan. That said, we're in a unique position to offer information and insights to legislators and regulators across Canada to consider when legislation is being updated or amended.

CSS views itself as a partner for legislators and regulators and other stakeholders in the Canadian pension ecosystem. We therefore actively engage in participating in initiatives that can lead to improving the probability of pension plan members achieving financial security in retirement.

An example of this is our response to the Manitoba Department of Finance's consultation paper of January 10th, 2018, with respect to the review of The Pension Benefits Act. Our response to the consultation was written, of course, with our plan—our Manitoba plan members in mind. We have a fiduciary responsibility and relationship with these folks and will therefore always act in their best interests.

However, as I noted earlier, we view ourselves as a partner of the Canadian pension ecosystem. This leads us to speak up when we see opportunities to make changes that would positively affect our own members, but more generally, all defined contribution pension plan members.

And this was our motivation for responding to The Pension Benefits Act consultation in 2018.

The most recent data available from Statistics Canada shows there are approximately 64,000 active

defined contribution pension plan members in Manitoba. So what we're talking about eventually affects a lot more Manitoba citizens than just the 10,000 we happen to serve in our own plan.

Membership in defined contribution plans continues to grow in Canada and in Manitoba, and we continue to see more defined contribution pension plans offering retirement income *[inaudible]* options directly from within the plan, as our plan does.

The amendments of Bill 8, we believe, will lead to more Manitoban defined contribution pension plan members taking advantage of the unlocking provisions, which will lead to the issue we've raised becoming more prevalent.

The issue we raised in our response to the consultation was question 13 in the consultation paper, which asked whether other reforms for the locking-in provisions in the PBA should be considered. In our response we shared our experience working with plan members who funds are governed under Manitoba jurisdiction, as well as other Canadian jurisdictions.

And to summarize our experience, the unlocking provisions in the Manitoba act and regulations are different than other jurisdictions in Canada, and in our view, they lead to unnecessary complexity, significant inconvenience and potential financial harm to defined contribution plan members who wish to avail themselves of the act's unlocking provisions while managing their retirement income from their accumulated pension funds from within the pension plan.

Now, the majority of our members, and I know this to be the case with other defined contribution pension plans in Canada we provide retirement income options—the majority of those members choose to stay with their plan in and draw their retirement income from the plan rather than transferring to a financial institution. And there are several reasons for this.

* (19:00)

The first is the administration and investment management expenses incurred by plan members can be significantly less in the pension plan than what is incurred in the retail financial marketplace. Second, the members are familiar with the plan's investments, and in many cases have a multi-decade relationship established with the plan. And third, the member maintains a fiduciary relationship and all the protections that affords the member with the pension

plan, which is not achievable if they transfer out to a financial institution.

My objective this evening is not to make a plea to modify Bill 8. The original consultation paper asked for comments on whether other reforms to the locking-in provisions of the PBA should be considered. We appreciate that the information that we provided in our response to that question was considered, and we appreciate that the amendments that are included in Bill 8 are substantial, and those who have worked on them should be commended for getting them to this stage. The Pension Benefits Act will be better because of it.

I am here because I believe we missed an opportunity to make a change to the PBA that has the potential to positively impact tens of thousands of Manitoba citizens, now and in the future, who are defined contribution pension plan members.

I appreciate that the act is reviewed every five years, and will be reviewed again in 2023, so my primary objective this evening is to strongly encourage you to consider the unlocking issue in your consultations when the act is next reviewed.

One closing comment: we have not had the luxury of being able to review the draft regulations for The Pension Benefits Act amendments included in Bill 8. But nonetheless, because the issue we've raised relates to the use of prescribed products in the unlocking process, we wonder—assuming there is a desire to resolve this issue as soon as is practical—if the issue we are raising could not effectively be dealt with in the regulations to the act. If considered appropriate and desired, we would be more than happy to participate in any way we can.

Thank you once again for the opportunity to address you this evening.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Just—thank you for taking time out to come and present to us. Certainly, I've heard what you've had to say.

Now, your group that you represent, if I'm not mistaken, is primarily defined contribution pension plans, as opposed to defined benefit.

So, do you think that substantial differences in the two plans where, in the defined benefit plan, if too many people withdraw their funds from that plan, the

plan then can no longer meet the obligations of the defined benefit, whereas with your type of plan there is no real obligation to meet a defined benefit—it merely talks about the amount of money you put in, not the amount of money you get out?

So, would you agree that those two plans are substantially different and this particular bill will make defined benefit plans worse off, not better off?

Mr. McInnis: Thank you for the question.

I'll maybe preface by saying that I'm not an expert in defined benefit plans, only defined contribution, so I don't think I can really speak to the question about the impact on defined benefit plan through member withdrawal.

Mr. Chairperson: Are there any other questions for the floor?

Seeing none, we will now—I will now call on Mr. Robert Moroz, and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

Mr. Moroz, please proceed with your presentation.

Mr. Robert Moroz (Manitoba Association of Health Care Professionals): Well, good evening, and thank you. I'll wait for an indication that I'm not being heard, but I'll assume that I am.

So, I'd like to begin by thanking the committee and the Chair for the opportunity to speak to the significant changes that are being proposed to The Pension Benefits Act, changes that would significantly impact our members and put their retirement security at risk, security that governments, workers and their unions have worked collaboratively over the years to achieve.

By way of introduction, my name is Bob Moroz. I'm president of the Manitoba Association of Health Care Professionals, better known by our acronym of MAHCP.

For over 50 years, MAHCP has been representing allied health professionals in Manitoba's professional, technical and paramedical sector. Today, we represent over 6,500 members in over 190 different classifications, serving Manitobans in hundreds of health-care and social services across the province, including hospitals, labs, in our ambulances, personal-care homes and in the community.

Now I've carefully read over the submission from the Manitoba Federation of Labour regarding

the proposed changes in Bill 8. I can say without hesitation that MAHCP agrees with all the positions laid out in the MFL's excellent, comprehensive submission. And I would like to add our voice in calling for specific improvements to the bill currently before this committee.

I do want to elaborate on some specific points from the perspective of our 6,500 allied health members across this province.

Firstly, I want to emphasize just how important the benefit of this current retirement system is for our members. Anything that puts the solvency of our system at risk or that potentially changes the fundamental nature of the benefit to be received, as this bill does, will be met with profound skepticism and even outright fear by health-care professionals, who are already deeply concerned about a range of issues related to their jobs, including safety, working conditions and so much more.

I also understand that the changes being sold are using high-level terms like flexibility and choice and perhaps even freedom. Now, I can see that some might be swayed by the allure of such high-minded ideals, but I would also agree with the Manitoba Federation of Labour that the reality of these proposed changes is actually much different than the initial sales pitch might be suggesting.

The risk to individuals and to the entire plans themselves being posed by these changes are very, very real. And, again, thankfully the MFL has put forward some very reasonable and workable solutions that might help mitigate those risks.

I'm not going to go into great detail, as you can read them for yourself and you've heard from Mr. Rebeck earlier this evening, as well. But they do include the following points: No. 1, we must keep the solvency requirement for pension plans where it is, at 100 per cent, with some flexibility to address emergent and urgent and momentary needs that some plans may face and any changes subject to approval by plan members. We must work with other provinces and territories and with the federal government to create a Canada-wide mandatory pension insurance program that promises—to ensure that promises, pardon me, to workers are kept.

Then, again, I will reiterate what many have said already this evening. We must eliminate or mitigate provisions that would make it easier for workers to unlock funds intended for retirement, except in extreme financial hardship. The proposed changes

would open up our members to a level of risk that they're not necessarily well equipped to navigate. And it also opens up our retirement funds to financial services industry that would profit off their hard-earned retirement funds, while offering zero guarantees in return, the significant likelihood that many members would be worse off due to these changes and that the plan itself would be put at risk for the rest of us.

When Premier Pallister was asked recently about the biggest challenge his government faced in crafting the recently introduced budget, his answer was simple: uncertainty. Uncertainty is not new due to the pandemic. We have been living it for a very long time, in reality, at the policy level, and it's even more a reality for hard-working health-care professionals who can't count on much these days but sure as heck are accountant—are counting on a secure retirement at the end of all those tough years at the end of a career serving Manitobans.

Why would we introduce yet more uncertainty into their lives at any time, but especially at this particular moment? And yet that's what this bill does.

I will urge you to follow all of the sensible and realistic recommendations put forward by the Manitoba Federation of Labour and others who've spoken tonight to ensure that health-care professionals can count on the secure retirement that they have been promised—and it is a promise.

* (19:10)

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you, Mr. Moroz, for your presentation, and certainly you've brought up some pretty good points.

Would it be fair to say that some of the uncertainty that particularly your members are feeling is things like Bill 28, that's frozen the—your members' wages for how many years, seen lay-offs in the public sector?

Is it not a self-fulfilling prophecy that more people are feeling the need to withdraw money from a pension simply because of the actions of this government in restricting their ability to earn a good living at this point in time?

Mr. Moroz: Well, thank you for that question, Mr. Lindsey.

Yes, there can be no doubt that the members of MAHCP and all health-care workers and all workers across the province have faced unprecedented challenges. We've gone through more than a year now of the pandemic.

You mentioned bill 28. It is absolutely top of mind for so many members who've—we've been without a collective agreement and any changes to our work arrangements and collective agreements for three and four years.

So yes, that's what—exactly what I meant when I talked about the question of uncertainty, the question of, you know, does this government care about how hard it is that our members are working and showing up to work every single day.

We've struggled to see evidence of that over the last year in allied health and then technical professionals without a doubt. And now that we're talking about affecting the pension of those of us who've been on that front line of the pandemic. It's remarkably stressful, an enormous stress on our members at a time where we should be supporting them as opposed to, you know, attacking the pension.

Mr. Lindsey: Thank you for that.

Just—I know your members constitute mainly what your concern is, but let's talk briefly about workers that may be earning minimum-wage-type jobs but maybe do have access to a defined benefit pension.

We heard from a previous presenter, who was a pension expert, but he was a pension expert with defined contributions and wasn't willing to comment on defined benefit plans because he didn't feel he had sufficient knowledge. So, do you think the average worker in Manitoba has sufficient knowledge to be able to make some of the really long-term solutions that would be required in this unlocking and taking funds out for the whole raft of reasons that the minister laid out earlier?

Mr. Moroz: I think it would be very difficult for the majority of Manitobans to make that wise decision in the end. We know we see increasing debt across the spectrum, whether you're a health-care professional or whether you're somebody who's working at a minimum wage that is certainly well below a living wage at this point in time.

So to offer the temptation under the guise of freedom and choice to unlock your retirement funds is possibly far too tempting for somebody to refuse without really understanding what the long-term impact of that withdrawal of those funds will be for the remainder of your life as you go through retirement. So, freedom and choice is one thing.

Certainly, there's a lot of Manitobans who are not necessarily thinking that long term. And the younger you are, the more difficult it is. And the lower your wage and the lower your annual salary is, the less you're thinking about that retirement, as well.

So absolutely, I'm really, really concerned about every single Manitoban, not just my members. An injury to one is an injury to all; I live by that every day.

Mr. Chairperson: Are there any other questions?

Mr. Lamont: Thank you very much, Mr. Moroz. We share your concerns. There's an old saying that freedom for the pike means death for the minnows.

But can you just, if you can, share—do you have any stories from your—for your members, members who've faced or, who've been facing an issue like this, where it comes to—or, they're concerned about having to break out their pension at a time that they didn't expect to?

Mr. Chairperson: Mr. Moroz, your time is actually up.

But, is there leave of the committee for him to respond? *[Agreed]*

Mr. Moroz: I don't have an enormous amount of stories, but I do speak to—with a lot of our members on a regular basis, and every single one of them who is probably more than 25 or 30 years old is concerned about their retirement.

So to—the specific answer of your question is—do I know of people who've had to try and access? I've known of people who have wanted to leave the profession early and have wanted to access that retirement fund and—for various reasons.

The answer remains the same. I'm concerned that it's an easy way out, and sometimes the easy way out is like going down to the payday loan provider, and you don't know what you're getting into. And it's troubling. And we need to educate them. We need to make sure that those people understand the impact of what it is that they're about to do, that they have the freedom to do.

Mr. Chairperson: The time for questioning is over.

I will now call on Jeff Traeger of UFCW, Local 832, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Moroz, please proceed with your presentation. Excuse me, so—my apologies. Mr. Traeger, please proceed with your presentation.

Mr. Jeff Traeger (United Food and Commercial Workers, Local 832): The United Food and Commercial Workers, Local 832, is Manitoba's largest private sector union, with more than 19,000 workers working in a diverse collection of workplaces.

We have represented Manitoba workers for more than 83 years, and a significant part of that representation has been to negotiate pension plans for workers in the private sector. This has ensured that our members have the dignity and financial ability—stability in retirement that they earned during their working life.

And, by negotiating pension benefits for our members, we also set the standard for employers in the private sector, whose workers are not represented by a union, thus ensuring that many workers in Manitoba will have a pension and be able to retire with a similar standard of living that they were accustomed to in their working life.

In recent years, we have seen many employers come to the bargaining table seeking relief from the cost of continuing to provide their workers with their existing plans, even when those employers are still profitable.

While they argue that pension plans are a burden for them, we strongly suspect they are truly seeking to reduce the cost of providing a pension to increase their profitability.

Some of those changes they sought are currently restricted or limited by legislation, and we are strongly opposed to any change that makes it possible for employers to weaken their pension plans or renege on their promise to workers, many of whom gave the majority of their working lives in the service of a single employer. In fact, we have been consistently in favour of and lobbied various governments of the day to provide more working Manitobans and their families with greater retirement security by enhancing the legislation that governs pension plans in this province.

UFCW also lobbied for national programs, like Old Age Security and Guaranteed Income Supplement, and improvements to the Canada Pension Plan. And in our opinion, Manitoba's provincial government should be pressing the federal government to strengthen retirement security further for all Manitobans and, indeed, all Canadians.

UFCW members in Manitoba who work in jobs that pay at the lower end of the scale, such as workers in retail grocery, assisted living and security, have pensions that are reflective of their rate of pay. Because most of these workers are part-time, their pensions in and of themselves do not provide enough income in retirement to sustain them and can only do so when considered in conjunction with the benefits that governments provide.

This puts additional pressure on government programs that could in many cases be relieved through stronger pension commitments made by employers that can easily afford them, like Loblaws or Sobeys, to use a retail grocery example.

* (19:20)

While negotiations are certainly a tool for workers to improve those pension plans, legislation is the best tool to protect them.

The problem with Bill 8 and with reducing the solvency requirement, is that it doesn't add protection to workers' pension; it reduces those protections. And it doesn't bolster retirement security for Manitobans; it weakens that security.

UFCW was pleased to see government back away from some of the changes being considered around universal participation in workplace plans and target benefit conversions. However, there remain aspects of the proposed legislation that are deeply concerning to our organization and to our members that have a workplace pension plan; unfortunately, not all do.

But I was disappointed to hear earlier the government is considering reducing the solvency requirement. One of the key components of pension legislation in any province is solvency: mathematical calculation of assets over liabilities in the event of a windup. The correct requirement for pension plans to meet is 100 per cent, and that ensures that in the event the plan did have to wind up, each and every plan member would be paid the value of what they had been promised by the plan.

Working people see their annual statement and plan their retirement for themselves and others they

are responsible for, based on what that number is. To suddenly say they are now going to get less means that they will have to retire with less than they planned, reduce their standard of living, or it may prevent them from being able to retire at all, if they haven't already. And if they have, they will reduce their income at a time in their life when they have little or no opportunity to recoup the lost income, and they risk becoming a statistic for senior poverty.

If government reduces solvency requirements from 100 per cent to 85 per cent—and in our own experience, employers will fund only the minimal amount that they are required to by law—this will mean many plans will become underfunded within a year of this rule being changed, and the first time a pension plan winds up, workers will see their promised pensions reduced by 15 per cent.

While that may be sustainable for many who have generous pension plans based on high rates of pay and full-time hours, it is not sustainable to average Manitobans and their families, and UFCW strongly opposes any reduction in the solvency requirements. Furthermore, we are unclear on what problem is corrected by making such a change, if not simply to allow some employers to divert the money they promised to their workers' pensions into more profitable directions.

Our second concern with Bill 8 is the component that makes it easier for workers to unlock their pension money at or before their retirement. In extremely rare cases of hardship, a case can be made that it may be a benefit for some to be able to access retirement funds. In most cases, however, we believe that to allow plan members to do so in any fashion without having to prove a hardship is a recipe for disaster. In some cases, legislation protects people from themselves. Having pension funds locked to plan members is one of those cases.

As we understand, this bill that would allow plan members to access their pension money under three conditions: 50 per cent transfer at age 55 into a registered retirement fund; at any age, unlock all or part of the money on grounds of hardship; and after 65, they can unlock 100 per cent.

For the average worker, pension plans remove the risk and complication of retirement planning by providing a steady and reliable source of income during retirement. If workers unlock their retirement funds from their pension plan and use the money in ways other than towards effective retirement planning, they will very likely find themselves in

retirement with little or no money at all and heavily in need of support. The fact is that most people simply don't have the skills to effectively manage their money for a potentially long retirement, and by allowing them the option to do this, government would be effectively allowing them to put their own future at risk.

Again, while we have some sympathy for Manitobans suffering from extreme hardship, we can see no problem this legislation solves except to take liability away from governments and employers and put it squarely in the hands of working Manitobans. And even in the case of hardship, there should be clearly defined guidelines as to what constitutes a hardship before any funds can be unlocked.

In closing, I would urge this government to reconsider the amendment around unlocking and the reduction of the solvency requirement in the context of ensuring that pension money is there for people in their retirement when it was always meant to be.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Fielding: Thank you, Mr. Traeger. I appreciate your comments and your questions.

I'll put more as a comment to—you know, I do disagree with some elements that you're saying here in terms of it, but I do appreciate you coming out and making a presentation.

It's our belief that there is situations where people do need to lock—for a number of reasons, unlock some of their pensions. Right now, the current legislation allows you lock 50 per cent at age 55, but also there's situations where people may need some money for maybe a dental or health issue.

That's exactly the same. In fact, we use the exact same criteria that the federal government did in other provinces. There isn't a word, a lick of difference between what we're doing and other provinces and the federal government allows their employees.

So we do believe that it is—makes a lot of sense to do it as such, but I do want to thank you for your presentation here today.

Mr. Traeger: With all due respect, just because other provinces are doing it doesn't necessarily mean it's the right thing to do.

And, yes, I guess that would be my only comment on that, other than when your unlock pension funds to pay a dental bill, I think you're robbing Peter to pay Paul.

Mr. Lindsey: Thank you for your presentation tonight, Mr. Traeger. It's—I appreciate the fact that you've come out.

And I guess it—the minister's comments kind of remind me of a saying that my mother had: If everybody else jumped off a cliff, would you follow them? And it seems to be that's the mentality of this minister when it comes to this.

So, just how many of your members do you think really have the necessary expertise in understanding exactly all the ins and outs of pensions and investments, or do they take that money and turn to some other money manager that claims to be looking after their best interests?

Mr. Traeger: Well, first of all, your mother must have known mine, because she told me the same thing.

But secondly, I would say a very low percentage of our members. Of course, I don't want to offend any of them; there are some that look after their money quite well and get the expertise they need to do—make effective investment choices. But the vast majority of those rely on the pension plan that they belong to, potentially their employer or in some cases their union, to be that expert in the investment field on their behalf.

Mr. Lamont: Thank you very much, Mr. Traeger.

Yes, my father was president of the Investment Dealers Association and, after that, he ended up suing RBC Dominion Securities for the fact that they were—there was somebody doing a bunch of not-very-good things with somebody's pension, and helped to get it back for them.

Yes, I just—if you can, so much of what—with respect to the minister—so much of what he's talking about is something that basically should be covered by government, whether it's Pharmacare or emergency funds. Sometimes, you know, government is described as an insurance company with an army.

So, I guess the question I actually have is: is the difficulty that you're—what sort of difficulties are your members facing approaching retirement? And clearly they're—they would be facing challenges with pensions, especially with the cost of living rising.

If you could just—have any stories about challenges that your members have faced and you could share them, I'd appreciate it.

Mr. Traeger: Yes. Absolutely, our members face many challenges every day because of the rising cost of living and because, as I said earlier, their pension plans are based on what is largely part-time work at a relatively lower rate of pay than what the average in the province would be. So they're trying to manage to maintain a lifestyle for themselves and their families without necessarily being able to rely a hundred per cent on the pension that they've contributed to, in some cases for 30 or 35 years.

A recent story that comes to mind is that we had one of our members retire working in a retail grocery store, spent about three years trying to make a go at it at retirement, could not and now has returned to work as a part-timer in the same grocery store—and, of course, lost 35 years of seniority, so they're back at the very bottom of the list, struggling to get hours and struggling to make their way back up the pay scale to earn the same as they were earning before.

So it's a sad story and, unfortunately, it's not the only one.

Mr. Chairperson: The time for questions is over.

I will now call on Mr. Warren Luky of USW, Local 6166, and ask the moderator to invite them into the meeting.

* (19:30)

Please unmute yourself and turn your video on.

I understand Warren Luky is not here, so he'll move to the bottom of the list.

I will now call upon Mr. Mike Sutherland of the Manitoba Nurses Union and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Mike Sutherland (Manitoba Nurses Union): Yes. Good evening. Thank you, Mr. Chairperson, and thank you, honourable members of the committee.

In relation to the Manitoba Nurses Union, we currently represent over 12,000 nurses in our province, and MNU has always advocated for strong, employer-supported, defined benefit pension plans that will provide not only our members with the security they need in retirement, but for all workers. It is for this reason that we wish to share our thoughts on The Pension Benefits Amendment Act.

We have several concerns with this legislation. One area of concern for us are the provisions that would allow for the unlocking of pensions in full at age 65 or for reasons of financial hardship. Another concern of ours relates to the creation of the solvency reserve accounts, and finally, we would encourage government to avoid the shortfall with respect to solvency requirements, moving them down from 100 to 85 per cent.

As you've already heard, very few workers have the depths of financial and investment knowledge needed to manage their savings and retirement funds in the manner that would be needed to ensure the same financial outcomes as those resulting from defined benefit pension plans.

Therefore, to us, it seems imprudent to introduce new provisions into our pension legislation that would allow workers to unlock or remove their retirement funds from such pensions.

Unfortunately, The Pension Benefits Amendment Act provides two new ways for workers to access and remove these funds prior to, or at, retirement. The first of these provisions can be found in sections 21.3.1. This section makes it possible for those who are 65 years of age to fully unlock and withdraw as a lump sum the full amount of pension owed to them.

While this would seemingly provide the worker with greater freedom to do as they see fit with their retirement savings, it runs the very real risk of putting them in a position where bad investments could lead to a significant loss of retirement savings and the loss of financial security that they would otherwise have had under the pension plan at a particularly vulnerable time.

How will we ensure that aggressive financial planners and financial institutions will not view this change in the legislation as an opportunity to grow sales and organize their tactics accordingly? It doesn't seem far-fetched to imagine financial institutions pressuring clients who are 65 years of age or older to unlock their defined benefit pensions and transfer those funds into accounts that they will manage.

The predatory sales approach of some investment firms and financial institutions are well known. Allowing workers to withdraw their pension funds in full at age 65 seems far less likely to benefit workers and far more likely to benefit those financial actors who will willingly seek and accept those funds for investment.

Pension plans are designed for the benefit of the workers and are not driven by ulterior profit motives. Retirement savings being left in pension plans is a far more likely manner to produce better financial outcomes for workers than those that would result from unlocking and privately investing these funds.

We are also concerned with the inclusion of the provisions in the act—sections 21.3.2(1) and 21.3.2(2)—that would allow for workers at any age to withdraw funds from the plans on the basis of financial hardship.

While the specific grounds for making such withdrawals will be determined through regulation, it is nonetheless concerning to see that plan members will be able to make partial or full withdrawals from their plans while they're still working. This could obviously prevent them, in part or in full, from attaining the same level of financial security in retirement as they should under such plans.

The definition of financial hardship will need to be carefully crafted and very restricted in order to avoid just any kind of financial challenge becoming the grounds for which we're all in the compromising of workers' retirement savings.

We suggest a broad consultation with unions must occur when such regulatory decisions are made so that long-term interests of workers can be heard and considered.

Many people will face financial challenges in some form or other during their working lives, and there will be a temptation to utilize those funds. But many of these challenges are not grave enough to justify compromising, perhaps in entirety, one's retirement situation.

We are particularly concerned with revisions allowing workers to make more than one application to withdraw funds on the grounds of financial hardship. As previously indicated, the section that states a person is entitled to make more than one application relating to the same prescribed plan in a year only if each application is based on a different ground of financial hardship. If these types of withdrawals should only be done in grave exceptional situations of hardship, then why is the provision written to allow for multiple withdrawals over time and for different types of hardship?

We find these provisions concerning and again hope to have input into the regulatory development that outlines the types of hardship to be considered as grounds for withdrawal. We also urge the government

to consider making amendments that would allow workers who do withdraw the funds due to financial hardship to have the option to buy back into these plans at the level they would have been at had they not withdrawn the funds.

Another aspect of this bill that we are concerned about is the creation of the solvency reserve accounts. In particular, we are concerned that there perhaps is a notion that there—or an ability of employers being able to withdraw surplus funds from the reserve accounts.

If this occurs, it essentially means withdrawing some of the surplus from the plan, and we remain firmly of the opinion, particularly subsequent to the disasters we've seen with respect to the market crash in 2008, that surplus funds accrued on—in pension funds deposited into the pension plan ought to remain in the plan. The gain should stay with the workers and contribute to the long-term health of the plan.

Again, we request that robust consultation that includes the unions that represent workers be undertaken in the development of regulations around the mechanism of withdrawal of surplus from solvency reserve accounts.

Finally, we feel it is necessary to voice our opposition with respect to any notion of reduction in the requirements to reduce the funding of the solvency of the plans from 100 per cent to a lesser amount. This decision, if it is made, would be disappointing because overall, we were—100 per cent funding certainly best guarantees the going forward and good health, both short and long term of the plan.

The potential for workers to get anything less than what they've been promised is unacceptable and while it is unlikely that the plan like the Healthcare Employees' Pension Plan, which nurses participate in, would suddenly dissolve and workers would be left with less than what had been promised, it is nonetheless troubling to see any movement toward lower funding requirements that jeopardize the overall health of the plan.

In conclusion, we would like to remind the committee that pension plans are promises to workers: promises of a secure and dignified retirement. Legislative amendments that make room for unlocking of funds, removal of fund surpluses or the lessening of funding requirements chip away at those promises.

Many of the changes being made in the act are simply not in the best interests of workers.

Thank you. Those are my comments.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you very much for your presentation, and you've touched on a couple of things that others haven't brought up yet tonight.

One of them is the solvency reserve accounts. It reminds me, back in the '80s when Conrad Black decided to raid pension plans, and really, that was the beginning of the unravelling of some of these plans, where employers couldn't get their hands on the extra money in the plan that the plan generated, so they just quit putting money in the plan until the plans were actually underfunded.

Is that a similar scenario which you can foresee happening with this solvency reserve account, where employers will get their hands on money that quite rightfully belongs to the employees and should be in the plan to make sure that the plan is sustainable going forward?

Mr. Sutherland: Yes, especially in concert with the reduction in the solvency requirement percentage, I think it's—it has some very dire potential consequences in future because as we've—we know that in the '80s and subsequent to, there was certainly some surpluses in the plan, but many plans subsequent to that and with employer contribution holidays, et cetera, were ill-prepared to withstand the significant consequences of the market crash in 2008.

And so, as a result of those situations, any sort of mechanism that allows for funds that should be dedicated toward the long-term health of the plan being diverted to some other initiative—independent of the plan and independent of maintaining the good health of the plan—I think undermines the overall security and allows for things like claiming that plans are too expensive or too costly, by virtue of sort of a gradual erosion over time.

And that, to me, is a significant concern, because we firmly believe that defined benefit plans are a robust and secure mechanism of ensuring dignity and financial security for workers in the future and in retirement and not compelling things like unanticipated scenarios that require workers to go back into the workforce by virtue of trying to mitigate significant financial hardship.

* (19:40)

Mr. Lindsey: You touched very briefly in your presentation about the financial hardship aspect that may allow workers at any age to start unlocking funds.

Do you think that list should be a really short list that has got a high threshold to meet? Or should it be, like, a complete laundry list of anything you could possibly think of that would allow a worker to start unlocking funds?

Mr. Sutherland: I have significant concerns, not only in relation to a long list but also in relation to multiple applications for a variety of reasons. At the end of the day, the pension, it really is a covenant to ensure that one has the financial wherewithal to proceed into retirement with dignity and financial security. And certainly there are going to be times that I think we're all tested with financial hardship from time to time, and there will be a strong temptation.

And I think for those who are not very well educated with their pensions or financial security in future may make short-term decisions that could have very significant and severe long-term consequences that are even worse than perhaps the consequences of dealing with the particular financial hardship in the—when it arrives at a younger age.

I think older folks are just less able to do the things that they were able to do in terms of entering the workforce. You know, as a general rule, folks want to enjoy the—their golden years, so to speak, and have planned for that. And so, you know, in relation to these types of scenarios, a lot of younger workers, certainly, I think don't appreciate the value of having a pension and a secure financial footing to accompany them into retirement, into their later years.

And so for us, those two pathways, in terms of multiple reasons as well as multiple applications, are particularly disconcerting.

Mr. Lindsey: Just a quick question.

Do you think working people in this province would be further ahead if they were allowed to negotiate proper free wage increases that would meet their financial needs? Or are they further ahead to start robbing from their pensions because the government won't let them negotiate?

Mr. Sutherland: Well, certainly, I'm—by virtue of my position, I'm a very robust believer in free, fair and balanced collective bargaining where the rights of workers are in balance with the rights of the employers. I think wage-constraint legislation certainly puts a significant amount of pressure for people

to look elsewhere rather than obtaining fair value for their work and puts pressure on things like savings and other vehicles that ought not be used in relation to these types of scenarios to perhaps fix short-term problems or short-term distress.

So, for me, I think that the most robust way to ensure that we as a society move forward in a fair fashion that allows working families to do well is to allow free, fair and unfettered collective bargaining that has a balance with respect to the environment that we're entering into on behalf of workers.

Mr. Chairperson: The time for questions is over.

Just to let you know that there is an additional speaker registered to speak to Bill 8. It'll be Paul McKie of Unifor. We will hear from him after this next presenter.

I will now call on Matt McLean of the Canadian Union of Public Employees and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. McLean, please proceed with your presentation.

Mr. Matt McLean (Canadian Union of Public Employees): My name is Matt McLean. I'm here today to speak on behalf of the Canadian Union of Public Employees. CUPE is Canada's largest union with over 700,000 members across Canada. We are also the largest union in Manitoba and we represent 37,000 people here.

CUPE members work in health-care facilities, personal-care homes, school divisions, provide municipal services, social services, work in child-care centres, with public utilities, work in libraries and family emergency services.

As a union, CUPE has always made negotiating workplace pensions a top priority. In Manitoba, we are proud to report that over 92 per cent of CUPE members have a pension plan in their workplace, and another 7 per cent have a workplace RRSP plan or other form of retirement savings.

These pensions were earned at the bargaining table and at times on picket lines, and these pensions are paid with members sacrificing wages and other benefits that they may have otherwise negotiated.

For many of our members, their pension plan promise is their most valuable asset, even amongst those of our members who are homeowners. For workers, a good workplace pension plan is the

difference between retiring with dignity and immiserating poverty in old age.

As such, we value the legislative framework under which pension plans are governed in Manitoba. And we want to see strong legislation to ensure the workers' pensions are protected for when they need them.

When the Pension Commission report was first released a few years ago, CUPE had some very serious concerns. We provided feedback to government and met with the minister of Finance at the time, Mr. Friesen, to outline our concerns. We know that other unions, pension plans and pension experts also submitted responses that shared many of our thoughts. We are pleased to see that, for the most part, government heard our concerns and acted accordingly.

When asked for our feedback on the consultation paper and the recommendations to reform the PBA, CUPE's first priority was that the government should not make any changes to the legislation which would allow for existing pension promises to be retroactively taken away from plan members and beneficiaries. We were pleased to see that the legislation brought forward does not contain provisions allowing for the retroactive conversion of defined pension-benefit pension plans to less secure types of plans. Such conversions as floated in the Pension Commission's review would have allowed employers to replace guaranteed income for retirees with a hope and a prayer. We are glad government did not go in this direction.

CUPE is also pleased that government decided to maintain existing rules around universal participation in workplace pension plans. Making pension plan participation optional would have been disastrous for the long-term financial security of working people in this province.

However, we do have some serious concerns with changes that will allow workers to unlock their retirement savings, in whole or in part, prior to retirement.

First, it's important to say up front that workers are almost always better off leaving their retirement savings locked-in full until retirement. We have long known this and it is the reason that government encourages retirement savings by providing RRSPs and pension plans special tax status that exempts taxes on the original income placed in retirement vehicles and shelters these funds from being taxed during

decades of accumulation. These special tax considerations are granted under the understanding that these funds will be used to support an individual throughout their entire retirement. Allowing the complete unlocking of these funds undermines a special tax status that these funds are provided with from the start.

While we acknowledge that there may be moments of severe financial hardships that would warrant some unlocking of retirement funds, these should be rare and only in an extreme—and in extreme conditions should they be used as a last resort. Now, most workers who do unlock their funds are unlikely to every make up the lost retirement savings and could end up leaving these workers living in poverty during their years of retirement.

We would recommend the government do the following: first, work with labour and community experts to develop clear 'glidelines' for what qualifies as a crisis that will permit unlocking of funds; second, place a cap—place a low cap on what is to be unlocked; third, provide workers with a clear path to buy back any lost time and requalify for future benefits; and four, governments should work with groups such as SEED Winnipeg and Community Financial Counselling Services who could help develop financial literacy resources for workers who are considering unlocking their funds.

Finally, we need to speak out against changes that would allow workers to unlock 100 per cent of their pension savings at the age of 65 and place the funds in private savings vehicles. By doing so, government is putting people at risk of losing significant amounts of their savings due to a market decline or a recession at a time in their life when individuals are the—least ability to recover.

* (19:50)

Now, given the nature of the world today and the stock market, you know, things are—today but might not be good tomorrow. Does this government really believe it's wise to encourage people to give up the safety and security of a pension plan to take market risks on by themselves?

Further, we would add that the unlocking of pension savings results in significant loss of retirement savings in the forms of fees. Canadians famously pay the highest mutual fund fees in the world; these fees often exceed 2 per cent annually, while well-managed pension plans, on the other hand, are a much better deal. For example, the

administrative and fund management costs of the Healthcare Employees' Pension Plan was approximately 0.6 per cent of the fund's assets in 2019.

Now, why would this government take actions that may encourage Manitobans to shift their retirement savings from safe, secure and low-cost pensions to higher risk, unsecured and higher fee private registered investments?

This government's recent actions clearly demonstrate that it understands the importance of both these points. On the one hand, this government moved ahead with legislation that discouraged pension funds in the superannuation fund from being withdrawn and moved into private investments.

On the other hand, you know, additionally, you've asked the various public pension plans in Manitoba to work together to try and find ways to bring down the already low investment fees that are taken on by pensions in this promise.

And these fees that the pension plans currently charge the plans are already a small fraction of those borne by workers who purchase mutual funds for—in the personal retirement savings funds.

So, we only ask that this government follow their own example and not take action to encourage Manitobans to move their retirement assets out of the pension plan and into high-cost personal retirement funds.

So, in conclusion, I'd just like to thank the government for taking the time to hear our submission, and to thank the government for consulting with CUPE and the rest of the labour community and for listening to some of our top-line concerns.

The refusal to move ahead with the Pension Commission's proposal around target plans as well as optional membership was warmly welcomed by CUPE and our members, and, in particular, you've our thanks for not moving ahead with plan types that would allow the retroactive conversion of defined DB plans and to risky target plans.

However, there are improvements that could be made to Bill 8 that would make Manitoba's pensions even stronger. And, as always, we remain committed to working with government to build a stronger pension plan here in Manitoba so that all workers can retire with dignity.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Fielding: Thanks, Matt, for your presentation.

Just probably one question, but it's kind of all related. Do you think that maybe you're underestimating your members, in terms of, you know, their ability—obviously, it is their money, there is some flexibility. I mean, I get a lot of calls to my office for people that really need to withdraw some of the funds because of financial hardship.

Knowing the fact that pretty much every government around, every provincial government—whether it be Alberta, BC, Nova Scotia, Ontario, the federal government—does exactly the same thing that this provincial government's looking to do, do you think that maybe you're off base with some of the needs of your members?

Mr. McLean: When it comes to unlocking funds, what I would say is this. No individual can beat huge market forces, right? You could be the best investor in the world, and if there's a 30 per cent decline in the New York Stock Exchange and the Toronto Stock Exchange, you're going to lose 30 per cent of your investment, your retirement savings, right?

There are forces at work that no individual can combat on their own. So I think it's an unfair question to suggest that our—you know, we might be underestimating our individuals. It's not a fair thing to ask of people to be able to put up with that kind of risk.

Mr. Lindsey: Thank you for your presentation, Mr. McLean, and thank you for being here as late as you are.

The minister continually suggests that we're underestimating Manitobans' ability to understand complex financial dealings.

Do you have any sense of how many of your members have taken any kind of education when it comes to investing, pensions and all that kind of stuff? Or are they, chances are, going to depend on the advice of someone else, an investment banker or a mutual fund or something like that?

Mr. McLean: I mean, I couldn't tell you exactly how many people have taken advanced education in these sorts of areas. I mean, I would guess it wouldn't be very many. I think the typical member, if their retirement funds weren't invested in pension plans, they would be invested, you know, likely, you know, maybe at their local credit union or more likely in a

savings account, maybe some bonds, you know. But they would definitely be relying on other people.

What I would say is that we hear far more often from our members who don't have pension plans that they desperately want to be in one than we ever do from members in pension plans telling us they don't want to be in one.

Mr. Lindsey: Thank you, and that's something that I think the minister needed to hear; that there's more people wanting in than there is wanting out.

I guess I—the only other question I would have is: Do you think there should be an extensive list of reasons why people would be able to take money out repeatedly from a pension plan? Or should that list be really restrictive and a hard test to meet?

Mr. McLean: Yes, I think that we should be looking at a short list.

I've heard various things tonight from the Honourable Minister Fielding about things that might qualify, including individuals going to the United States for health care. I would suggest that this government should be looking to ensure that all health-care services are insured and provided in Manitoba rather than seeing pension plans as a potential vehicle for paying for health care.

So, yes, I would say we should be looking at a very short list only for the most extreme circumstances.

Mr. Lamont: Thank you very much for this presentation.

For anyone who's talking about whether people are qualified to do investments, there was a company called Long-Term Capital Management in the 1990s. It was created by two Nobel Prize-winning economists and it needed a bail-out in the hundreds of billions of dollars from the federal reserve. And those were Nobel Prize-winning economists. So, lots of really smart people can make horrific mistakes and, in fact, create them.

The one question I had actually relates to this—the one—I agree one hundred per cent, lots of this breaking out is not—shouldn't be happening. These are costs that should be covered one way or another by an emergency fund, ideally publicly. But is there—if we were to try to achieve a compromise, would there be a, like, a cap?

Like, let's say, would you allow—would it be feasible for—let's say you have an individual who has

a particularly large pension fund that they can break into and get a part of, would that make—would that be—if you had a cap for—or, a threshold above that, people could break it out and below that they would get help. Sort of a means test.

I'm just throwing it out there as a possibility.

Mr. Chairperson: The time for questions is actually over.

So we will now proceed on to our next presenter. Our next presenter is Mr. Paul McKie of Unifor.

I will now call on Mr. Paul McKie and ask the moderator to invite them into the meeting. Please unmute yourself and turn your video on.

Mr. McKie, please proceed with your presentation.

Mr. Paul McKie (Unifor): Thank you very much, everyone. And just to correct for the record my last name is pronounced McKie.

Good evening. I'm here tonight representing Unifor, the largest private sector union in Canada. Our 315,000 members work coast to coast to coast in all sectors of the economy.

We represent about 12,000 Manitoba workers, including those in industries and companies with whom we have bargained a pension plan to ensure a secure retirement for Unifor members.

* (20:00)

I'm area director for Manitoba and Saskatchewan, as well as a servicing representative for Manitoba in charge of 16 collective agreements. For the past four years, I've also been chair and trustee of the Unifor Multi Employer Pension Plan, a national target benefit pension plan that's registered in British Columbia.

I should note at the outset that we support the recommendations of our friends at the MFL. Their report before you raises similar concerns that Unifor has on this legislation. After hearing the many excellent reports to the committee tonight, I almost feel like I should just say this is a really bad, bad idea, and don't do it, but I will continue with my presentation.

I am certainly aware that certain actuarial and pension administrative companies, on behalf of employers' pension plans, have lobbied this government for years asking for solvency relief. It's certainly not too late to press the pause button and sit down with

all the parties to come to a conclusion that satisfies everyone.

Unifor's chief concerns have been those of others you've heard from this evening: (1) moving to a solvency rule that's less than 100 per cent, and (2) the changes for unlocking pension funds.

We understand that COVID-19 has hit companies hard, including those that have pension plans for their employees. But temporary measures can be done without creating permanent change to Manitoba's pension landscape. We were initially pleased to see the government seemed to have moved off its position of having an 85 per cent solvency rule in the bill. We are now greatly disappointed to hear that you're moving towards that 85 per cent through regulation. This does not help working Manitobans.

We acknowledge that certain jurisdictions like Ontario or Nova Scotia did move to the 80 per cent–85 per cent solvency rule. However, other jurisdictions, when moving to a rule, have offsetting provisions to protect workers' pension. For instance, in BC, for one, uses a provision for adverse deviation, commonly called PFAD, which adds a layer of protection for the risk of a plan.

We were concerned that—when we saw our earlier versions of this bill, which reduced solvency and had a solvency reserve account when most jurisdictions choose one or the other, but not both. We thought it was a positive move to see the lower solvency number off the table. I see it's back on the table and that we were wrong about that. And I don't understand why you're going for both measures.

Now, in the past, the Manitoba government has used temporary solutions to get through tough times. You did this to a paper mill that I serviced, the Canadian Kraft Paper mill in The Pas, formerly owned by Tolko. At least twice in the past 15 years, the Manitoba government offered temporary pension relief to the mill owners on the solvency payments that were required to be made. This was done most recently in 2016 to give new owners of the mill a breather for three years.

I note that this is on top of the averaging relief the Manitoba government offered the pension plans during the 2000s, when solvency payments could be averaged over 10 years rather than the standardized five, as long as more than one third of workers and retirees and the plan did not object.

Yet, even with protections in place, I've seen workers suffer when pension plans fail. I used to service a now

long-bankrupt printing company called Datamark that, at the time of closure, was paying out a pension that was 50 cents on the dollar. Loosening the rules we already have would make those types of situations more commonplace, endangering the pensions of Manitoba families.

Again, when Ontario reduces solvency, they also had the Pension Benefits Guarantee Fund. That partially aids workers whose pension have been affected by insolvency.

Remember, too, that pensions are not a gift from an employer. Most plans are in companies where a union represents workers. We've heard other speakers talk about the race away from DB plans to DC. That's certainly happened in non-union places. It's even happened in the union sphere, but where you'll see the largest number of DB plans is in a unionized work environment.

The money paid into pension plans by workers are deferred wages, ones which workers have already earned and are owed upon retirement. This is even true if this is a plan only funded by employer contributions. Workers forgo certain wage increases for those pension benefits. That is done on the promise the money will be there for a secure retirement.

We echo the call from the MFL for a Canada-wide mandatory pension insurance system so that people who've paid into a workplace pension plan are not robbed of their retirement security when companies go bankrupt.

We are also concerned that the language on the SRA is vague and that details will follow in regulation. When you are playing around with the future income of future Manitoba seniors, we need to see those rules upfront.

Such rules also need to include the rules for plan sponsors withdrawing surplus from the SRA. Unifor would like to see broad consultation with diverse communities on the SRA, and at a minimum we say there should be no withdrawal of surplus from an SRA by a plan sponsor without member and retiree consent.

So now, let's look at the unlocking portion of this legislation. This is the part of the legislation that we frankly see no other purpose for than lining the pockets of the private investment industry. We've heard other speakers tonight talking about this.

This is an attack on pension security without any obvious merit for the workers, nor is there any countervailing balance. If there are hardship cases

during our pandemic times, maybe instead there are temporary measures that can be carefully scrutinized instead of a blanket approach changing the legislation for all time. Again, we urge consultation with a diverse segment of the population.

As written, the bill allows a worker to unlock 100 per cent of their pension savings at the age of 65. This enhances the potential for fiscal retirement disaster because it puts workers at risk of losing significant amounts of their savings in the case of market decline or recession at a time in their life when they're not going to be able to recover.

Your own pension superintendent recognizes the risks in unlocking in the document on the Manitoba government website. I quote: Manitobans should be wary about possible illegal schemes being offered for unlocking locked-in money. The ads for these schemes usually claim that locked-in money can be converted into cash on a tax-free basis. LIRA and LIF owners are strongly advised that if an offer sounds too good to be true, then it probably is and may in fact be illegal. If you are thinking about an investment that seems to be too good to be true, first contact the office of the superintendent.

Bring in these unlocking procedures, and you put Manitobans' retirement savings at risk. Registered pensions were designed and bargained for workers to offer a protected and often a predictable income in their retirement years. Your proposals in this legislation are too broad and sweeping and permanent.

Unifor urges the government to rethink this legislation. You can meet with the stakeholders and craft legislation that helps employers throughout current tough times, but also secures safe retirement income for our future Manitoba seniors.

Thank you for your time.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for this presenter?

Mr. Lindsey: Thank you for your presentation, Mr. McKie. We appreciate hearing from you. You certainly represent a lot of working people.

We've heard the minister talk earlier about us underestimating Manitobans' ability to invest their money.

Do you think a lot of your members in Manitoba have extensive knowledge in investments and pensions and all of the associated information that they

would need to make the best pension decisions, or would the bigger pension plans have more expertise in investing?

Mr. McKie: Well, as I sit on a pension plan and see those investment managers and what they do for us and the vast array of knowledge they have—and, as Mr. Lamont pointed out, they're not perfect, and that's why trustees question and have outside management consultant companies check on these things.

There's an array of protections in the investments in the pension plan that secure those investments over a long period of time. The—our average member is too busy supporting their family to gain the expertise.

And, as a previous speaker said, there are far more people who are banging on the door to get into a pension plan than there are people arguing that they should get out.

Mr. Chairperson: Are there any questions from the floor?

* (20:10)

Bill 11—The Workplace Safety and Health Amendment Act

Mr. Chairperson: Seeing no other questions, we will now proceed on to Bill 11.

And I will call on the next speaker, Mr. Kevin Rebeck of the Manitoba Federation of Labour, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Rebeck, I understand it's 2–2, but please proceed with your presentation.

Mr. Kevin Rebeck (Manitoba Federation of Labour): Thank you.

The Manitoba Federation of Labour is Manitoba's central labour body, representing over 100,000 unionized workers in our province, and we're very disappointed with this bill.

The changes in this bill undermine important health and safety protections. By eliminating the important position of chief prevention officer, giving extraordinary new powers to the workplace, health and safety branch to dismiss worker appeals without a hearing, and imposing a new arbitrary time limit on workers' ability to defend themselves in serious cases where workers face unfair and illegal retaliation from their employer for sticking up for their health and safety rights.

Overall, this bill substantially weakens The Workplace Safety and Health Act and it shows this government's lack of commitment to keeping workers safe on the job, putting profits ahead of people.

The MFL is actively involved in advocating for workers' health and safety in Manitoba, and we were excited to participate in the 2017 five-year review of The Workplace Safety and Health Act. When this government sought out recommendation for improvements to the act, the MFL, its affiliates, and many businesses and employers took up the call and we put forward thoughtful, evidence-based recommendations for change through the former minister's Advisory Council on Workplace Safety and Health.

Unfortunately, one of this government's first actions on health and safety was to disband a long-standing volunteer group of worker, employer and technical experts on health and safety who worked hard to give government its best advice.

In our submission to the advisory council, we had recommended substantial legislative amendments to help ensure all workers stay healthy on the job and come home safely from work.

We included recommending a strengthening of workplace mental health protections; a comprehensive strategy to tackle asbestos, the No. 1 cause of occupational deaths in Canada, including the creation of a full public buildings registry and mandatory training standards for workers doing the very dangerous work of asbestos remediation and disposal; better training for worker and employer health and safety committee members; mandatory timely and prevention-oriented investigations for workplace fatalities and other critical incidents; guarantees that any workplace safety and health orders be shared with health and safety committees and their unions; rules to protect workers from unsafe engineered labour standards, which require workers to perform tasks so quickly that safe work practices cannot be followed, and the re-establishment of the minister's Advisory Council on Workplace Safety and Health, which formerly brought together labour, business, and technical experts, all serving as volunteers, to give advice and experience-based evidence to government to keep workplaces safe.

We're extremely disappointed the government's chosen to ignore these recommendations and taken no action on them, leaving significant workplace hazards unaddressed.

The MFL knows that to effectively raise awareness of workplace health and safety, we need to support workers and give them voice and be able to learn from their experiences.

That's why the role of chief prevention officer was introduced. It was intended to create a new voice for injury and illness prevention that could advocate to government and analyze where new protections were needed, as well as highlight new and upcoming health and safety issues. It was to act as an independent watchdog, a health and safety ombudsman, if you will, that would issue public reports and make direct recommendations to the minister.

We know the chief prevention officer has not developed into the role as anticipated. Years of being underresourced by this government undermined its ability and effectiveness to identify health and safety gaps and evaluate prevention strategies in Manitoba.

But in eliminating this role, rather than properly resourcing it, we're squandering an opportunity to critically examine our own prevention efforts, provide objective third-party advice and accountability, and give a stronger voice to those working in unsafe environments.

That's why the MFL can't support any bill that curtails the voice and experience of workers, especially by eliminating the right to due process and having appeals at least heard and considered.

Giving the branch the extraordinary leeway to prevent workers from even making appeals to the Manitoba Labour Board is wrong and potentially a very dangerous, slippery slope. Workers have never been guaranteed an outcome to an appeal, but they've always had the right to make their case before now. That's fairness; that's due process.

Similarly, shortening the timeframe in which workers can defend themselves against unfair retaliation from employers encourages new barriers to timely reporting and acts as a protection to unscrupulous employers, lessening their obligations to treat workers with fairness and respect.

If there's one aspect of Bill 11 the MFL could support, it's the proposed doubling of maximum fines for penalties for offenses, which appears to be the only aspect of this bill the government's wanted to talk about.

However, we have to emphasize that, given the fact that this government has consistently declined to apply the maximum penalties at their current level, we

have no reason to believe they would enforce higher maximums. Higher penalties can only serve as a deterrent if government's willing to invest the needed resources into enforcement and follow through with stiff penalties on offenders. So far, this government's failed to do either.

Promoting this bill under the guise of raising maximum fines doesn't hide the fact that this bill takes away far more from workers in terms of protection, fairness and due process. By ignoring the substantial advice it received as part of the formal act review and moving this bill forward, this government's only weakening health and safety legislation and continuing to put the safety and health of Manitoba workers last.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Hon. Scott Fielding (Minister of Finance): Thanks, Kevin. Thanks for your presentation. Thanks for staying around—it could be a later night tonight, so that's great. I know you're here to speak to a few issues.

So, I maybe ask my questions—are you aware type of setting, in terms of the CPO rule? So, Manitoba, of course, the CPO 'emishpip'—the position was created around 2012 prior to the establishment of SAFE Work Manitoba and its legislative governance body, you know, the industry labour and public technical stakeholders.

The CPO's reporting and advisory responsibilities are now duplicates, right, of the SAFE Work Manitoba and its governance body, the prevention committee. So, these amendments will help ensure Manitobans remain safe and healthy place to work as well as a competitive and attractive place to do business. Government is committed to the health and safety of workers, obviously, and believe elimination of the CPO will not have an impact on safety.

So, are you aware of this, and could you maybe comment on the role that SAFE Work Manitoba does?

Mr. Rebeck: Yes. I'm very well aware of the work of SAFE Work Manitoba, and they do a good job and they provide some good supports, but that doesn't replace the role that the chief prevention officer was to provide. It was to provide high-level advice—advice that, frankly, the volunteer advisory committee could have also helped to provide. It was to be at a higher

level that could provide advice to the minister on health and safety issues to look at what was done, to look at best practices in other jurisdiction and to be an additional place people could do raise health and safety concerns in a high-level, safe place that they could bring things forward.

It's never really achieved its full potential, but it's really because it's been starved of resources and there hasn't been the commitment necessary to make it deliver the objectives we all want, which is safe workplaces.

Mr. Tom Lindsey (Flin Flon): Thank you for your presentation.

And certainly, having had some experience with the minister's advisory committee and the sub-committee of that that reviewed the operation of mines regulation, some really good stuff came out of there. It's unfortunate that the chief prevention officer didn't reach the potential that everybody envisioned that it should've.

Can you talk just a little bit about how many times the maximum penalty has been applied—that this government talks about, look at the good thing we've done—how many times has the existing maximum penalty been applied since 2016?

Mr. Rebeck: None. It's been applied zero times.

Mr. Lindsey: So, they had the opportunity, I guess, to do a lot of good things with this review; haven't really achieved that good stuff.

* (20:20)

Some of the things that concern me was, when I look at some of the language, that's somewhat confusing. It appears now that a worker can't appeal a decision of a workplace health and safety officer when it comes to a right-to-refuse situation, whereas before they could appeal to the director at least. Because, as much respect as I have for workplace health and safety officers and mines inspectors, they don't always get it right.

So is that—am I reading that right, that that provision now nullifies or changes a worker's ability to file an appeal?

Mr. Rebeck: Well, one of the things it eliminates is if people have filed appeals in the past—of health and safety nature—and they've investigated them and found them to be unfounded and they've now put forward another appeal, that—there's new powers given to the department that allows them to refuse to even look at

and investigate the appeal. And while there may have been an instance that someone should not have filed an appeal, eliminating them for one time having done so—or for them not having found the evidence—should not eliminate their right to a hearing and for every instance to be looked into and raised and taken seriously.

Mr. Chairperson: Are there any other questions from the floor? Seeing none, we'll now move on to the next presenter.

Floor Comment: The Jets are down 3-2 now.

Some Honourable Members: Oh, oh.

Mr. Chairperson: Thank you, Mr. Rebeck. Well, actually, no, thank you.

I will now call on Mr. Romeo Ignacio of the Amalgamated Transit Union, Local 1505, and ask the moderator to invite them into the meeting please.

Unmute yourself and turn your video on.

Mr. Ignacio, please proceed with your presentation.

Mr. Romeo Ignacio (Amalgamated Transit Union, Local 1505): Thank you, Mr. Chair, and again, thank you everyone for having me.

I don't have a lengthy presentation. I do support the—Mr. Kevin Rebeck's report and proposals. Additionally, I would like to add to the discussion the unique nature of the workplace that our members are working at, particularly our operators, because while this may tie into The Workers Compensation Amendment Act, we also have had some issues with regards to our workplace, particularly some right-to-refuse action by our members in some—in recent times, particularly about COVID.

You know, during this time, during this entire year—over a year—of a pandemic, we've been advocating for safe public transit services and unfortunately, we feel that there's not a lot of support. I'm not going to be blaming anyone or the provincial government; however, I believe that there is more that could be done to protect our workers as well as the public.

As you may know—or to those who don't know—our bus operators actually have pretty much the whole city as our workplace. There are operators that are starting and finishing on the street and, as I alluded to, certain Workers Compensation decisions have affected our members because it's not considered a regular workplace, and we actually have to have an

appeal application just to make sure that those injuries related to our workplace are being dealt with.

Also, the mental health of our workers are of concern to us. There's a lot of violence in the workplace. I'm not expecting anybody and not one particular entity to solve the problems that we are faced with, but I think that we all know that there's an increase in violence.

There's also increasing anxiety, and that translates into a lot of our workers taking some time off because of mental stress. And whether or not this is the venue to have that discussion—and I don't even have the time to actually discuss that; however, I would like to see more protection to—for our workers, especially those in unique workplaces, like our bus operators.

We have a number of operators that have complained about long-standing issues that haven't been addressed by the employer. And, you know, this is difficult—the schedules includes where you start the work; access to a washroom. Like I said, it's not—it's a unique workplace, and having a strong workplace safety and health committee is important to our members to address this issue.

However, we feel that the current setup, or even the amendments, particularly the amendments to the bill—or, to the act—is weakening that protection. I would like to see, on behalf of our members, a stronger workplace health and—workplace safety and health committee that will be able to have—that actually has the power to implement changes, regardless of whether it's—or to the point of hardship to the employer, because I think safety is the No. 1 concern for all workers, and we should always consider our workers' safety as the No. 1 thing.

Also, I do support the—I think the one thing that's good about this proposal is the doubling of the fine. However, we shouldn't be complacent that our employers are going to be changing their minds or changing their attitude towards implementing safety procedures or safety protocols just because of the doubling of the fine.

I'm pretty sure a lot of the issues that are being dealt with are—it either takes so long or it's usually—and I don't want to speak ill of the safety board; however, we feel that certain things like addressing the issue—particularly the COVID issue of social distancing or physical distancing, and our boss has to make sure that it's safe—is not being met; it's not being addressed. It's almost like you can actually have more people inside the bus than you can have them—you can

have people in the restaurants or any indoor establishment.

So, those things are actually the things that we have been trying to address to the Workplace Safety and Health Committee, but unfortunately, there's no appeal process whenever our—whenever those work refusals are denied.

So, I would like to see a strong committee, a strong voice, maybe a watchdog to make sure that all safety standards are being met and are being reviewed if they don't—if they're not exactly addressing the needs of those unique workplaces like ours.

And, again, to conclude, I would like to see the changes and recommendations by the MFL included in the discussion, and I thank you for your time.

* (20:30)

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you very much for your second presentation of the evening, and certainly a lot of heartfelt thought into what your members need when it comes to the workplace health and safety act and inspectors and all those issues.

I don't really have a question for you. You've laid out what your issues are pretty succinctly, so I just want to thank you. And I appreciate you coming out and sharing those thoughts.

I hope the minister was listening to at least some of them so that maybe he'll make some changes to his legislation that will better protect workers in Manitoba.

Mr. Ignacio: Thank you, Mr. Lindsey.

Yes. I would like to see stronger legislation to protect every worker. We're not the biggest union here, and—but our members pretty much work everywhere within the city and even in Brandon. And it's—like I said before, the uniqueness of our workplace is something that we—well, a lot of people probably won't understand. And I hope to those who understand the issues that we're constantly dealing with, the daily struggles of our members, I hope at some point there will be some discussion and, you know, maybe a—the proper venue would be a stronger workplace safety and health—I'm sorry about that—safety and health committee.

That is all.

Thank you.

Mr. Chairperson: Are there any other questions for the floor?

Mr. Fielding: Just want to say thank you for your presentation.

I'm looking at the wrong screen all the time here.

Thank you for your presentation. Appreciate you making presentations in both. I understand you may be making a third presentation, so thank you for your time and this valuable input.

Thank you very much.

Mr. Ignacio: Yes. Thank you.

Mr. Chairperson: Seeing there are no other questions, we'll now proceed on to the next presenter, Michelle Gawronsky, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Ms. Gawronsky, please proceed with your presentation.

Ms. Michelle Gawronsky (Manitoba Government and General Employees' Union): Once again, good evening, honourable members.

As Mr. Chairperson said, my name is Michelle Gawronsky, and of course I believe all of you know that I am the president of the Manitoba Government and General Employees' Union. And I would like to thank you for the opportunity to present on this bill as well tonight. One more coming.

Just as a quick reminder, the Manitoba Government and General Employees' Union represents over 32,000 working Manitobans. MGEU members live and work throughout Manitoba in a wide variety of workplaces, including members employed directly by the Province of Manitoba, Crown corporations, universities and colleges, health-care facilities, social service agencies and arts and cultural organizations to name a few.

Workplace health and safety is of critical importance to the MGEU and our members providing critical public services across the province. The COVID-19 pandemic has brought worker safety to the forefront. The people who keep us safe and our province moving are put at risk of contracting—contracting the virus at work every day.

There is nothing more essential than ensuring working Manitobans can go home at the end of their

shift safe and sound to their families. That's all we ever want to do, all of us.

This is why in 2017, the MGEU participated in the process to review The Workplace Safety and Health Act. Through the Manitoba Federation of Labour, the MGEU put forward the following recommendations to the advisory council to ensure all Manitoban workers are safe at work: A strengthening of workplace mental health protections; a comprehensive strategy to tackle asbestos—the No. 1 cause of occupational deaths in Canada—including the creation of a full public buildings registry and mandatory training standards for workers doing the very dangerous work of asbestos remediation and disposal; a new five-year prevention plan to replace the plan that had expired; better training for worker and employer health and safety committee members; mandatory timely and prevention-oriented investigations for workplace fatalities and other critical incidents; guarantees that any Workplace Safety and Health orders be shared with work–health and safety committees and their unions; rules to protect workers from unsafe engineered labour standards, which require workers to perform tasks so quickly that safe work practices cannot be followed; and the re-establishment of the Minister's Advisory Council on Workplace Safety and Health, which formally brought together labour, business and technical experts to give evidence and experience-based advice to government to keep workplaces safe.

All of these measures would help us move towards the goal of no fatalities on the job and zero workers injured at work: a truly dream come true.

Bill 11, The Workplace Safety and Health Amendment Act, does not help us get to zero nor improve the processes that give workers a voice in their safety at work. In fact, it removes important rights and processes for those workers.

The bill eliminates the chief prevention officer, which was established to be an independent public watchdog, to ensure continuous progress and accountability on workplace health and safety is eliminated through this legislation. We urge—strongly urge—this government to invest in the chief prevention officer position to enhance accountability and improve working conditions for all of us.

This legislation also puts a new arbitrary time limit on workers' ability to defend themselves in cases where workers face unfair retaliation from their employers for sticking up for their health and safety rights. These changes expose workers to the discretion

of mean-spirited employers limiting their obligation to treat workers with respect, something we've all been fighting for.

Bill 11 gives heavy-handed powers to Workplace Safety and Health branch to dismiss workers' health and safety appeals without due process or a hearing at the Manitoba Labour Board. Silencing the voices of workers by eliminating their right to a fair process is simply unacceptable. We cannot support any bill that limits the voice of Manitoba workers.

We urge this government to revisit the recommendations of the labour and advisory council to ensure this piece of legislation provides more protection for workers.

As workers continue to provide services in the middle of the pandemic, they deserve more rights and protections, not less. As I've said, they deserve to go home safe and sound to their families at the end of their workday.

Thank you so much.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you very much for your presentation, Ms. Gawronsky, and I appreciate the fact that some of your members are the very people that are actually charged with the responsibility of inspecting workplaces.

And do we have more inspectors out in the field now, or less? And do they do more inspections of workplaces or less than, say, what they did in—prior to 2016?

Ms. Gawronsky: Thank you, Mr. Chairperson. For once I followed the rules.

Thank you, Mr. Lindsey, for that. We have far less inspectors. Less accountability is out there. The inspectors now are doing a lot of the COVID work rather than doing the workplace inspections, and this is leaving workers at a higher risk.

We definitely need more inspectors out there and we need to make sure that we are providing the best protection we can for all Manitobans.

Mr. Lindsey: So, this government has touted the fact that they're going to raise the maximum fine level for a workplace that violates the act. It's kind of like closing the barn door after the horses have gotten out.

But how many times since 2016 have they come close to charging someone the maximum amount that they could?

* (20:40)

Ms. Gawronsky: I'm sorry, I wouldn't have that information for you. I believe the government itself should be able to provide that to you. You know, I know our workers and the work that they do, but I am not privy to any of the information or the fines that they are leveling out there.

Mr. Chairperson: Are there any other questions from the floor?

Seeing none, we will now move on to the next presenter. I will now call on Robert Moroz of the Manitoba Association of Health Care Professionals and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Moroz, please proceed with your presentation.

Mr. Robert Moroz (Manitoba Association of Health Care Professionals): I'd like to once again begin by thanking the committee for the opportunity to speak to the significant changes that are being proposed to The Workplace Safety and Health Act through Bill 11, most of which I am strongly opposed to.

By way of introduction, again, for the record, my name is Bob Moroz. I'm the president of the Manitoba Association of Health Care Professionals, and for over 50 years MAHCP has been representing allied health-care professionals in the professional, technical and paramedical sector.

Today, we represent over 6,500 members working in 190 different classifications serving Manitobans, and hundreds of health-care and social-services settings across the province, including hospitals, labs, our ambulances, personal-care homes and in the community.

Historically, very few issues are more sacred and more formative for the labour movement than workplace safety and health. At the end of this month, on April 28th, the National Day of Mourning, we will once again commemorate workers who have been killed, injured or suffered illness due to work-related hazards or other occupational exposures.

Unfortunately, in the past year during the pandemic we've added far too many Manitoba workers, including many health-care professionals, to

that list. Those were illnesses and sadly deaths that could have—and should have—been prevented.

I believe it's important to begin with that contest—context, pardon me, not least because we have a lot more pandemic to come but also because a determined and good faith focus on workplace safety and health is vital and necessary, even at the best of times but especially in our current moment.

Unfortunately, this bill is a significant step backwards on the due process for health-care professionals and all other Manitoba workers. It turns the tables on Manitoba workers and tilts the balance so heavily toward the employer as to be absolutely unworkable.

I would point to two provisions of Bill 11 that are unacceptable for MAHCP. Firstly, Bill 11 would allow the branch director to deny our members the ability to appeal to the Manitoba Labour Board, as has been discussed at some length by previous presenters.

There could be no reasonable rationale for so severely and unilaterally restricting the rights of workers in this regard. If current resources are challenged by the number of appeals, which I don't accept, but if that's the claim, then something else needs to change. It is not a reason to shred due process and deny our members their rights of appeal. That's preposterous.

By the same token, the introduction of language like frivolous or vexatious to the act is unacceptable. It invents a problem where there is none, implying that the system is being overwhelmed by unjust or unwarranted allegations.

Furthermore, such claims are a known tactic for those who would seek to dismiss legitimate claims. We've seen it over and over and over again. That language and the entire provision giving leeway to the director to dismiss appeals must be struck from the proposed amendments.

And this bill doesn't stop there; it unnecessarily shortens the time that workers have to defend themselves against retaliation or replies—reprisals at work. In this day and age, today, it should be widely understood that the process of personal healing and reckoning with a difficult situation, whatever that may be, can take time. Pardon me.

Our members may have multiple legitimate reasons for taking as long as they need before they're ready to challenge their employer following retaliation at work. Who are we and who is government to place a time limit on such a process? What is

the rationale for that move other than to protect employers who know that they are in the wrong. This provision, too, must be struck from the act, as it is completely unnecessary.

If there's anything to be retained in Bill 11, it is the increase in penalties for the offences. However, as the Manitoba Federation of Labour has rightly pointed out, as well as other presenters before me, my good friend Ms. Gawronsky, this government has a history of not providing adequate resources for either the enforcement or the imposition of penalties that are already on the books.

So, therefore, it's difficult not to draw the conclusion that higher penalties are being used to distract from other completely unacceptable provisions of this bill, and that there be—there may be little or no intention of enforcing those penalties.

It's a difficult decision to approve, but it's certainly on the minds of worker advocates across Manitoba and it will be the unavoidable conclusion of our members should this bill, as it currently stands, become law.

Instead of undoing the rights of our members and workers across Manitoba, I would encourage you to undo this bill as it currently stands. MACP would be more than happy to work with government to get this one right.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: I want to thank you for once again sharing your thoughts with us about this particular piece of legislation. And, really, if I could summarize your comments, there was only one part of this particular piece of legislation that you thought was worth keeping, and that was the increase in the fine amounts. But as you pointed out, that never gets used anyway, so perhaps maybe if the minister sat down and actually listened to people that deal with these issues every day, he could have crafted a little better piece of legislation.

Is there anything else that you would like to share with the minister to try and get his attention to make changes to this piece of legislation?

Mr. Moroz: Thank you, Mr. Lindsey, for that question.

Yes, well, there's plenty I'd like to share with the minister on this file, for sure. But in terms of this legislation, what I'd like to remind the minister and all the members of the committee, from all parties at this point, is that we have to remember that these folks have gone through a lot in the past year. They've been there. They've stepped up. They've struggled. They've been exposed at work to COVID-19. They've had to use up enormous amounts of sick time. They've had to use up enormous amount of vacation time.

And proposing changes that restricts their rights in terms of workplace health and safety simply adds to the burden that we've been placing on the backs of those health-care workers on that front line. I'm speaking, of course, for my members. But the same can be true for virtually every worker in Manitoba.

You have to remember that these people have been there since day one. This bill is asking them to forgo their rights to workplace health and safety, and that is never acceptable under any circumstance, under any possible way to view the world.

* (20:50)

And when you look at that one member who is out there slogging away, working as hard as they can, and they're looking at legislation that's take—trying to take away their rights in terms of appeals and what the workplace health and safety legislation will provide for them in the workplace when they've just gone through a year and a half, and we're not even close to being done yet. Imagine if you were that worker.

That's what I would ask the government to do. Imagine, if you're that worker, how would you feel if your government was trying to take away even more of your rights at this point?

Mr. Fielding: Thank you very much. And, boy, I'll take the member from Flin Flon's word at—maybe Bob and myself can get together; I'm sure we would have a good discussion. So, always open to that.

Just to clean up a few things. I just want to clarify—there's been a few presentations—so, no reductions in government FTs inspectors and some of that work now performed at SAFE Work Manitoba and WCB.

Penalties and convictions are right on our website, the Finance website. There is three fines this year: two at \$2,500 and one at \$5,000. Justice does make the decision on that penalty, just so—clarification. I believe there's also another one for \$100,000. So I just want to clarify that.

Bob, you know, maybe I'll ask you a question: Are you aware of that? But, maybe you could comment on that?

Mr. Moroz: Well, thank you. I think there was a question near the end, Minister, and if I'm aware of that. And I think the main focus is that increasing the maximum fine level is really irrelevant as a deterrent to unsafe work practices if the employer has no fear of enforcement or inspection so that would be my answer to that.

Mr. Chairperson: Are there any other questions from the floor?

Seeing none, we'll now proceed on to the next speaker, Mr. Warren Luky of the United Steel Workers. If I can ask the moderator to invite them into the meeting, and please unmute yourself and turn your video on.

Mr. Luky is not present and we will drop him to the bottom of the list.

And now we will call upon Mr. Mike Sutherland from the Manitoba Nurses Union, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Sutherland, please proceed with your presentation.

Mr. Mike Sutherland (Manitoba Nurses Union): Thank you, Mr. Chair, and thank you again, committee members.

As previously stated, Manitoba Nurses Union represents over 12,000 nurses in our province. And as director of labour relations, I can inform you that MNU's mandate is to improve the working conditions and protect the rights of Manitoba's nurses.

As part of our mandate, we have a keen interest in the health and safety of the workplaces our members perform their work in throughout Manitoba. And over the past year, workplace safety and health has been our top priority as our members have been faced with working during a pandemic that our province, candidly, was rather unprepared for, to put it charitably.

While we eventually came to an agreement with the province's health-care employers to improve the availability of PPE, particularly with respect to respiratory protection from this virus, it was nonetheless not immediate and, at some points, a difficult situation and one that should not have had to

happen. Nonetheless, we remain appreciative for the outcome.

The critical importance of robust workplace safety and health legislation and the need for proper enforcement of such legislation has never been clearer than it is right now. And it is for this reason that we wish to provide our comments on The Workplace Safety and Health Amendment Act.

We recognize that this bill was originally drafted pre-COVID-19, and we know that many of the most important workplace safety and health rules are found in the regulations. However, we feel that the drafting of a more substantial workplace safety and health amendment bill that dealt with some of the workplace safety and health weaknesses demonstrated throughout the pandemic would have been a timely and worthwhile pursuit.

We also feel it necessary to point out that regulatory reform is needed on a number of points and we urge you to include unions in any further future discussions regarding regulatory changes.

Our members' experiences and workplace safety and health challenges during the pandemic must be considered so as to avoid future safety failures the next time an epidemic of this or even of lesser proportion hits our province.

Firstly, let me deal with the elimination of the chief prevention officer position. We are disappointed to see that this bill will eliminate the position of chief prevention officer. This position was intended to provide researched advice to the minister regarding ways to prevent injury and illness in the workplace.

Under the current act, as described, there is also clear language regarding the broad range of stakeholders that the chief prevention officer is expected to consult when preparing recommendations for the minister. The loss of this position and the assurance of robust consultation that was involved in any recommendations coming out of that office is unfortunate.

Reflecting on the situation we've found ourselves in over the past year, one must recognize that having a properly supported chief prevention officer who could consult, research and make recommendations on preventions and preventative measures would have been an asset, both during this time and in the future.

Secondly, creating a mechanism for dismissal of appeals by the director and eliminating the ability of the appellant to further appeal to the Labour Board.

The amendments made to the appeal process in this bill are very troubling to us. The Workplace Safety and Health Amendment Act essentially gives the director the power to summarily reject an appeal of an officer's order on the grounds that it is frivolous or vexatious under section 37.1(a). It then goes further by robbing the appellant of due process in that an appeal that is dismissed by the director on the grounds that it is considered frivolous or vexatious is considered final and cannot be further appealed to the board, under section 39(1).

The current WSH act allows appeals of a director's decision to the board. If one of the affected parties disagrees with the director's decision, this new power of the director to dismiss appeals with no further recourse for the appellant could be very problematic. If the director adopts a very broad definition of frivolous or vexatious, many 'legitimus' appeals of officers' orders could be denied proper consideration.

With the amendments to section 39(1), these appellants would also then be prevented from having their appeal heard by the board. We feel that this is far too much power to place in the hands of a singular individual. Workers should have access to a proper and fair process for having their appeals heard.

If this bill is passed without amendment to this section, we feel very strongly that there will be a strong need for clear guidelines for what types of appeals may be considered frivolous or vexatious in order to ensure that this extraordinary power on the part of the director cannot be abused or misused.

Other concerns. MNU has many concerns with the current act, several of which we outlined in our two 2017 submissions for the review. We would like to point out a couple of these concerns, which unfortunately remain unaddressed with the limited number of changes put forth in the current amendment.

Firstly, we feel that the current act fails to clearly place responsibility on employers for ensuring a psychologically healthy and safe environment for workers. The act—this is a general duty for any employer to ensure so far as reasonably practical the safety, health and welfare at work—all his workers.

The act, in section 4(1)(a) and—defines health as the condition of being sound in body, mind and spirit—Workplace Safety and Health Act, section 1, but it is not—it does not explicitly place a requirement on

employers to provide a psychologically safe workplace. It does nothing to meaningfully address this aspect of workplace safety and health. Unfortunately, The Workplace Safety and Health Amendment Act does not include any amendments that would address this.

Secondly, we would have welcomed amendments to the current act that would have put in place a legislative requirement for all health-care facilities to have security resources available at all times, whether those resources be on-site or on-call.

Violence in health-care settings has been a growing issue of concern for our members and we know, unfortunately, that due to the volume of calls in many other centres, law enforcement agencies are not often able to respond to violent incidents as quickly as needed, and the issue of violence in health-care settings must be better addressed by the legislation, as the detrimental impact of workplace violence on workplace safety and health is undeniable.

Thirdly, it would be beneficial for the legislation to put in place clear guidelines and requirements providing—regarding the frequency of inspections. Unfortunately, health-care facilities are rarely inspected by W-S—workplace safety and health officers.

This is the case, despite the fact that the health-care sector had the highest number of time-loss injuries and the second highest number of total injuries by sector in 2019. And I'll reference The SAFE Work 2020 report pages 37-38. Health-care employers must be put under greater scrutiny and be inspected more often than they currently are in order to address this.

* (21:00)

And in closing, we feel it necessary to raise a few of these issues that have come into sharper focus for us as a result of the COVID-19 pandemic. The act clearly requires the establishment of workplace safety and health committees in workplaces that have at least 20 regularly employed workers. The vast majority of Manitoba's health-care facilities meet this threshold and are required to have workplace safety and health committees which are composed of 50 per cent employer reps and 50 per cent worker reps. Worker reps are to be granted time off to attend these meetings or receive necessary training.

Finally, according to the regulation, these committees are to meet at regular intervals not exceeding three months. We've heard from many of our locals and worksites that their workplace safety

and health committees are not functional or operational. Their worker representatives are not able to get time off to attend the meetings, or that meetings are not occurring on the time frame laid out in the legislation. This is concerning, given the number of workplace safety and health concerns that have arisen during the pandemic. We feel that greater focus and emphasis needs to be placed on meeting the requirements; any employers not adhering to these requirements must be dealt with.

An additional issue that has emerged during the pandemic that we feel obligated to raise is that, at the beginning of the pandemic, the branch was preemptively drafting decisions not to support work refusals lodged by health-care workers concerning their safety during the pandemic and the insufficiency of certain PPE requirements. This is a clear departure from the process that is laid out in the current act. Such pre-emptive decision-making is shocking and, frankly, grossly unfair to health-care workers.

In conclusion, we are, unfortunately, disappointed with the amendment act—the amendments of this act on two fronts. First, because it eliminates the position meant to support prevention and second, because it provides a director with absolute power to dismiss appeals that are deemed frivolous or vexatious, and denies appellants any further recourse to such—to challenge such dismissals by virtue of due process.

We're additionally disheartened to see greater efforts are not being made to address some of the gaps in the current legislation. Psychological health and safety, security resources and more frequent or scheduled inspections ought to be considered when making amendments to the act.

As COVID-19 has revealed, there also needs to be more scrutiny regarding the operation of committees and greater respect for the investigation process around work refusals. Our current legislation does need more amendments on a greater number of issues than those offered in the current amendment. Sadly, the amendments that are put forward in this act are not what we would—

Mr. Chairperson: Thank you—[interjection]—Thank you, Mr. Sutherland. Your 10 minutes are up for your presentation.

We will now proceed with questions.

Do members of the committee have questions for this presenter?

Mr. Lindsey: Excuse me. Thank you very much for your well-thought-out presentation that really highlights some of the shortcomings that this current piece of legislation doesn't come close to addressing.

I guess, what—if there was one or two things that should have been in here, what would have been your top priorities to strengthen workplace health and safety?

Mr. Sutherland: Thank you very much, Mr. Lindsey and Mr. Chair.

First and foremost, I think all of us that have spoken to the bill thus far, I think, have identified the need to have a properly resourced chief prevention officer. I think that that role and that function, in terms of its ability to provide consultation to government as well as to hear from a variety of different workers in different positions, I think would have been very advantageous to ensuring that Manitobans had a more robust amount of protection with respect to workplace safety and health overall.

The other is to ensure that there's no minimization or reduction in a worker's ability to proceed by virtue of due process when there may be strong disagreement with respect to a categorization of the complaint as frivolous or vexatious. The unilateral ability for that determination, candidly, is something that does not sit well with us, particularly since early on in the pandemic, with respect to protection around proper respiratory infection, prevention was a significant issue for nurses in Manitoba, based on the scientific uncertainty at the time.

So those two areas, I think, are pretty fundamental and key for us, and so we are hoping that the submission today will have the necessary impact on the amendments and moving forward.

Mr. Lindsey: Once upon a time, the mining industry was the bad boy of industry, and the way that changed was that development of specific safety regulations around mining and specific requirements for safety committees and all the rest of that.

Would it make sense to do something similar, recognizing the uniqueness of a health-care workplace, to start developing some kind of specific regulation around what your folks do?

Mr. Sutherland: Yes. I would think that there is a growing need for that. The health-care sector, I think, faces a growing challenge from a variety of different areas. I touched on, in my presentation, not only, you know, issues surrounding protection from infection

substances, as we've unfortunately been enduring and continue to endure throughout this sector from COVID, but also violence in the health-care sector as a result of addictions and other scenarios that require medical intervention.

But nurses are—and other health-care workers—are on the front line in terms of dealing with those volatile situations that can often prove dangerous and a significant risk to safety.

So in addition to those particular scenarios, having robust safety and health committees to ensure that we can adapt to those various challenges I think is crucially important.

Mr. Dougald Lamont (St. Boniface): Yes. Thank you so much for this.

I was just wondering if you could just speak to—a little bit about whether there's a trajectory or a trend. I know that in the last few years there was—there were lots of issues with, as you mentioned, people with addictions and violence. Can you just talk about, you know, what that's been like in terms of, you know, whether that, you know, getting better, getting worse, being seen in places you haven't seen before, et cetera? *[interjection]*

Mr. Chairperson: Mr. Sutherland, go ahead.

Mr. Sutherland: Sorry, Mr. Chair.

Certainly prior to COVID we were noticing an alarming upswing in terms of the number of violent incidents, in terms of weapon-related incidents, violence-related incidents, primarily associated to an upswing in the utilization of methamphetamine and the introduction of methamphetamine and the necessity for bringing folks in to deal with overdoses and addiction and those types of violent behaviors.

And nurses and other health-care workers were definitively on the front lines with respect to those issues. And the significant—and that was not just here in Winnipeg, but that was throughout the province.

COVID, by virtue, I think we had noticed that—particularly in the first wave that there was a reduction, but it was a reduction I think that was predicated on a reduction in visits to emergency rooms overall by virtue of a fear of contracting COVID.

And so we are unfortunately starting to see yet again the upswing of that alarming trend.

Mr. Chairperson: Thank you, Mr. Sutherland. Your time for questioning is over.

We will now call on Mr. Stephen Terichow Parrott of CUPE and ask the moderator to invite them into this meeting.

Please unmute yourself and turn your video on.

Floor Comment: Hello?

Mr. Chairperson: Is—Mr. Parrott, please proceed with your presentation.

Mr. Stephen Terichow Parrott (Canadian Union of Public Employees, Manitoba): Thank you, Chair, and to the committee, honourable members, Minister Fielding, Mr. Lamont, Mr. Lindsey.

I'm Stephen Terichow Parrott. I'm representing the Canadian Union of Public Employees, Manitoba. We are pleased to provide feedback on Bill 11, The Workplace Safety and Health Amendment Act.

As previously mentioned by my colleague, Matt McLean, CUPE is Canada's largest union, with over 700,000 members across Canada. CUPE is also Manitoba's largest union, with over 37,000 members here in Manitoba. In Manitoba, CUPE members work in health-care facilities, personal-care homes, school divisions, municipal services, social services, child-care centres, public utilities, libraries and family emergency services.

CUPE is not supportive of the proposed legislation and we believe that this act further undermines workers' health and safety at a time when this government should be focused on improving workers' health and safety.

The act eliminates the positions, as been mentioned, of—the position of chief prevention officer. It gives the workplace health and safety branch the authority to dismiss worker appeals without a hearing and it places an arbitrary six-month deadline on workers' rights to petition against illegal and unfair actions of retaliation from their employers.

* (21:10)

While the government's taking these regressive actions, they're ignoring the recommendations that the Manitoba Federation of Labour made to the former minister's Advisory Council on Workplace Safety and Health. And these recommendations included legislative amendments, including a strengthening of workplace mental health protections, a new five-year prevention plan to replace the plan that expired last year, better training for worker and employer health and safety committee members, mandatory timely

and prevention-oriented investigations for workplace fatalities and other critical incidents.

It guarantees that any workplace safety and health orders be shared with health and safety committees and unions. And the re-establishment has been mentioned of the Minister's Advisory Council on Workplace Safety and Health, which formerly brought together labour, business and technical experts all serving as volunteers to give evidence and experience-based advice to government to keep workplaces safe.

So CUPE's disappointed the government has made a decision not to make any move to address these concerns. With regard to the chief prevention officer, while we can all agree the position hasn't developed into the robust independent office we perhaps all hoped—one that would issue public reports and make recommendations to the minister—the solution to addressing the existing shortcomings is more resources, not the elimination of the position altogether.

And we also oppose the decision to empower the branch to unilaterally deny workers their rights to appeal decisions of the safety and health officers. As has been previously mentioned, workers must continue to be entitled to have their appeals heard and considered, and we believe the branch's power to reject the right to appeal is an extremely dangerous standard and fundamentally eliminates the right to due process.

In the same vein, we oppose the shortening of the window that workers have to defend themselves against discriminatory action by employers against workers. Introducing shorter timelines creates new barriers and hardships on workers while giving added protection and comfort to employers who choose to treat workers unfairly.

Discriminatory action, in the amendment now referred to as a reprisal, can take many forms in a workplace: retaliation, ostracism, bullying, harassment. This type of behaviour can and often does follow a pattern over time, often by indirect and subtle behaviours and reflected—and repeated actions and incidents, such as the misuse of authority, constantly changing work guidelines, restricting information, setting impossible deadlines, socially excluding or isolating a worker, blocking applications of leave, blocking applications for training or promotion in an arbitrary manner, persistently criticizing and undermining, impeding a person's work in a deliberate way.

These behaviours we see in ever-increasing grievances and concerns from workers and verified by grievance and arbitration hearings are most often incrementally applied over an extended period. The victim is at times unaware or unable to act immediately. It can occur over many months, even years.

The consequence of discriminatory actions through reprisals can be devastating for workers. Because these reprisal behaviours are not always easily identifiable and visible, and they're not directly related to the prohibited grounds definition that's used in human rights legislation, they do lead to hazards in the workplace which are not identified immediately.

Discriminatory action, reprisals, are a form of psychological violence. They're a workplace hazard, and workplace hazards don't have an expiry date of six months. If left, they continue to put workers at increased risk. To impose an arbitrary time limit to be able to identify and report a discriminatory action, for the reasons I've mentioned, is an unreasonable expectation for a worker and in itself it creates an additional hazard in the workplace. All an aggrieved employer needs to do is bide their time.

We urge the government to reverse course to withdraw this legislation and to work with the MFL, CUPE and other unions and health and safety experts to find ways to expand workplace safety and health rights in Manitoba.

Mr. Chairperson: Thank you, Mr. Parrott, for your presentation.

Do members of the committee have questions for this presenter?

Mr. Fielding: Some comments—just going to put some comments on the record, and then I do have one question for you.

Just in terms of mental health, I know there were some discussions at the end. Our government is very proud of the fact that we created a new department for Mental Health and Wellness, \$342 million went in. We, of course, established the VIRGO report; there's been over 27 different initiatives that have gone in—gone on, with additional \$5 million for consultation that is happening and also the fact in this budget that we just passed, there's \$1.1 million for additional supports for hospitals. This is for people that maybe have mental health or addictions. They come in. They need additional safety and supports; that is part of this budget.

And we did allocate in last year, as well as this year, about \$230 million in PPE last year and this year for these initiatives. So we have certainly allocated a lot of money for that area, and I think we've got over about a year's supply for allotted PPE.

But the question I'd like to ask you is in respect to the timelines. The six-month timeline is very—is—in fact, it is exact same as employment standards, in terms of timelines for reprisals and that sorts. So can you maybe comment on that?

Mr. Terichow Parrott: Yes, well, as I've outlined, it's easily avoided. It's easily used as a time to wait before any form of pattern of behaviour can be applied.

And I think it's fair to say that psychosocial violence is something that has—awareness has developed over many years, over the last 20 years, and that when the—when employment standards were originally built, psychosocial violence was not something that was considered.

And the impacts of harassment in the workplace and bullying in the—I mean, bullying's not even mentioned in The Workplace Safety and Health Act, and yet we're all party to the fact that it's an aspect of the working environment which often comes up in grievances and arbitration hearings, and it's not considered.

And I think that's an example that what we're looking at is outdated standards. And what we need to do right now is to start to apply the information that we're finding more and more around mental injuries in the workplace based on psychosocial violence, based on harassment, discrimination, reprisals and look to change this act for the better, to include those aspects that are not already included.

We have very little in The Workplace Safety and Health Act in Manitoba that covers the impacts of psychosocial injuries in the workplace.

Mr. Lindsey: Thank you very much, and your presentation has been interesting. Your answers to the minister's questions have also been quite interesting.

And it strikes me that we had the opportunity, the minister had the opportunity, to do so much more to make The Workplace Health and Safety Act better, which should always be the—what we're striving for is to make an act better, not to make it worse.

Do you have any sense of how many of your members have gone to the extraordinary lengths of

filing frivolous appeals of anything that the minister contemplates with this change?

Mr. Terichow Parrott: As a national service and representative, I am the representative for 11 different organizations, 11 different collective agreements.

I would say that the usual concern of an employee who considers that they are being treated unreasonably in the workplace through discriminatory action, the usual concern is the worry that they will be reporting something that would be considered to not be something that would be investigated properly. And it's almost always the case that, as a representative, that we have to look at their evidence and reassure them that their experience in the workplace validates their concerns.

* (21:20)

So the idea of vexatious and frivolous complaints, when they're being oppressed in the workplace, incrementally and psychosocially, is zero, frankly. It's the opposite. It's the concern that their complaints will not be considered and will not be brought forward, and often because it's hard to define.

It's hard to define how a reprisal is manifesting itself in the workplace. And that's the, you know, that's the job of those of us who work in labour relations to be able to build that—

Mr. Chairperson: Thank you, Mr. Parrott. *[interjection]* Thank you, Mr. Parrott. Your time limit is now over.

Bill 18—The Workers Compensation Amendment Act

Mr. Chairperson: I will now call on the speakers for Bill 18.

And I will call now on Mr. Kevin Rebeck of the Manitoba Federation of Labour, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Rebeck, please proceed with your presentation.

Mr. Kevin Rebeck (Manitoba Federation of Labour): I've sent in an electronic copy of the full brief to the moderator email address which I assume is the clerk, as it's a lengthy package.

The Manitoba Federation of Labour, an essential labour body representing more than 100,000 unionized workers in our province, are pleased to share

our views on Bill 18, The Workers Compensation Amendment Act.

I'll start my remarks with some of the positive changes in this bill. Bill 18 would allow for the establishment of a presumptive scheduled occupational disease, as recommended by the Legislative Review Committee. The MFL has long argued that the current WC practice of applying a dominant-cause standard of causation to occupational disease claims is discriminatory.

It's a well-established fact that occupational diseases are under-reported by workers. Workers face extreme challenges in proving that work is the dominant cause of their disease. Due to long latency periods, workers may not experience symptoms for decades after exposure, and complications related to workers being exposed at potentially many different workplaces over the course of a worker's career.

A presumptive schedule of occupational disease will allow the WCB to recognize known occupational diseases as clearly occupationally caused so that the work-related nature of such disease is established and accepted in advance and an individual worker is not forced to go through the extremely challenging process of establishing dominant cause in every individual cause.

We strongly applaud this move and urge the WCB to begin work immediately in close collaboration with occupational health specialists, labour and employers, to begin the process of forming the schedule.

The MFL has already provided a well-researched brief to the WCB with comparative medical information from other jurisdictions that have schedules established already, and we'd be happy to share this with the minister too if it's of interest to him.

Of course, the MFL has always advocated to eliminate dominant cause altogether, but we are nevertheless pleased to see this important step in the right direction.

Tighter restrictions on employer access to workers' health information. The MFL's pleased to see that Bill 18 would impose badly needed restrictions on how and why employers can access private health information in workers' WCB claims. Limiting employer access to cases of reconsideration or appeal is—once reconsideration or appeal is—I'm sorry. Bill 18—I've lost my train of thought here.

Limiting employer access to cases of reconsideration or appeal. Bill 18's a positive step in establishing a clear obligation on employers to destroy any such documentation once a reconsideration or appeal is dropped or completed. This amendment addresses the very real risk of a breach of privacy that can occur deliberately or unintentionally when employers use file information or hold onto files unnecessarily.

Alarming information obtained from the WCB by the Manitoba Nurses Union points to a serious current problem with employers accessing workers' private health information.

While overall we're pleased to see this legislative strengthening of restrictions on employers' use of worker health information, we're concerned about a potential loophole and would propose a minor but important amendment to Bill 18.

The bill currently specifies that worker information must not be used for any purpose other than reconsideration or appeal without the board's written approval. This is in bill section 101(1.8). But we can't think of any good reason whatsoever why the board would and should grant approval for broader use of workers' private health information by the employer. This potentially expansive loophole caveat should be eliminated from Bill 18.

Another thing Bill 18 does is redefine psychological injuries and illness outside of occupational disease. Right now they fall under occupational diseases, and that means that they must meet the dominant cause burden of causation, which makes it difficult, again, for workers to prove the occupational nature of their psychological illness.

Psychological injuries and illnesses are not specific to certain occupations. Like occupational diseases, they don't originate in the same manner or in the same workplace circumstances and they're not brought on necessarily by traditional hazards or exposures. Ending the practice of categorizing psychological injuries as occupational diseases and assessing a claim under a dominant-cause framework is an important step in improving coverage for workers.

However, we're disappointed that Bill 18 continues to limit WCB coverage to only a very small segment of psychological injuries, thereby perpetuating the unequal treatment of mental health relative to physical health.

It remains the MFL's strongly held position that psychological and physical injuries should be treated equitably under the act and that coverage of psychological injuries should not be arbitrarily restricted. I'll come back to that in a minute.

Other Bill 18 improvements we're glad to see. It would allow the WCB to repay workers directly in cases where an employer improperly deducts wages. It would expand and clarify the definition of medical aid to allow payment for medical aid which cures and/or provides relief for workers. It would allow WCB to pay bills and fees related to committee work and administration by the public guardian. And it would establish a new administrative penalty for hindering inspections. This recognized barriers to investigations that drag out claims or hold up needed supports and benefits for injured workers and interfere with the administration of justice.

However, while it may seem obvious, we feel the need to say that, in order for the new penalty to have its desired effect, it's crucial WCB applies sufficient resources for enforcement. A lack of enforcement currently represents a major problem within the system, limiting both the preventative impact the penalty should have and the overall fairness of the system.

Bill 18 would also establish a prevention advisory council as an external committee to continue and, hopefully, expand the extremely important work of prevention. The MFL would like to acknowledge the tri-party structure of the committee and the continued importance prevention plays in WCB's future activity.

Areas of concern for us, though, are the employer adviser office and claim suppression.

We note Bill 18 would establish an employer adviser office with a mandate to advise employers about their interpretation and administration of the act and the regulations. While we remain deeply concerned about this proposal, we're relieved to see that government has backed away from Minister Cullen's initial proposal, which was to establish an employer advocate office. There is no justification consistent with the Meredith Principles to provide resources to make it easier for employers to file appeals of workers' claims.

Indeed, it's only because of a perverse incentive that goes along with the rate model based on experience rating, which ties an individual employer's premiums to the claims record of their own individual employees, that so many employers are filing appeals.

That's in an effort to minimize their individual premiums and at the cost of denying workers what should be guaranteed no-fault benefits. This practice should be shut down, not encouraged and resourced.

The ongoing seriousness of claim suppression within WCB can't be overstated. Workers continue to be pressured and bullied to not report their claims and come back to work prematurely before it's safe to do so. If an employer adviser office is created, it's imperative those services be informational and geared at helping the system function smoothly in a non-adversarial manner and that the office proactively educate employers about the legality of claim suppression and about employer obligations with respect to re-employment and providing safe work and accommodations.

Reinstating the cap on maximum insurable earnings is another change. After becoming the first province in Canada to remove the cap on insurable earnings in 2006, we are now re-establishing a cap on the amount of worker income that's covered at \$150,000 annually. We've always been opposed—the MFL has always been opposed to the idea of a cap on insurable earnings on principle. Simply put, it's unfair and discriminatory against high-income earners. Wage-loss benefits should be based on a worker's earning cap, not an arbitrary cap. No worker wants to be injured and lose their capacity to earn a wage.

That said, knowing this government, it clearly signals its intention to establish a cap. We are relieved it's set at a high level at \$150,000, and that should cover most workers.

* (21:30)

Action is needed on psychological injuries, as well. Those caused by workplace stressors are exclusively excluded from coverage. And while other regions have done work on that and the LRC has made a recommendation that in two years—after two years experience, that we look at what's happening in other jurisdictions and look at making changes in ours. Two years later now, still been no action on that. So we think there needs to be immediate action taken by WCB to make improvements on psychological injuries from workplace stressors and other areas.

And recognition of probable earnings capacity: the WCB has the ability to recognize an injured worker's probable higher future earnings, but we do it in a discriminatory way that is only applied to young workers. This needs to apply even-handedly to all

workers who are pursuing and advancing their education on what their potential earnings could be.

We also think that there's problems with inconsistent terminology of discriminatory action. Right now, we note in Bill 11, The Workplace Safety and Health Amendment Act, they rename the practice of discriminatory action to reprisal, but Bill 18 doesn't make the same change. We think that that's an oversight and that that could be simply corrected.

Finally, we'd like to raise three other very important issues: lack of enforcement of the act; adjudication period of PTSD claims; and institutionalized claim suppression by WCB that directly prevents or strips workers of needed benefits of care. That includes—

Mr. Chairperson: Thank you, Mr. Rebeck. You've reach your allotted time of 10 minutes, so we'll now proceed with questions.

Do members of the committee have questions for this presenter?

Mr. Tom Lindsey (Flin Flon): Thank you, Mr. Rebeck, for hanging in with us all night long to make this presentation, the third one of the evening. And I appreciate the work that the MFL has put into the briefs that they've made for all of these bills.

Just talk a little bit more about claim suppression and the impacts it has on injured workers, if you would.

Mr. Rebeck: Claim suppression is the practice of making it so that workers don't report their claims. This has an impact on employers who are—their own experience rating, their own workers' claims are what judges how much they pay in premiums.

Claim suppression can also be perpetuated by the WCB itself, and we would say that it is, and that's in the form of medical-claim suppression. That's when I go and see my doctor, who tells me I need to be off for five weeks, and then WCB assigns a different person, a doctor—perhaps that I've never seen, only reads my file—who says after three weeks we should cut off my benefits and I should be back to work and healthy.

And there's very little work being done to rectify those differences of medical opinions. We think that that's hugely problematic and that needs to be addressed and changed.

Workers who have physical or mental-health injuries need to have that coverage, that's why the

WCB system is there, and when employers or the system itself works against workers, we need to call it out, address it and fix processes so it doesn't happen.

Mr. Lindsey: Talk just a little bit about the psychological stressors.

Right now, it can't be a cumulative thing; it has to be a single, traumatic event that causes you to go off work before compensation will kick in. But particularly now during COVID, there may not be a single specific thing. A nurse, for example, that's in an ICU unit fighting every day to try and keep people alive and people are dying, just one day can't wake up and go to work anymore—may not have been anybody specific that died that day.

So doesn't the government's view of a single traumatic versus cumulative—doesn't that really deny that person their right to compensation?

Mr. Rebeck: Yes. Psychological injuries really are treated differently and that's unfair to folks, so they should be treated the same as physical injuries. We're falling behind in Manitoba. BC, Ontario, Alberta have all made changes and expanded what sort of psychological injuries that they cover, including things that are systemic, that are long-lasting, that are multiple exposures that caused these changes.

There was a committee to review things in two years time. It's been two years since that commitment was made. We think that that actually needs to happen more quickly and that the Manitoban workers deserve changes to our WCB act that covers them better.

Mr. Dougald Lamont (St. Boniface): Thank you very much.

He may have already answered my questions, but one of them was just about Mr. Parrott was—well, he was talking about, again, the importance of better regulation—or mental health injuries and PTSD. Aside from Canadian jurisdictions, are there other jurisdictions we could be looking to that are doing a much better job of this that we could model it on?

Hon. Scott Fielding (Minister of Finance): Just the one question as it relates to psychological piece.

I—you know, from the committee level, like through labour and management, did they not review that and suggest that that's something that should be revisited in a few years?

Mr. Rebeck: It wasn't a Labour Management Review Committee, but the Legislative Review Committee of the WCB act did make that recommendation. They

made it over two years ago; that we should use two years to look at how it is playing out in BC, Ontario, Alberta, and then we should come back and see if there's some changes we should make here.

Mr. Vice-Chairperson in the Chair

Since that recommendation was made two years ago, we would say that time is up and that we should then have some conclusions. But that work hasn't started yet. So we're eager to have government help direct the WCB take quick action on that and that we do better for psychological injuries for Manitobans.

Mr. Vice-Chairperson: Thank you very much.

Floor Comment: Just to answer—oh sorry, if I may, one other quick thing. I think you have to say my name before I can.

Mr. Vice-Chairperson: Mr. Rebeck.

Mr. Rebeck: Dougald Lamont asked a question about other jurisdictions. Australia has—is another jurisdiction to look at, but we certainly have those provincial models in Canada to look at, too.

Mr. Vice-Chairperson: Thank you very much, Mr. Rebeck. Time has expired.

The next presenter will be—where is the script here? I apologize, I'm not familiar with this. *[interjection]* The next presenter is Mr. Ignacio. *[interjection]* The next presenter is Mr. Ignacio from Amalgamated Transit Union.

Mr. Romeo Ignacio (Amalgamated Transit Union, Local 1505): Thank you committee members for having me once more. I know it's been a long night and I'll try to be brief.

I do appreciate the report, or the recommendations from MFL—

Mr. Vice-Chairperson: Could you stop for a moment, please?

Mr. Ignacio, could you begin your presentation now, please?

Mr. Ignacio: Thank you again, Mr. Chair.

Yes, I am the president of the Amalgamated Transit Union, Local 1505. We represent about 1,500 members in Manitoba, mostly in Winnipeg: about 1,100 operators in Winnipeg and about 250 planning, equipment and support staff.

Well, we applaud the work that MFL has done in the presentation from Mr. Rebeck.

I would like to give a little bit of information relating to the transit system in Winnipeg. And, as I mentioned in my previous presentation, we have a unique workplace. Not everyone would have a workplace like a bus that moves around the city. So it changes.

There's traffic that you have to deal with, people, different people, and when you're dealing with the public, there's a lot of things that could go wrong. And in a lot of cases, there's physical injuries. However, there's also psychological injuries. And in some of the cases, I wouldn't say 100 per cent, but for sure, a great number of cases have been denied by WCB because they don't cover psychological injuries, particularly, you know, one that's resulting from threats from the public.

* (21:40)

And it's very concerning, because it's not just one or two of our members that are dealing with that. And it's almost safe to say that it occurs more often than people would think or would see.

Mr. Chairperson in the Chair

And so I applaud the changes in the WCB—Workers Compensation Act in this regard, because there's some provisions regarding the psychological injuries. However, it is not clear to me yet whether the presumptive coverage on, well, the psychological injuries will be covered for all types of injuries relating to work. And I would—obviously—would like to see a stronger engagement with the public and experts in what psychological injuries should be included in this legislation.

Also, I would like to speak on the presumptive coverage. Again, it's a good idea, however, you know, we've had members develop back injuries, PTSD, as a result of traumatic events, and sometimes even just the accumulation of small, sometimes—some people would say are not really considerable threats, but they happen more than people think. And our members are actually dealing with that on a daily basis. So I would like to see the Province look into having more engagement as far as determining how things should be—or what things should be included in the schedule of occupational diseases.

Thirdly, I would like to speak on the employer advisory office. Seems like—and I wish I'm wrong—but seems like this is meant to actually help the employer find ways to suppress claims. When—I'm in the belief that The Workers Compensation Act should be working for—or should be—is meant to protect workers

from injuries and, you know, things that would prevent them from going to work. And it is unfortunate that currently I could say that the Workers Compensation Board has been employing such tactics as systemic suppression at times, because of what Mr. Rebeck had mentioned previously.

Also, based on experience with—the Workers Compensation Board has actually denied claims for a lot of our members and have sided with the employer, even allowing the appeals by the employer for things that should not even be questioned. I mean that we—there should be some higher threshold when employers could appeal against a claim being made by the employee. You know it's—some employees are fortunate to have the union, however, I could tell you that even the union cannot—does—not all unions, and especially our union, being one of the smaller unions here, we do not have the resources to constantly fight the appeals or go through the appeal process in order to make sure that our members are protected under the Workers Compensation Board.

The reality is, if there is protection for workers—all workers—in times of injuries, whether physical or psychological, the sooner we can get that, the sooner we can address the issue, the better it is for everyone, the better it is for the employer, the better it is for the employee because it'll be—they will be going back to work sooner.

However, some time have been spent going through the appeal process, and I don't think that actually helps the employee psychologically, and, you know, especially dealing with the injury they have—that they have through the—because of the work.

And, lastly, I believe Workers Compensation should be fundamentally provide—be providing better protection for workers and, therefore, I would like to see more legislation that is geared towards better protection and one that discourages employees from appealing decisions almost to the point of frivolous or vexatious because there's no real consequences or penalty in appealing those decisions. So I would like to see stricter regulations, stricter legislation, with regards to the appeal process.

That is all. Thank you for your time.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for this presenter?

Mr. Lindsey: Thank you very much for, again, hanging with us for the evening to talk about some of

these very important changes that could've been in the act but aren't.

Let's talk a little bit about bus drivers, in particular, who you represent, particularly now. I mean, they've always had challenges with safety. I don't think all your buses are equipped with shields yet; I don't know if any of them are, to be quite honest with you, and you'll straighten me out one way or the other, I'm sure.

But now, with COVID and people on buses, it's not just the physical injury from catching COVID, it's the mental injury from worrying every day that you may be exposed, that you may take it home to your family.

Have you seen any movement on the part of anyone to recognize those type of issues and start addressing them?

Mr. Ignacio: Thank you, Mr. Lindsey. Those are very good questions.

With regards to the shields, we do have safety shields in all of our buses. We are fortunate enough to have it installed before the COVID, but they are not bioshields, like some have reported.

They—we actually had some issues with regards to the—those safety shields because in recent cases—there had been at least four that I know of—where even with the shields deployed, the—some members of the public have actually taken control of the bus. And it's very concerning to us, not only because our operators are—could be injured, but because a moving bus is definitely, you know, concerning to—it should be concerning to everyone. It could injure not only the people that are riding the bus but also any vehicle on the street.

As to the mental injury, it's bad enough that our members are dealing with the physical and psychological threats from the public. Dealing with the COVID threat or the anxiety in—brought on by the pandemic because of the uncertainties, especially with the new COVID variant, our members are very much concerned about their own health, you know, and they don't want to be bringing that, you know, possible exposure to their loved ones.

* (21:50)

So it is very concerning, and I would definitely like to see more attention for our operators, as well as the public. I mean, you've been asking for a lot of safety equipment, as well as a priority vaccination to make sure that the public transit system doesn't

succumb to an outbreak, which would shut down the whole system.

Thank you.

Mr. Lindsey: Do you have a sense of how many drivers may have taken some time off already, sick time or whatever, that may actually be related to their concerns or stress level with COVID and their personal safety, and have any of those workers filed compensation and have they been successful?

Mr. Ignacio: Yes, that's also a very good question. Unfortunately, I only know of one, one member who applied for WCB coverage because of the COVID—because of contact—related to contracting COVID. However, unfortunately, that claim was appealed by the employer.

I don't know of any other claim because it's very difficult to prove. That one claim alone, I wish there was something you could have COVID coverage, because when you're starting and finishing on the street and you're exposed to different kinds of people, you're standing with, you know, people in public places. There's so much areas you could contract the virus, and that is why I think it's very important that, for something called the COVID coverage, or any coverage regarding the pandemic should be in the act. That way, it's easier for our members to access the needed help and the support.

Also, it's very difficult to talk about the—

Mr. Chairperson: Thank you, Mr. Ignacio. Your time limit for answering questions is over.

We will now call upon Ms. Michelle Gawronsky of the Manitoba Government and General Employees' Union, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Ms. Gawronsky, please proceed with your presentation.

Ms. Michelle Gawronsky (Manitoba Government and General Employees' Union): I will, Mr. Chairman, thank you so very much. And good evening once again to honourable members.

I'm going to put aside the description of the MGEU. I think everybody pretty much knows what it is by now tonight. But I would like to say thank you very much for giving me time to speak on this major topic. Our WCB has always been one of our pride in Manitoba, and I don't want to ever lose that.

We support some of the administrative changes covered by this bill, however, feel it represents a missed opportunity for this government to modernize the workers compensation system in Manitoba.

The MGEU, as well as many other stakeholders, made recommendations that would have enabled the WCB to more fully and fairly compensate workers physically injured at work and to enhance supports for workers who suffer psychological injuries on the job.

A mental health in illness injury is a real injury. Whenever I meet with members, I am reminded of the need and the responsibility we have to improve benefits for workers psychologically injured on the job. I think about the correctional officer who was traumatized after witnessing violence between inmates or acts of self harm and suicide inside our provincial jails; the paramedic or the health-care worker who is overwhelmed by the disturbing incidents they experience at work that they just can't shake from their minds, the numerous, numerous witnesses of death that they see day in and day out; our social worker, who struggles to cope with the traumatic life experiences of the youth that they are trying to help. After all, they are human beings, too, and a mind can only take so much.

How do we improve the workers compensation system for these individuals?

In January of 2016, The Workers Compensation Act was amended to require the WCB to presume that a worker who experiences occupational trauma and develops post-traumatic stress disorder—PTSD—was injured as a result of their employment.

Despite these legislative changes, workers who suffer psychologically—injuries on the job—all too often wait for months while the WCB investigates and adjudicates their claims. When they finally get a decision, these workers are frequently denied compensation because their individual circumstances are not seen to fit the WCB's narrow interpretation of the definition of an accident, because the reports of their treatment providers are judged to be inadequate to satisfy the WCB, or because of the WCB's demands overwhelming evidence to prove the worker's reported experience.

We routinely see prolonged and intrusive investigations that delay injured workers' access to the supports they need to cope with the effects of their injury, to recover and to hopefully return to work one day. The MGEU sees physical and psychological injuries as the same thing; an injury a worker

experiences, a traumatic event resulting in an injury, either physical or psychological, they should be treated the same way.

We appreciate the government's move to distinguish psychological injuries from occupational diseases, however, we remain concerned that this bill fails to address the cumulative effect of occupational trauma. While the WCB readily accepts responsibility for physical injuries that develop over time, strict criteria are used when it considers psychological injuries that occur without a single identifiable triggering event.

We urge the government to consider that, in the very same way that a worker can develop a physical injury by repeated stress movements, a worker in—can be psychologically injured by mental stress from repeated exposure to trauma, harassment or even unimaginable work demands over time.

The act needs to be clear in confirming a worker's right to benefits for any work-related psychological injury. Workers gave up the right to sue their employers as part of the historical compromise that guaranteed benefits for disablement arising from the job, yet claims for compensation relating to psychological injuries are frequently and unjustly denied.

To ensure physical and psychological injuries are treated equally by the WCB, the MGEU recommends that the act be amended to ensure physical and psychological injuries are investigated, adjudicated and managed in a fair and consistent manner; the definition of accident be amended to include any disablement that arises out of and in the course of a worker's employment; and stress as an exclusion from the definition of an occupational disease under subsection 1, paragraph—or, parentheses 1.1 of the act, be removed.

Other concerning parts of the bill include: repeal language that enable the WCB to financially support research for better safety programs, accident prevention, treatment of workplace injuries and on scientific, medical and other issues relating to workers compensation. Through the research in the workplace innovation program, the WCB has offered up to \$1 million annually in support of research in areas relevant to workers compensation. It has supported research undertaken by the private sector, employers, unions and academia.

We are concerned with the removal of the language supporting research from the act because the

WCB has relied on the purported lack of scientific evidence to justify its position on emerging issues, such as refusing to support the use of service animals for workers with psychological injuries and denying financial support for medical marijuana as treatment for psychological injuries and chronic pain.

The government's decision to eliminate the act from—the language from the act was not recommended by the Legislative Review Committee and cast doubt—its commitment to research in areas of workers compensation. This change may well perpetuate the lack of research into areas relevant to workers compensation and allow the WCB to continue to lag behind.

* (22:00)

The MGEU is disappointed that this proposed change—and is concerned it signals an undesirable change in the direction of the worker's compensation system in Manitoba. This bill will result in a few, if any, tangible improvements for workers who are injured on the job.

Based on the experiences of our members, too many of which are physically and psychologically injured on the job, we sincerely hope this bill is amended to modernize the compensation system in Manitoba and to improve the benefits and services provided by WCB to those most unfortunate workers and their families.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you, Ms. Gawronsky, for another good presentation on this particular piece of legislation, and I'm sure there's much more you could probably share with us on what could've been done to create a really good worker's compensation act.

Let's just talk very briefly about claim suppression. Have you or your members experienced claim suppression, and could you just give us some examples? And a lot of times, it's not blatant; it's more subtle. If you could just give us your thoughts on that.

Ms. Gawronsky: Yes, Mr. Lindsey, I certainly can.

In fact, the claim suppression and the issues with WCB warranted the MGEU membership in wanting a full-time representative that does only WCB cases and does the appeals for them. So that should give you an idea of the vast numbers that we deal with every year.

I can't give you an example, a specific example, off the top of my head, other than for one person that I know that was working—that used to work out of the coroner's office. And after doing the investigations on so many deaths and all the violence that she's seen through these deaths, ended up off on psychological illness, and the problems that she has had getting the companion—the dog companion to be with her.

Some of the concerns that we've seen from our health-care workers who have witnessed many, many deaths over the last few years: correction officers, especially some of the ones—I can name the ones in 1996 in the Headingley riot when there was such overcrowding in the jails that they—the inmates actually—I can't think of the word right now; it's gone—but they actually did a riot and there was major trauma from that one, and I know a number of correction officers—ex-correction officers now—that just were not able to continue on with the workplace. And I know the struggle they had with the claim suppression and the problem they had back in the early '90s.

Mr. Chairperson: Are there any other questions from the floor?

Seeing none, we will now move on to the next presenter, which will be Mr. Curt Martel, and I ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Martel, if you can proceed with your presentation.

Mr. Curt Martel (Private Citizen): Bill 18 does some good and some bad.

I'm very glad to see this government implement positive changes, such as the creation of a schedule of occupational diseases with presumptive coverage. This change will take pressure off of workers to prove that a disease is related to their employment, which can—as—be especially difficult at times given that many occupational diseases can take years, if not decades, after an exposure in the workplace before any symptoms are—have developed.

Bill 18 also requires employers to destroy health information obtained as part of an appeal at its conclusion, though it is concerning to me that the provision that info not be used without the board's written approval remains in the bill. It further removes dominant cause from psychological injuries and establishes administrative penalties for employers who hinder WCB investigations.

With that all being said, I do have several concerns with this bill. Specifically, it establishes an employer advisory office. The creation of this office will only serve to encourage employers to challenge WCB claims their employees have made in order to minimize their own insurance premiums while simultaneously adding additional stress on an injured worker at—in an already difficult time.

It's additionally important to note that the Worker Advisor Office, which exists to help injured workers navigate the complex bureaucracy of the WCB, has been understaffed and underresourced for years.

Bill 18 also fails to provide coverage for psychological injuries incurred in the workplace, with the exception of an acute reaction to a traumatic event. This is especially disappointing, given the stress our current pandemic has placed on workers on the front lines, such as those working in retail, security, food production and, of course, health care.

As a final note, I would just like to make the point that any legislation is only worth the amount that government is willing to spend on enforcement. The WCB act has not been adequately enforced for many years, and these positive changes, I feel, will not have the intended impact without the enforcement being present in order to ensure that employers are abiding by the act.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you, Mr. Martel, for coming out and sticking with us this long to make your thoughts known.

And I appreciate what you've said about enforcement, whether it's the compensation act or the workplace health and safety act, enforcement is the key to those pieces of legislation actually protecting workers. And the lack of enforcement also leads to claim suppression, because employees, workers, don't know who to turn to.

So, within what you're talking about, could you just tell us a little bit about—do you have any knowledge of claim suppression and how it's affected people that you may know?

Mr. Martel: Thank you, Mr. Lindsey.

I could speak about the experience of the members I represent. As the members of the

committee may be able to tell, I do work for a labour union, though I'm here as a private citizen. I'd like to maybe go back a little ways further, though, and speak about some of my own experiences with claim suppression.

My first exposure to the Workers Compensation Board came when I was 16 years old and working in a restaurant in the community that I grew up in. I worked as a line cook, and in the course of my duties sliced part of my finger off. This required a trip to the local emergency room for some stitches and some glue. When I arrived at the hospital I was understandably—you know, I was a kid—I was nervous, I was scared, least of all because of the injury that I had suffered, but more so I didn't know what my legal rights were. I didn't know if I would have a job the next day. I didn't know whether or not I was still going to remain—or continue to have an income.

While the doctor was actually in the process of fixing me up, I got a call from my employer, who had only one question for me. He was not interested if I was all right. He wasn't really interested in when I could come back. His only concern was whether or not I told the doctor that this had happened in the workplace. At that point in my life I had no idea why my employer would be asking me a question like that. I answered truthfully and told him that, yes, I'm wearing my uniform shirt, and, yes, I told him what happened, that this was caused by a workplace injury.

My employer's response to that disclosure definitely did not do anything to alleviate the anxiety I was experiencing, sitting there in the local emergency room. There were a series of expletives followed by the phone call abruptly ending, and it was only many, many years later that I was able to actually piece together why this was such an issue for him.

He wasn't interested or concerned with how I was doing. More so he was worried what this would mean for his bottom line, as my injury would lead directly to his WCB premiums increasing.

Mr. Chairperson: Are there any other questions from the floor?

Seeing none, we will now move on to our next presenter, which is Mr. Robert Moroz. I will ask the moderator to invite them into the meeting.

And please unmute yourself and turn your video on.

* (22:10)

Mr. Moroz, please proceed with your presentation.

Mr. Robert Moroz (Manitoba Association of Health Care Professionals): I'd like to, again, thank the committee for the opportunity to speak to Bill 18, The Workers Compensation Amendment Act.

Again, by way of introduction, for the record my name is Bob Moroz, I am the president of the Manitoba Association of Health Care Professionals, also widely known as MAHCP. Today we represent over 6,500 members working in 190 different classifications serving Manitobans in hundreds of health-care and social-service settings across the province, including hospitals, labs, or ambulances, personal care homes, and in the community.

I'd like to begin by stating that I've reviewed the written submission by the Manitoba Federation of Labour and once again state that MAHCP wholeheartedly agrees with the entirety of their observations and their recommendations. The MFL submission is lengthy and detailed, and that stands to reason, of course, as they were directly involved with the tripartite legislative review that was undertaken in 2016 and 2017.

There is some good in this bill, as the MFL submission points out. In the interest of time, I'm going to limit my remarks to psychological injuries as other speakers have done before.

As you're no doubt aware psychologically—psychological industries—injuries—holy moly, it's very late. I apologize for my marble mouth. I do apologize for that.

So, as you're no doubt aware, psychological injuries related to the workplace and working conditions are on the rise virtually everywhere. This is true across the board and it's certainly true when it comes to the allied health professionals that MAHCP represents.

Unfortunately, MAHCP—or Manitoba, pardon me, has fallen behind other jurisdictions in how we provide coverage for these injuries. I'd like to provide a bit of an example given the inspiration of a couple speakers earlier. I'd like you to, if possible, I would ask the honourable MLAs to consider, if you're able, to put yourself in the position of a certain member that I'd like to tell the story of.

This individual had lost a very important member of their close family to suicide, so it stands to reason that this person would take some time to recover from

that. The person took some time away from work and it made sense; it was a very unexpected and traumatic event for this individual.

So time goes by, this individual is able to return back to work. One of the earliest situations that this person found themselves involved in—and this person is a paramedic; this person is a first responder in a rural community. One of the very first calls that this person had to respond to was a situation where someone had also taken their own life in circumstances that were very, very similar to her own loss in her own family. It cannot be a surprise that that trauma recurred to that individual.

So, in terms of WCB and presumptive coverage for post-traumatic stress or psychological injury, this person has been fighting for 18 months to have it recognized that the second event was the triggering event in her situation.

WCB likes to say, going, you were still struggling from the original event from your own family member. The person returned to work, WCB likes to say, and the employer will say, well, you had pre-existing trauma from your original.

Keep in mind that this person had returned to work in a situation as a paramedic who regularly responds to things like this.

So I just wanted to throw that out as an example for the MLAs sitting here listening to us tonight, going—this is the reality of the world that a lot of our members living in.

We have prepared remarks; I have prepared remarks. I've gone off script a little bit. I just really, really wanted to share that situation. This person is still struggling to get some compensation for the time that they needed—for that time after the secondary event that brought back the initial trauma. There's no connection, unfortunately, with WCB in terms of one instance to the next. It's remarkable, it's sad, and this member is continuing to undergo an enormous amount of stress, and it's an awful situation.

So I just wanted to throw that out there if the MLAs present are able to put themselves into the position of an individual Manitoban, because that's what I and I believe what a lot of my colleagues in labour try to do every day, is to put yourself in the position of that member who's telling you their story and then try and share their story on their behalf. So I'm throwing that out there.

So back to my remarks, then. The changes proposed in Bill 18 do make some improvements, but MHCP [*phonetic*] joins the Manitoba Federation of Labour in calling for a review to begin immediately on what other jurisdictions have done to modernize and expand and, quite honestly, humanize coverage to all workplace-related psychological injuries, including those caused by workplace stressors. This work is not only necessary and pressing, but it would be a good-faith signal to workers across Manitoba, including many health-care professionals, who are suffering—and they're really suffering; it's not hyperbole; they're suffering—but who feel left behind, and they feel ignored.

Again, I'd like thank the Manitoba Federation of Labour for all of the work they've done that has been recognized in this bill and for all the recommendations to improve it, which, once again, that MAHCP agrees with.

I'd also like to acknowledge the steps in the right direction that Bill 18 represents, while also stating that there are a lot of—there's a lot of work left to do in terms of psychological and other injuries in Manitoba.

Thank you.

Mr. Chairperson: Thank you for your presentation.

Do members of the committee have questions for the presenter?

Mr. Mark Wasyliv (Fort Garry): Yes, I wanted to thank you for your submission on this bill and the others tonight; I know it's been a long evening for you.

You had mentioned that Manitoba is a bit of laggard, that there are other jurisdictions that are far more progressive when it comes to this type of scheme, and I'm wondering if you can give us an example of, sort of, best practices, what legislation we should be looking at and what specifically about their approach that you think we need to incorporate in Manitoba. [*interjection*]

Mr. Chairperson: Mr. Moroz.

Mr. Moroz: Thank you, Mr. Chair. I apologize for jumping the gun there.

But certainly, when you look at jurisdictions, even like British Columbia, Alberta, Ontario, even, in some situations, some of the presumptive coverage is there. Manitoba had made some strides. We've made some strides in—as—presumptive—in presumptive coverage for psychological injuries, but the reality that we're facing on the ground, Mr. Wishart, is that the

employer continues to fight us at every step in terms of when we're looking for compensation, when we are looking to have that member looked after when there's an injury.

Whether it's physical, psychological or otherwise, you know, we need to continue to look after them—that individual first. You know, we've seen numerous claims even denied and suppressed here in Manitoba because, even under the pandemic situation, where it is the adjudicators of the claim will talk to the employer and say, well, there's a policy in place where, you know, the person should be wearing appropriate PPE but nonetheless they still contracted the COVID virus from—90 per cent sure that it occurred at work. So it is a constant battle that we're facing.

* (22:20)

So, that's the end of my remarks on that.

Mr. Chairperson: Are there any other questions from the floor?

Seeing none, we will now proceed to the next presenter, which is Mr. Warren Luky of the United Steel Workers, and I'd ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Luky is not here, so we'll proceed to the next presenter, which is Mr. Mike Sutherland from the Manitoba Nurses Union, and ask the moderator to invite them into the meeting

And please unmute yourself and turn your video on.

Mr. Sutherland, please proceed with your presentation.

Mr. Mike Sutherland (Manitoba Nurses Union): Thank you, Mr. Chair. I'll dispense with the preamble in terms of the Manitoba Nurses Union who I'm here to represent this evening. I will say that this is a matter of some import to us and, as a result of that, in addition to my oral presentation, we have also submitted a far more detailed written presentation for your interest and for the consideration of the honourable members of the committee.

As part of our mandate, MNU has a keen interest in the health and safety of the workplace of our members and additionally we seek to ensure that adequate and suitable supports are in place for our members when workplace injuries unfortunately occur. And it is for this reason we are submitting the

following comments on The Workers Compensation Amendment Act.

May I begin with the protection of personal health information. Nurses are routinely involved in sensitive and confidential situations involving patients and their personal health information.

Very early on in a nurse's career, it is drilled into them that the protection of patients' personal health information is paramount and that PHIA is to be respected and strictly adhered to, and they understand that trust with respect to confidentiality is a critical component of the relationship between them and their patients.

And because of this heightened awareness of the importance of the privacy of this information, they view safety, confidentiality and proper use of their own personal health information with a similar level of concern.

The Workers Compensation Act allows for employers to obtain a copy of an employee's WCB claim file when an appeal is being considered or pursued. However, this information is intended to be used for the purposes of the appeal only.

The WCB claim file will contain the claimant's personal health information related to the compensable injury, but it can sometimes include a great deal of historical personal health information as well. In some cases, a WCB claim file could contain historical psychiatric or addictions health records which would be both highly personal and confidential.

This information is above and beyond the level of confidential information that an employer would otherwise be able to access in the context of an employer-employee relationship or employment contract. However, once acquired through access to a WCB claim file and made aware of such a health history, the employer may seek to use this information for other purposes than those designed and laid out.

Unfortunately, there is currently no mechanism in place to truly guard against such an unsanctioned use of personal health information. This is an issue that will remain despite The Workers Compensation Amendment Act.

An additional issue is that the board can approve employers' use of claim file information for reasons other than reconsideration or appeal. The Workers Compensation Amendment Act makes a slight amendment to the existing language, specifying that approval for any other use of this information must

now be authorized by the board in writing. However, it nonetheless maintains the ability of the board under section 101(1.8) to authorize other uses for the information shared with the employers.

We strenuously object to the board having this power. The WCB should in no way have the ability to authorize another party's use of the information for any other purpose, given that it could be used to negatively affect the employment status of an injured worker.

On a more positive note, however, the amendment adds provisions that place restrictions on the amount of time that employers can retain the personal health information in these claim files, and MNU is very pleased with the additional information and language in section 101(1.9) which clearly indicates that employers must destroy all copies of these files and confirm they have done so to the board within 60 days if the employer decides not to pursue reconsideration or appeal.

This proposed article will protect the personal health information and privacy of injured workers. It would also hold employers accountable for the destruction of the personal health information when it is not being used for the designed purposes with respect to appeal. We would respectfully suggest an additional minor amendment that would provide injured workers with greater peace of mind and we believe that it would be appropriate for this section to state that the employer must notify both the board and the injured worker in writing that they have destroyed the files provided to them by the WCB.

We are also pleased to see the definition of accident expanded in the Workers Compensation Amendment Act. However, we are nonetheless concerned that the definition does not require further clarification and ask for your consideration in that regard. The amendment's changed the current definition to: an event or condition or a combination of events or conditions related to a worker's work or workplace that results in personal injury to a worker, including an occupational disease, post-traumatic stress disorder, or an acute reaction to a traumatic event. Clarifying what is included under these definitions will be an important step, and the meaning of conditioning, in particular, requires clarification.

I can convey to you that nurses currently work under unprecedented current conditions with respect to the pandemic that can and do lead to a variety of health issues that have not been recognized by the WCB as compensable. For example, high vacancies

causing unmanageable workloads, repeated requests for employees to do overtime and the imposition of mandatory overtime on nurses leads to burnout, and yet WCB has treated burnout as non-compensable.

I would ask you: how can a nurse who has repeatedly been mandated to work 16-hour shifts under the threat of losing her licence be denied compensation when she finally reaches the point of burnout? Or how can a nurse who has voluntarily responded to employer's pleas for picking up extra shifts in the ICU in order to maintain essential patient care be denied compensation when he experiences burnout? Of course, there is currently also the added stress of working in health care during this pandemic, and nurses' experience of burnout is heightened for all of these reasons, and yet not viewed as compensable by the WCB.

We ask for your reconsideration in that regard because these are the conditions related to a worker's work or workplace which results in burnout issues for our nurses.

So, despite the expanded definition, we are hopeful that the act can even go farther in recognizing these sorts of injuries caused by the conditions in the—these conditions in the workplace.

Another point: injuries arising from harassment. In addition to the lack of recognition for things like burnout, the current amendment's lack of definition for and recognition of the impact of harassment. Unfortunately, the amendment continues to remain silent on this potential source of injury and a clear indication of what constitutes harassment and how it pertains to an accident as defined in the act would be beneficial.

British Columbia contains a section in its workers compensation act section that explicitly recognizes the role workplace bullying or harassment can play in causing psychological injuries and, under the BC legislation, a mental disorder resulting from that is compensable. We'd like to see Manitoba workers' compensation take a progressive approach in terms of tackling the issues of workplace bullying and harassment similar to the measures in BC.

In regards to PTSD claims, the act makes some progress on the language regarding the presumption of PTSD by removing current reference to dominant cause. While this change is a positive one, it must be accompanied with a change in the board's practical approach if it is truly to result in an improvement of the handling of PTSD claims.

We've seen a heavy emphasis placed upon the latter part of the clause, which states unless the contrary is proven. In many cases, though, it seems that a great deal more investigation occurs to search out alternative causes when a worker files psychological injuries, like the PTSD, than when they file claims for physical injuries.

Unfortunately, the proposed amendments do not remove part of this section. Simply put, the presumption principle must truly guide the adjudication progress-process, not aggressive investigations to identify alternate causes.

With respect to psychological injury claims, I'd like to highlight the contrast. For example, in 2019 only 11 per cent of physical injury claims made by nurses were denied, while 40 per cent-46 per cent of nurses' psychological injury claims were denied in that same year. Such a difference in claim acceptance rates is significant evidence of a higher burden of proof being placed on psychological injury versus physical injury. This approach is discriminatory and needs to be addressed in a meaningful way. The proposed amendments current to the act currently do not address this ongoing issue.

* (22:30)

In regards to the provision of medical aid, I am pleased to report that we are happy to see the expanded language around the medical aid in the proposed amendment to section 27(1). The addition of rehab as one of the reasons for providing medical aid to an injured worker is definitely a step in the right direction.

The existing act only allowed the board to provide a medical aid to cure and provide relief. It's further encouraging to see that the board will be able to provide medical aid to a worker who is or may be entitled to compensation.

Any delay in treatment can be detrimental to an injured worker, and this proposed amendment clearly indicates the board-approved medical aid can be provided while an injured worker's claim is being adjudicated.

And, finally, we appreciate the broadening of the board's discretion on provision of medical aid to include not just what it considers necessary but also what it may consider advisable.

In conclusion, we'd like to recognize that many of these proposed amendments are positive. We welcome the improvements to privacy and new

requirements placed on employers in that regard. We see value in some of the changes to the language around what constitutes an accident-

Mr. Chairperson: Thank you, Mr. Sutherland. You've reached your time limit of 10 minutes for your presentation.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you, Mr. Sutherland. The things in your presentation-you talk about some definitions for things like event, condition or combination of events. You talk about it needs to have greater definition of what those words mean.

Do you think we'd be further ahead to see those definitions in the act, where, in order for them to get implemented or changed, they would have to go through a process like this, or just in regulation, where they could change overnight without anybody knowing it?

Mr. Sutherland: My inclination and preference is always that when definitions are included in prominent-in-within the legislation itself, rather than in the regulation. The prominence and the emphasis that could be provided by their inclusion in the act, I think, would be far more beneficial and likely better broadcasted and communicated to Manitobans.

Mr. Chairperson: Are there any other questions from the floor?

Mr. Lamont: Thank you very much for this presentation.

I think just even the argument around burnout, to me, is one of the strongest arguments. And we-people talk about having a single traumatic event as opposed to a whole series of events that can lead to a crisis and that what makes an unsafe workplace is not only the mental injuries but, you know, that it-that a person who's functioning like that is not functioning properly, that they cannot do their own work. It's a danger to them-they could be a danger to themselves and others.

So, are there other jurisdictions that have a model for where-for this-the treatment of burnout you can reflect on or-whether it's in Canada or elsewhere?

Mr. Chairperson: Mr. Sutherland.

Mr. Sutherland: Sorry, I keep jumping the gun, Mr. Chair. I apologize.

Candidly, with respect to that, I'm not-in terms of being able to provide a detailed response, I can't

indicate to you exactly; I could probably do some more digging and research and find out.

The challenge and the difficulty for us, which has been highlighted particularly by COVID—and again, I know we've heard some pretty significantly heart-rendering versions of difficulties that have been suffered by workers. But I'm reminded of many of our nurses and health-care workers in the personal-care-home sector as well as in medical ICU, where you're making terrible choices with respect to holding the hand of the patient who is expiring by themselves without any support, and choosing between that and providing care to another very gravely ill patient, and those sorts of scenarios occurring not only on, you know, a weekly basis but sometimes a daily or even hourly basis.

And so, those types of situations, you know, occurring over and over again, have such lasting and long-lasting impacts with respect to those types of devastation, psychologically. And there may not be a single triggering event; it may be an accumulation of similar events over time, but that injury remains real.

Mr. Chairperson: Thank you.

Seeing there are no other questions, I will now call on the next speaker, Phil Kraychuk, private citizen, and ask the moderator to invite them into the meeting.

Please unmute yourself and turn your video on.

Mr. Kraychuk, please proceed with your presentation.

Mr. Phil Kraychuk (Private Citizen): Thank you. And thanks for your patience and time this evening to everybody there. It's been a long night.

My name's Phil Kraychuk. I'm a private citizen. I'm going to speak on this, but I'm also a representative of UFCW 832. And WCB is something—I was part of a lot of these discussions internally in the house of labour back in 2016-2017, as well as the changes on the workplace safety act, which I served as a member of the minister's advisory council that was terminated mid-review.

I'm going to spend a little bit of time here, hopefully, kind of bouncing around a little bit, but there's some good in the bill, and I don't think I'm going to hide behind that, because I think there are some benefits in there, but I see this particular bill as a large squandered opportunity, for lack of a better term.

And the reason why I say that is because, up until 2016-2017, there wasn't a large review of The Workers Compensation Act since mid-2000s–2004-2005—back 2004-2005. And shortly prior to that, the big hot topic on the table at that point in time was musculoskeletal injuries, and we got some pretty good language about that and some good decisions and some good WCB policy around that, which could be argued on implementation, but we did a lot of work on that in the early 2000s and to mid-2000s.

Now we fast-forward to a review that was done in 2016 to 2017, largely based off of a large internal review done by Mr. Petrie which outlined a number of different issues within the compensation system. So we're now four years, five years post-review and discussions and a bill that is largely compromises made by a great group of hard-working Manitobans.

So I think a lot of people talked about PTSD and a lot of people talked about claim suppression. There's the worker adviser versus employer advocacy office. I'm going to start with that piece right there because I don't think that anything where you tag on employer to—helping with any sort of appeal of a claim is beneficial to the system. The whole compromise that happened in the early 1900s did not contemplate employers having extra resources on top of the resources that they already have to appeal workers' compensation claims, and that's simply what it is.

The reason why we have an extremely under-resourced worker adviser office is because workers just simply don't have those resources. If you're not part of a union in Manitoba, you do not have the resources of appealing a claim.

And if you've ever been through a workers compensation claim or advocated for somebody on a workers compensation claim, you'll know that Workers Compensation does an extremely poor job at advising and educating workers of their rights throughout the process. A simple form template letter that's gone out to every single injured worker, advising them of the appeal process, isn't enough for them to understand exactly how to make their way and navigate probably the most complicated system many of them will ever make their way through.

So when I say it's a missed opportunity, a squandered opportunity, it truly is.

You know, the lack of enforcement—I'm not going to spend too much time beating that one up—but, again, delays in enforcement, the lack of enforcement, it falls

on the back of workers. And there's no hiding behind that; there's no doubt that it's going on.

I've personally been part of many different reviews. I was part of the very first claim suppression penalty that was ever handed out in Manitoba. I'd be happy to tell that story; please ask. But the bottom line is, the last claim suppression penalty that I've seen go through the system took about three years. That was three years of a worker suffering. I've seen one go through the system where it turned out to be claim suppression but the worker's claim was denied after they were outside—assaulted outside of a grocery store.

So the piece on enforcement basically wraps around everything because it's not just enforcement on employers abusing the system, it's enforcement on WCB not enforcing their own act, not acting within their own act, not acting within their own policies, not acting within their own regulations.

Brings me to my next point, which is PTSD and the presumption piece, and how we can have presumption applied in different ways in multiple areas of the workplace—Workers Compensation Act is mind-boggling to me.

Again, I was part of some of those discussions which brought the presumption into the act and it was exciting, and as a Manitoban it was something to be proud of; it was something to talk about and it was something to celebrate.

It quickly became something that turned into just a complicated nightmare—workers waiting over a 100 days, 165, 185 days, I believe. the MFL reported in some cases back when this first came in, to get a decision made on post-traumatic stress. I personally have helped workers navigate their post-traumatic stress claims and I see in there the Workers Compensation not even using the current model of the DSM to adjudicate a claim, and when asked about that they didn't know that there was a new DSM model. So those are the kind of things—and maybe to their credit—I can't tell you now if they're using the DSM-5, but they certainly weren't in the past.

* (22:40)

So, you know, when we talk about—I opened up by talking about musculoskeletal injuries. Well, mental health is by far, by far the biggest issue we see as a society now. And it's something that's not just exclusive to Manitoba, it's not exclusive to Canada, it's right across this globe. We're seeing a problem

with mental health, and that's only being compounded now with the pandemic that we're all living through.

So, yes, PTSD, I mean, let's—it's great, and we can get it—we could get coverage for any occupation out there, but it's a single incident adjudicated the same way you would adjudicate my broken arm. It's just fundamentally flawed. Paramedics, nurses, health-care aides, assisted-living professionals, all those groups who are constantly exposed to negative, negative working environments and seeing catastrophic events on a daily basis—you don't necessarily get post-traumatic stress disorder by one single incident. And all the science in the world out there will confirm that. So why do we adjudicate it on that basis? Why did we not do more when we have the opportunity in front of us right now to do that? We could do that. We could make that change right now.

I'm going to move on to claim suppression here because this is something that's near and dear to me. And one thing that I didn't hear many of the other speakers talk about was the internal problem that Workers Compensation has with claim suppression, medical claim suppression: Workers Compensation relying solely on their internal medical providers' opinions that negate many experts, many outside providers. In any given file you could have five, six, seven, eight, 10, 12 different doctors' opinions.

One medical provider from within the Workers Compensation is enough for them to deny a claim when all the other specialists will say the same thing. That's claim suppression at it's finest. And that's a system that's built to allow that to happen.

We're not doing anything about that system to fix that, and this bill is an opportunity to put some tags, to put some monitors within that Workers Compensation system to make sure that what the act contemplates is discussion between medical providers actually happens. Because, again, this all comes off the back of injured workers. This is completely off the back of injured workers. Maybe I'll appeal my claim and maybe I'll win.

Does anybody know how long it takes to get to the appeal commission? It takes a long time. It's not something that comes quick. And in that whole time you're suffering from an injury, an illness, something that's changed your way of life. And being away from the workplace is the most difficult thing. We need this compensation. There's a reason why this was there, and there was a reason why there was a historical compromise back in the early 1900s.

So claim suppression isn't just employers abusing the compensation system, which I've seen many times. I read files and I see in the files workers report to the Workers Compensation that my employer told me not to do this, my employer tried to stop me from doing this, and Workers Compensation isn't even reporting that to their own enforcement branch. They're not even turning around and saying, hey, we've got a claim here, we're going to adjudicate that claim, but in the meantime you should go look into this because this worker is telling me that their employer tried to stop them from filing the claim. That's internal claim suppression. That's employer claim suppression.

But nothing's going on, and I don't think it's because of a lack of knowledge at the enforcement branch. I think that the enforcement branch, with the money they have, the resources they have, I think to a certain extent do a very good job when they're given that ability. I think that the enforcement branch is extremely underresourced and they should be tasked by an outside party to also review the internal system, the broken workers-compensation system that we see on a regular basis.

So claim suppression's prominent. It's going on, just, you look at the rate-setting model, all those different things out there. We're not workers, we're not workers in Manitoba to a lot of these large employers, we're numbers on paper. And it's if—is the injury worth it? Is the injury worth it? Is it more worth it to put it to bed or should I take my \$4,000 fine and move on?

So, claim suppression, I mean, there's a lot more that we could have done on this but I think the biggest thing that we fail to recognize on a regular basis as workers, as government, as representatives elected by the public, is the fact that our internal system's broken and it's promoting these types of behaviours that are creating havoc for workers that are at that time in the most vulnerable stages of their life.

So, opportunity, opportunity, and it's an opportunity missed here.

You know, not just PTSD; PTSD is a small component of a very large scale of mental illness and acknowledging—

Mr. Chairperson: Thank you, Mr. Kraychuk. Your 10 minutes for your presentation time limit is over.

Do members of the committee have questions for the presenter?

Mr. Lindsey: Thank you, Mr. Kraychuk, for your really good presentation. Obviously you've been in the trenches dealing with it, trying to help people.

One of the things that we haven't heard a lot about is how the compensation board itself develops policies, because it's been my experience that the act itself is one thing, but the policies that get developed internally that guide the board on how they make decisions a lot of times I think is the problem.

Have you got any thoughts on that?

Mr. Kraychuk: Thank you, Mr. Lindsey. I do have some thoughts along that.

I mean, there's a Workers Compensation Act that's put into place and, like many, many different acts, there's regulations associated with it, and then there's the policies—the policies of how to apply those different areas of the act or the regulations.

And in workers compensation's case, I think the biggest flaw in that is that their policies are developed from—with—internal. There's no consultation when it comes to developing these policies.

And the best one to turn an eye to would be the new policy on psychological claims and how to adjudicate those. That was done simply by the WCB. And when we first brought in the presumption on PTSD, they didn't adjudicate it any different than they would any other claim out there. There was no presumption applied to anything.

And when we asked that question, they say we operate off our policy. Well, they didn't change their policy when they brought it—presumption. It was only until labour kicked back and said, this isn't what presumption is, you apply it this way in the act in one area but you're applying it completely different in this way.

So there definitely, in my opinion, needs to be some sort of monitoring body that has say and some governance over how they actually implement these policies and how they adjudicate claims and carry on through the system, because right now a lot of them would appear to be looking for ways to deny rather than looking for ways to accept.

Mr. Lindsey: One more thing that has occurred to me: there's a body of evidence out there that talks about workers that suffer physical injuries—and sometimes they're substantial physical injuries, sometimes they're not—but oftentimes that injury leads to psychological breakdown.

Have you got any experience with that kind of thing, where what would have been perceived as just a normal person going to work every day, they suffer a broken arm or a broken leg or something and, all of a sudden, it's like the wheels come off their whole life and they start having other issues?

And has compensation been able to address those kind of issues?

Mr. Kraychuk: Yes, thank you. That's another good question there, because I think there's all sorts of literature out there about injuries compounding and leading to further injuries, we'll say, or further illness and in being off work versus returning to work.

And, you know, I mean, the fundamentals behind the return-to-work program is to get you back there to try to alleviate some of those mental health aspects of things.

I'll tell you, my experience flat out with those types of claims is: I'm suffering because of an injury that is directly—injury or illness that's directly related to the workplace; file another claim and we'll adjudicate it. I've never, ever—and although workers compensation will tell you they do this—I've never seen a claim suffer—or, a claim accepted for any psychological illness other than PTSD.

Workers compensation will tell you over and over and over that they will accept those claims. I've never seen one. I've advised many, many workers to file them; I've been beside many, many workers when they've filed them; and I've seen many, many outcomes that came to denied. They say they do but they don't do it.

And the reality is that the mental health aspect of an injury is something—it's a bomb waiting to go off if there's not early intervention and if the claim isn't handled properly.

Mr. Lindsey: I just want to thank you for that, because I know from my own experience dealing with workers that had physical injuries led to mental health issues that, really, compensation didn't offer them anything except more mental health anguish.

So thank you for that and thank you for your presentation.

Mr. Chairperson: The time for questions—time limit is over.

So now we will name off the presenters and call them for a second time.

I will now call upon Mr. Jim Huggard on Bill 8.

* (22:50)

Mr. Huggard is not here; therefore, he'll—his name will be dropped from the list.

I will now call upon Molly McCracken on Bill 8.

Molly McCracken is not present. Her name will be dropped from the list.

I will now call upon Mr. James Spencer on Bill 8.

Mr. James Spencer is not present. His name will be dropped from the list.

I will now call upon Mr. Warren Luky, on Bill 8, 11 and 18.

Mr. Warren Luky is not here. His name will be dropped from the list.

We will—this concludes the list of presenters I have before me.

* * *

Mr. Chairperson: In what order does the committee wish to proceed with clause-by-clause consideration of these bills?

An Honourable Member: Numerical.

Bill 8—The Pension Benefits Amendment Act
(Continued)

Mr. Chairperson: We will now proceed with the clause-by-clause of Bill 8.

Does the minister responsible for Bill 8 have an opening statement?

Hon. Scott Fielding (Minister of Finance): First of all, I'd like to thank everyone that came out and presented today for the bills. It was some great background discussions.

The bill will amend The Pension Benefits Act and modernize the rules and reduce red tape without compromising the security of pensions. The bill supports the recommendations of the Pension Commission and feedback from the online consultation. The bill ensures a strong framework for pensions in Manitoba and a secure and stable retirement income for all Manitobans.

Bill 8 provides individuals with greater flexibility in managing their retirement funds and prevents some employees from facing severe financial hardship due to the inability to access their funds.

Bill 8 also introduces changes to the solvency funding rules that would address funding challenges

faced by plan sponsors due to market downturns, declines in long-term rates used to calculate solvency liabilities and improvements in life expectancies.

Additionally, the proposed changes relate to the division of pension assets due to relationship breakdown, which allows greater flexibility in dividing pension assets based on the individual's circumstances and transfers the responsibility of the division of assets to the courts, which is more appropriate.

A number of other measures are included that will reduce administration efficiencies.

And that is my comments, Mr. Chair.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Tom Lindsey (Flin Flon): First off, let me take the opportunity to thank all the presenters that came out tonight to talk about this particular bill. It's a very important bill and makes some critical changes to pensions for working people, going forward, particularly including the unlocking of pension funds so that they can be withdrawn and watering down solvency requirements.

Manitobans work hard for their wages and salaries, and they want to be assured that their pensions are protected for retirement and properly managed. Pensions are deferred wages, and as the minister said earlier tonight, it is the workers' money. As such, they—money should belong to the workers; the pension needs to belong to the workers.

Workers have, in a lot of cases, negotiated and expect to be able to get that pension when they retire. By allowing employers to water down the solvency requirements from 100 per cent to 85 per cent, I can tell you that employers may lose out. We've seen any number of high-profile pensions that workers were left at the end of a bankruptcy case with nothing. So if the government wants to change solvency requirements, then they should introduce legislation that protects workers and puts them at the top of the pecking order rather than banks and investors, but they haven't done that.

By allowing workers to withdraw money from their pensions to take care of immediate needs, immediate needs that have been exacerbated by this government due to laying workers off, due to freezing workers' wages, due to not supporting workers properly throughout this pandemic, it really has put

workers in a position where they're in danger of losing their house today or tomorrow, and it's a tough choice for workers to have to make: should I take money out of my pension now to make my mortgage payments, knowing full well that when I retire I won't have enough money to stay in my house either? This government has failed workers again with these changes.

The other problem with workers taking money out of their pensions, it leaves the entire pension plan less able to be sustainable, because the whole basis of, particularly defined benefit pension plans, is everybody supports everybody by having their money in the plan.

We know that—and I've seen it first hand—workers—because we were under a federal pension rule at my workplace, workers took their full amount out and, based on some rather unscrupulous advisers, thought they were going to have the world by the tail; they were going to have twice as much monthly benefit. And then I saw them working at Walmart about a year later and asked, what's going on? Well, they lost all their money. Downturn in the economy. The stock market crashed. And there went their pension. Whereas if they'd have left it in the defined benefit plan, it would be there.

So we need to make sure that whatever changes a government is proposing when it comes to pensions have to take the long view of protecting pensions and protecting workers.

The minister read a whole laundry list of reasons why somebody may be able to claim hardship to get their hands on the money. And those, really, exemptions need to be so very small and so very hard to achieve, that workers really have to have hardship. And I would encourage the minister to look at some of the other things that his government has done that's created that hardship for working people.

So we've heard a lot of very positive suggestions that could make this bill better for working people, better for Manitobans. So I hope that the minister has listened to some of that.

Do you know, I'm talking about provincial pensions. I've had phone calls from people that got offered to retire early as part of this government's austerity plan. So they took—at that time they were allowed to take 50 per cent of their pension out—and they thought it was a good deal. They took the money and bought houses and vehicles and one thing and the

other. And then, lo and behold, the remaining portion that was still locked in wasn't enough to live on.

This—these workers weren't stupid. But they were led to believe that what they were doing was the right thing when, in fact, it left them—I can think of at least one individual who's probably lost his house, probably had to declare bankruptcy now because of the provisions. And it will only get worse if workers, when they turn 65, are allowed to take all the money out of their pension plan. I can see the day when workers will be left with nothing.

Thank you.

Mr. Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all the other clauses have been considered in their proper order.

Also, if there is an agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 and 2—pass; clauses 3 and 4—pass; clauses 5 through 7—pass; clause 8—pass; clauses 9 through 11—pass; clause 12—pass; clause 13—pass; clauses 14 and 15—pass; clause 16—pass; clause 17—pass; clauses 18 and 19—pass; clause 20—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 11—The Workplace Safety and Health Amendment Act

(Continued)

Mr. Chairperson: We will now move on to Bill 11, clause-by-clause.

* (23:00)

Does the minister responsible for Bill 11 have an opening statement?

Hon. Scott Fielding (Minister of Finance): First of all, I'd like to thank everyone, as mentioned before, that came out today to present on the bill. The bill—this bill will amend the worker—Workplace Safety and Health Act to streamline and strengthen program services offered under the act and lessen administrative burdens for government.

The bill addresses unnecessary duplication and injury prevention oversight and reporting between SAFE Work Manitoba and the chief prevention—

preventive—prevention officer of Manitoba by eliminating the position and mandating the chief prevention officer.

The bill also clarifies protections offered under The Workplace Safety and Health Act and eliminates confusion with The Human Rights Code by replacing the term 'discriminatory' action with reprisal without changing its meaning.

Bill 11 strengthens the deterrence for the most serious contraventions and better aligns Manitoba with other jurisdictions by increasing maximum penalties for offences under the act from \$250,000 to \$500,000 for the first act—for the first offence, rather, and from \$500,000 to \$1 million for the second or subsequent offence.

The bill also closes gaps in the available mechanisms for collecting penalty amounts that have been levelled by the courts for purposes of workplace-injury and illness-prevention education.

Additionally, the bill introduces new provisions that are intended to reduce administrative burdens for government. First provision introduces a six-month time limit to file a reprisal complaint in order to help ensure timely investigations and resolve such issues.

The second provision allows for the direction—director to dismiss an appeal of an officer's order or an appeal an officer's decision related to a complaint whether the appeal is, or original complaint, is deemed to be frivolous.

This—where such a dismissal has been made, the matter would be not appealable to the Manitoba Labour Board.

Thank you, Mr. Chair.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Tom Lindsey (Flin Flon): Once again I'd like to thank the presenters for coming out and sharing their thoughts. Clearly, this is an important change to the workplace health and safety act and not necessarily a change for the better.

Opportunity was missed to actually make this act better to better protect workers. By putting a time limit on when a worker can appeal a decision makes it harder, particularly in cases of harassment and abuse at work, bullying, it throws another roadblock in the way of a worker being able to raise these issues with the time limit that's now put on there.

Appealing a decision to the board that now the director can dismiss an appeal if the director believes it's frivolous or vexatious—and we asked throughout the bill briefing how many cases this would be, and nobody could give us a real good answer, other than it's not very many.

So, it's a solution that was looking for a problem. The problem didn't exist. It's, again, throwing more roadblocks in the way of workers being afforded a safe workplace.

One of the things that's never been properly answered for me is the worker's ability to appeal a decision by a workplace health and safety officer on a right to refuse. It would appear now that that is not possible, and certainly I'd be willing to have the minister explain that that's not the intent, but it certainly appears to be.

A lot of the issues that the MFL and some of the worker groups that were here tonight made—could've made the workplace health and safety act work better for working people in this province. Certainly one of the things that would be near and dear to my heart is stronger committees so that safety committees actually have the power and authority to do things that were contemplated when some of the changes previously made to the act were put in place.

Instead, they're left making recommendations that there's no requirement that somebody actually has to follow those recommendations. There could have been an opportunity to really provide more training for those committees. There could have been an opportunity to make sure that workplace health and safety reports from the division were shared with the safety committees. They didn't do that.

The powers of the director really violate due process the way it's contemplated now.

And I guess one final comment is, is the minister talked a lot about the dollars that this would save. But what he didn't talk about was the lack of sense that this bill brings into workplaces.

So, with those few comments, I'll end my comments.

Mr. Chairperson: We thank the member.

During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is an agreement from the committee, the Chair will call clauses in blocks that conform to

pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 through 4—pass.

Shall clauses 5 through 9 pass?

An Honourable Member: Pass.

An Honourable Member: No.

Mr. Chairperson: I hear a no. The floor is open for questions. [*interjection*]

Clause 5—pass.

Shall clause 6 pass?

An Honourable Member: No.

Mr. Chairperson: The floor is open for questions.

Mr. Lindsey: My question is, again, around clause 37(1)(d), amended by striking out 43 and substituting merely 43.1, which to me means that a worker can no longer appeal the decision of a workplace health and safety officer on a right to refuse.

So, can the minister clarify that for me?

Mr. Fielding: Are you talking about the 'discriminatory' action based on reprisals? Or are you talking about the appeal?

Mr. Lindsey: I am talking about section 6(2).

Mr. Fielding: Well, okay, so, if you're talking about the appeals, yes, any decision of an officer can still be appealed to the director, including work refusals. If it is the case they're being frivolous, then the director's appeal decision is final and cannot be appealed to the Labour Board.

Vast majority of complaints, right, would not fall into the category, as we recognize that most complaints are brought forward in good faith. This is intended to address the occasional file that consumes significant resources and delays other files unnecessarily. Each case will be determined individually by a case-by-case basis of unique circumstances and other investigations have taken place.

Public education materials will be provided to ensure clarity and transparency for Manitobans as they go forward. So there'll be other information being provided.

And the practical interpretation will be consistent with the Manitoba Human Rights Commission and Employment Standards. So they both have very similar parameters, so it matches what Employment Standards have—has in place as well as the Human Rights Commission.

Mr. Lindsey: So, could the minister explain why it was specifically amended by striking out 43 and substituting 43.1 only?

Mr. Fielding: Hang on a second, 43—oh, you're just talking about the discretionary actions being changed to reprisals?

Mr. Lindsey: Yes. I'm talking about why clause 37(1)(d) is amended by striking out clause 43 and substituting just 43.1.

Mr. Fielding: Right. Well, the changes are intended to reduce confusion between the complaint process under The Workplace Safety and Health Act and The Human Rights Code. The changes will have no functioning impact whatsoever.

Mr. Chairperson: Seeing there are no other comments on clause 6, shall clause 6 pass?

An Honourable Member: Pass.

An Honourable Member: No.

Mr. Chairperson: I hear a no. All those in favour—*[interjection]* Okay.

Shall clause 6 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 6, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 6 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

* (23:10)

The floor is open for questions.

Mr. Lindsey: Again, it's talking about the directors of the opinion that the matter is frivolous or vexatious. Once again, it's a problem that doesn't exist. And yet we put legislation in to allow the government's hand-picked director to decide what's frivolous or vexatious as opposed to allowing it to go to the Labour Board to be decided.

So there just seems to be no realistic reason to put this piece of legislation in place other than—well, there is no reason for it.

Mr. Fielding: I would say that there is.

I think it's up to the discretion, obviously, of the director. And if you're spending too much time reviewing this, to a certain extent, it's wasting some people's times.

Now, a lot of these, I'd say the vast majority of these, aren't, but there is probably a few that would be considered in that category, and so you want to spend more time on the other elements, the work that they're going to be doing.

So we think that that makes sense in a large way; it gives some discretion to the director, absolutely, and it's done on a case-by-case basis. But we think it makes appropriate sense and it allows us to direct resources in other directions.

Mr. Lindsey: Would have to agree most wholeheartedly with what the minister's just put on the record, that such a very few number are frivolous and vexatious, that a lot of times it seems like it's the same worker that complains all the time because so many other workers are afraid to stand up, simply because of a bunch of other things that come into play where we talk about harassment in the workplace and all those things.

So to have that worker, then, well, because they're the ones that are voicing opinions, to be deemed frivolous and vexatious because they're the ones that are always complaining, is just not the right way to go. We should let those working people have their day in court, if you will, because a lot of times they have a legitimate case; it needs to be properly addressed.

Mr. Fielding: Agreed.

Mr. Lindsey: So, on clause (b)—that was just clause (a) we're talking about there—so on clause (b),

in the case of an appeal of a reprisal, the director, not referred to safety officer in the time period required.

So, again, a lot of times these things don't rear their ugly head within six months; it's a thing that goes on and on and on and finally gets to a point where a worker is willing to stand up for themselves, so the time limit is not correct.

Mr. Fielding: I guess I would say I understand what the member's saying; I appreciate it.

You know, I think that, to a certain extent, you know, if you are waiting past the six-month period of time, you know, things do—people aren't around, maybe; there might be—the memories may change to a certain extent.

So we wanted something that's pretty similar, so it's similar to 'Employment Standards', kind of a six-month time frame, so we kind of put it towards that. I think when the legislation was drafted, it was very similar to the human rights. I think that may have changed, the timelines with it. But we wanted to be consistent with Employment Standards, and that's what this does.

Mr. Chairperson: Seeing there are no other comments or questions, shall clause 7 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 7, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 7 is accordingly passed.

* * *

Mr. Chairperson: Shall clause 8 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Mr. Lindsey: So, again, now, once upon a time, you could appeal the decision to the Labour Board, but this particular piece of legislation now, once again, denies

a worker the right to be heard. It denies them due process, and it's overreaching, and, again, it's a solution looking for a problem that didn't exist. So there is absolutely no need to limit workers' ability to appeal decisions to the board.

Mr. Fielding: And, you know, respectfully disagree with the member. I think it is appropriate to give some discretion to the director. I think it's pretty similar to employment standards legislation that's in place. It also allows for, you know, significant resources and delays to happen unnecessarily, so allows us to kind of move people and resources where they're needed most.

Mr. Chairperson: Seeing there are no other questions or comments on the last question, shall clause 8 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 8, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 8 is accordingly passed.

* * *

Mr. Chairperson: Clause 9—pass.

Shall clause 10 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

The floor is open for questions.

Mr. Lindsey: Once again, here we are putting time limits that limit when a worker can actually stand up and appeal that which has taken place.

The whole time limit thing is wrong and should be done away with. Same comments as I made previously on the time limits.

Mr. Fielding: You know, put my same comments on the record, too.

Like, say there is a time frame, it is pretty consistent with employment standards and others such as that in terms of the time lengths.

When you do go further out, obviously people's memories and sometimes people move into different areas and what have you, so you can't get all the information immediately so there needs to be some sort of timeline on it.

So we want to be consistent with other areas like employment standards, and so that's why we made the decision to put the timelines in.

Mr. Chairperson: Seeing there are no other questions or comments, I'll now ask the question.

Shall clause 10 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Voice Vote

Mr. Chairperson: All those in favour of clause 10, please say aye.

Some Honourable Members: Aye.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion, the Ayes have it.

Clause 10 is accordingly passed.

* * *

Mr. Chairperson: Clause 11—pass; clauses 12 through 14—pass; clause 15—pass; enacting clause—pass; title—pass. Bill be reported.

Bill 18—The Workers Compensation Amendment Act (Continued)

Mr. Chairperson: We will now be—we will now continue on with Bill 18 clause-by-clause.

Does the minister responsible for Bill 18 have an opening statement?

Hon. Scott Fielding (Minister of Finance): This bill makes a variety of amendments to The Workers Compensation Act and will create a more modern response worker compensation system, Manitoba.

Some of the most significant amendments are made in response to the 2016-17 statutory review,

including reinstating a cap on maximum insurable earnings for workers. This change will bring Manitoba back in line with most Canadian jurisdictions. The relatively high level—\$150,000—ensures that most injured workers in Manitoba continue to receive benefits equivalent to 90 per cent of the lost earning capacity.

Creating an employer advisory office: through this new office, employee—employers would be able to obtain assistance interpreting The Workers Compensation Act, WCB policies and relevant decisions made under the act.

Establishing a schedule for occupational disease: this schedule of occupational disease will make it easier for workers who suffer a particular disease to obtain compensation under the act.

Changing provisions for psychological injuries: the amendment will change the provisions on traumatic psychological injuries so that these injuries are adjudicated in the same manner as physical injuries.

Expanding the WCB's enforcement powers to improve compliance: the WCB will now have greater authority to compel third parties to produce documents leading to more efficient investigations.

Bill 18 also provides additional administration penalties for breaches of the act such as making false statements and filing to—failing to co-operate with investigations.

Bill 8—Bill 18 also introduces amendments designed to augment changes to WCB's corporate governance structure 'connained' in Bill 2, the budget implementation tax amendment act. These amendments include repeal of obsolete financial provisions and the creation of a more modern, flexible, board/committee structure. The WCB must still submit an annual report and five-year plan, which continues to be tabled at the Legislature.

Finally, reorganizing—or recognizing, rather, that The Workers Compensation Act is over 100 years old, Bill 18 makes technical amendments to act designed to modernize the meaning of various provisions.

So thank you, Mr. Chair.

Mr. Chairperson: We thank the minister.

Does the critic from the official opposition have an opening statement?

Mr. Tom Lindsey (Flin Flon): Once again, I wish to thank all the presenters that gave up their time to come out tonight and talk about this bill. And while there are some things in this bill that start moving things the right direction, perhaps, there's so many things that aren't moving compensation in the right direction.

Some of the things that we've heard about tonight that really seem to be missing the boat, and I guess—

Mr. Chairperson: Mr. Lindsey, can we have you start again, please? Hansard computer went down; it wasn't recorded.

* (23:20)

So, Mr. Lindsey, please restart again. Thank you.

Mr. Lindsey: Once again I'd like to thank all the presenters that gave freely of their time to come out tonight and talk about this bill. And some of them talked about some of the good things that were in the bill, but each and every one of them talked about the things that were either missing in this bill or were bad in this bill.

So does the good outweigh the bad? I think not in this case, although there are steps towards some of the right things like the—establishing a schedule of occupational disease with presumptive coverage. I guess the devil is in the details on that. We haven't seen the schedule yet. I don't believe the schedule has been developed.

So, one would hope that it would be a realistic expectation of what some of these occupational diseases are. And certainly, coming from the workplace that I was, there was any number of things that should have been recognized as being occupational diseases but were not.

The presumption was that it was external things that caused the lung cancer and lung disease when, in fact, people were exposed for 30 years to diesel exhaust and silica dust and asbestos and on and on and on.

So those things really need to make sure that they get listed properly in the occupational disease coverage. And certainly some of the new health disease issues that workers face, such as COVID-19 or other similar type infectious diseases. We need to make sure that those things are in there.

One of the things that's missing from this particular bill is workers being allowed to take paid

time off to recover from these particular diseases—particularly with COVID. Workers have to decide whether to go to work or starve. So of course they go to work when perhaps they should be staying home because there's no recognition of diseases, of illness such as this where a worker has to stay home for 14 days, their family has to stay home.

So all those things could have been addressed in this bill and could have been something that all of Manitobans could have been proud of. And, once again, we could have led the way rather than leading the way down. And it seems that this government is particularly afraid to lead. They want to follow what everyone else does. They want to jump off the same cliff as everyone else does. They don't want to lead like they should be.

So, everybody applauded the fact that there was tighter restrictions on employer access to workers' health information. There was still some issues about how the employer would use that information, how they would get rid of it. So there needs to be some tightening up on that.

One of the big things that is a huge issue—and one of the presenters talked about—it was musculoskeletal injuries back in the 2000s. Well, now, certainly, it is psychological injuries and illness that—this bill fails to really recognize the cumulative effects of things like stresses in the workplace not necessarily related to speed up of work, although it could be, but there's so many different things that affect workers.

And we talked a little bit about a nurse, for example, that goes to work every day and sees death and destruction around them every day, particularly in these COVID times where so many people in ICUs are not coming out of ICUs. And we see those front-line health-care workers that are working extra hours and extra shifts and just getting to a point where they can't do it anymore. It wasn't a single traumatic event that caused them to have that breakdown where they just need to stay home. It's a culmination.

And, really, this minister and this government failed those very workers that they've spent some time saying thank you to while freezing their wages and doing all kinds of other things, which hasn't helped anybody's mental health either, right?

So, there's so much more that they could have done around the presumption and around exchanging the definition from a single traumatic event to a series or a number of events. I know workplaces where I

were it wasn't necessarily that one event that led workers to suffer mental health issues, and it may not even have been an event that affected them personally, but it was a series of events that kept happening that eventually got them to the point where they couldn't go to work anymore. And they were denied compensation and forced back to work, and it just did so many bad things to their mental health.

That—the one thing that we've spent some time talking about, and this bill doesn't address, is claim suppression, and as much as sometimes I like to blame employers for claim suppression, the WCB is as guilty of claim suppression as any employer is, because they implement policies over and above—or separate from—the act itself, and it's those policies, a lot of times, that deny workers the benefits that they should be entitled to.

And the compensation act itself and the governance of the compensation has made it so onerous for workers that workers put up with pain and go to work or take holidays—which is against the law, but employers let them do it—rather than fight with the compensation board to get the money that they're entitled to for their lost wages.

And the minister may not like it, but a lot of working people live payday to payday. They can't afford to wait months for the compensation board to make a decision that, yes, we're going to pay you, or no, we're not. So a lot of workers will end up going back to work when they're still hurt, in a lot of cases will end up getting hurt worse because they weren't ready to go back to work, but they couldn't afford to stay home.

And it's really those kinds of subtle claim suppression—I know when I was a health and safety rep, I rode in a vehicle with an injured worker while the company transported them to the hospital. Hadn't even been seen by a doctor yet and they were telling him: come back to work; we've got modified work. They don't even know how badly he's injured. It's those kind of things that need to be addressed and this bill doesn't do that.

The last thing we need is an employer advocate to help employers beat workers out of compensation. Employers do a pretty good job of that on their own already, and the compensation board does a pretty good job of that already. The last thing a worker needs is someone else ganging up to deny them the coverage that they should be entitled to. We know that the

worker adviser office is horribly understaffed and under-resourced; there's no such thing as a worker adviser office in the North anymore. Most workers don't even know there is such a thing until somebody actually points it out to them somewhere down the road, when it's too little, too late.

The timeline for reporting an accident is a problem, because a lot of times a worker initially gets hurt and they think: I'll be fine by morning. But maybe it's Friday and they don't go back to work until Monday. Well, they weren't fine by morning. A lot of times a worker will lose that claim simply because they didn't report it within 24 hours. Sometimes they may have told their supervisor I tweaked my back, but they didn't fill out a report and the supervisor conveniently forgets that somebody told them that they'd gotten hurt.

So once again, the cap is something that we fought long and hard to get lifted—because there used to be a cap—and the minister thinks well, an injured worker, they're not entitled to get paid what they were earning. Through no fault of their own they get hurt, and now they're going to get told: oh yeah, by the way, you're going to take a pay cut. It's just ludicrous to think that anybody would think that's fine; what it is another type of claim suppression.

Mr. Chairperson: Mr. Lindsey, if we can just wrap it up; your 10 minutes are up actually.

Mr. Lindsey: I'm just getting started.

Mr. Chairperson: Thank you.

Mr. Lindsey: Thank you.

Mr. Chairperson: The honourable minister?

Seeing as there are no other questions or comments, we will now—so, we thank the member.

During the consideration of a bill, the enacting clause and title are postponed until all other clauses have been considered in their proper order.

* (23:30)

Also, if there is agreement from the committee, the Chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose.

Is that agreed? [*Agreed*]

Clauses 1 and 2—pass; clause 3—pass; clauses 4 through 7—pass; clauses 8 through 10—pass; clauses 11 through 14—pass; clause 15—pass; clause 16—pass; clauses 17 through 19—pass; clauses 20 to 21—pass; clauses 22 and 23—pass; clauses 24 through 26—pass; clause 27—pass; clauses 28 and 29—pass; clauses 30 through 33—pass; clauses 34 through 36—pass; clauses 37 through 40—pass; clauses 41 and 42—pass; clauses 43 through 48—pass; clauses 49 through 52—pass; clause 53—pass; clause 54—pass; clause 55—pass; clauses 56 through 59—pass; clause 60—pass; clause 61—pass; clause 62—pass; clauses 63 and 64—pass; clause 65—pass; clauses 66 through 68—pass; clause 69—pass; clause 70—pass; clauses 71 and 72—pass; clauses 73 and 74—pass.

Shall the enacting clause pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: I hear a no.

Shall the enacting clause pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Voice Vote

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: All those in favour, please say aye.

Some Honourable Members: Aye.

Some Honourable Members: Yea.

Mr. Chairperson: In my opinion, the Ayes have it.

Recorded Vote

An Honourable Member: Recorded vote.

Mr. Chairperson: I hear a request for a recorded vote.

A recorded vote has been requested.

For the information of all members of the committee, votes will take place in a similar way to those in the Chamber.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 3, Nays 2.

Mr. Chairperson: The enacting clause is accordingly passed.

* * *

Title—pass. Bill be reported.

The bower—hour being 11:34, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 11:34 p.m.

WRITTEN SUBMISSIONS

Re: Bill 8

Mr. Lewandoski informed me as that I cannot attend the hearings I could e mail you this note to be read at the upcoming hearing.

This pension law until it is changed belongs somewhere in the dark ages and reading its rules and regulations is like reading a medieval manuscript. I was please to read however that after my complaint under the section hardship stated "hardship is no excuse" was changed to "no cause". Also the portion which states "if you have 2 years to live you can unlock". How morbid and what if you die suddenly just bad luck I expect. The pension is mine from the years I worked at U of M and when my husband passed away I thought they would be unlocked—not the case—the other way round if I had passed away my husband would have got it. Now as the laws are at present should I die my only living beneficiary, my nephew will inherit it and will probably spend it all in a few months on drugs and fast cars when I approaching 80 could use it to get a few little luxuries to make my last days more comfortable. Just does not make sense I worked for it and do not get it, only a measly 6% interest per year which is taxed. The time for changes is long overdue and the time has come for people to have the right to do what they want with their own pensions they worked so hard and long for. Saskatchewan changed its pension laws some years ago with no adverse effects to its economy and now it is time for Manitoba to do the same, but at the rate you are taking time to pass this bill, sitting since November 2019, I shall die before it becomes law and by the way when I called the pensions office to enquire was told "we keep it to stop you running off to Vegas" and spending it—disgusting what one does with their own pension is their business, hope you get this bill thru soon.

M. Myles

The Legislative Assembly of Manitoba Debates and Proceedings
are also available on the Internet at the following address:

<http://www.manitoba.ca/legislature/hansard/hansard.html>