

PAY-ROLL TAX ASSESSMENT AMENDMENT (EXEMPTION FOR TRAINEES) BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

MS J.J. SHAW (Swan Hills) [2.57 pm]: Before lunch today, I was discussing the anger that I felt when I went home last night after sitting in this place. I have had a great 12 months. I have thoroughly enjoyed listening to the debates, but yesterday I went home feeling genuinely outraged at the points of view that were made by the opposition about the payroll tax proposals put forward by the minister. The reason I am angry is that when the Liberal Party was in government, it increased TAFE fees by somewhere around 500 per cent. The Liberals at the commonwealth level have pulled \$54 million worth of federal funding from TAFEs in Western Australia. We have put forward a very sensible and measured set of reforms to the payroll tax system; the funding from which will be applied directly to deliver 43 350 training positions in Western Australia. It is an outrage. The reason I am so angry about this is that at Ellenbrook Secondary College, in the electorate of Swan Hills, 82 per cent of kids in year 12 this year are going through the vocational education and training stream.

While the opposition sits there and rails to protect executives on high six-figure incomes, their access to these training programs and active tax avoidance —

Mr D.C. Nalder: No, we don't.

The SPEAKER: Member for Bateman, I heard I heard you the first two times.

Ms J.J. SHAW: While it does that, it denies —

Mr A. Krsticevic interjected.

The SPEAKER: Member for Carine!

Ms J.J. SHAW: Those opposite may well be very used to talking over the top of women, but you will not talk over the top of me. You will not.

Withdrawal of Remark

Mr Z.R.F. KIRKUP: I ask the member to apologise and withdraw that remark.

The SPEAKER: It did not hear anything that was unparliamentary.

Debate Resumed

Ms J.J. SHAW: Thank you, Mr Speaker. I have every right in this place when I get on my feet to put forward my points very strongly because for the first time in this place I have been genuinely outraged.

The SPEAKER: Member, through the Chair please.

Ms J.J. SHAW: Sorry, Mr Speaker, I will just make the observation that I am on my feet and I have every right to make the point that this opposition is an absolute disgrace and that the Liberal Party has, over consecutive years, failed my electorate. As it wallows around in this tepid shallow pool of mediocrity, it fails to consider the consequences of the positions that it takes on socioeconomic disadvantaged regions such as mine, where education and training is the pathway to a better future and time after time it has actively taken measures that work against my community. Shame on the Liberal Party. It has done enough damage. It did enough damage when it was in government. As a Liberal commonwealth government it does enough damage with its opposition and the changes it wants to institute to Newstart and the Youth Allowance. The Liberal Party has done enough damage. The opposition sits here and takes positions that actively block pathways to training for my constituents, and I say to you, member, that your speech yesterday was an absolute exercise in mediocrity. You should be ashamed of yourself.

Mr D.C. Nalder: Which member?

Ms J.J. SHAW: The member for Bateman. I will name you for the mediocre member that you are. You have come from this ivory tower where you are protecting —

Several members interjected.

The DEPUTY SPEAKER: Members!

Mr D.C. Nalder: I am fascinated.

The DEPUTY SPEAKER: That might be so, but you do not have to all yell back. Be fascinated quietly, member for Bateman.

Ms J.J. SHAW: Thank you, Deputy Speaker. I give up on trying to have a sensible debate, because clearly it goes way above the heads of those opposite. The point is that the politics that the opposition plays with these issues and the way it has approached this entire debate when we are actively trying to stop a rort, when we are trying to invest

in training and real opportunities for young people in electorates like mine and to fix the former government's mess, it is an absolute disgrace. It has done enough damage. It did enough damage when it was in government, it has done enough damage federally and I say shame on the Liberal Party for the damage that it is doing now by blocking these payroll tax reforms.

MR B.S. WYATT (Victoria Park — Minister for Finance) [3.03 pm] — in reply: I rise to make some comments in reply about the Pay-roll Tax Assessment Amendment (Exemption for Trainees) Bill 2018. I will not endeavour to spend a huge amount of time in reply; no doubt we will deal with these questions again during the consideration in detail stage. There are some points I want to make. I want to deal quickly with an interjection from the member for Bateman. He said that we are breaking an election promise by doing this. I hope the member at least accepts this proposition I am about to give to him. When in government, things come along that were not part of the election campaign that we did not expect; it is knowledge we did not have.

Mr D.C. Nalder interjected.

Mr B.S. WYATT: No, I had no idea that this level of abuse was going on. The member did, because he made the decision in government to try to limit it. We came along when there was, to be frank, a loophole that we have to deal with, and when in government we have to react. The positions of parties, like when the opposition was in government, do not freeze on the day of the election. We have to respond to circumstances and issues that we find, one of those being that the commonwealth government is not renewing the national partnership on the terms around training that previously existed. We have to react to these things.

The first point I want to highlight—I tried to make the point in question time, but I will deal with it again—is that the shadow Treasurer is of a view that this is a tax grab or some form of tax increase or, I think he said, a slush fund.

Mr A. Krsticevic: That is where it will end up.

Mr B.S. WYATT: It will not end up like that because it is impossible, and let me explain why. It is because this measure will not fund the shortfall in training positions across the forward estimates.

Several members interjected.

Mr B.S. WYATT: Listen! We are fortunate at the moment because over a number of years, training has been declining. We are aware of that; that is not new information. As a result, the spend on training has not been budgeted, so there is a build-up of cash. We have been able to use some of that, as well as the savings from this, to fund across the forward estimates, as the member for Warren–Blackwood outlined, this decision around the payroll tax exemption that we are making now. This is the direct amount of training places that the Liberal Party has threatened by its position: in 2018, 9 600 training places; in 2019, 11 700 training places; in 2020, 14 900 and in 2021, 16 300 training places. This decision to close this loophole—in my view, that it is what it is—is all being directed into funding those training places. Because it rolls out and gets bigger towards the end of the forward estimates, the extra funds allow us to direct that money into providing training support for small businesses that do not pay payroll tax and therefore do not get access to the current exemption regime. Every cent is going into training. I am not sure how clearer I can make that for members. I am surprised—indeed, I am hoping—that the confusion is really perhaps because of my explanation or the understanding of the Liberal opposition.

The Nationals WA have taken an eminently sensible position on this, which is that it is not what the shadow Treasurer called it—a tax grab. The bill will remove an exemption to fund training places. This is important, member for Carine. I want him to understand that this is what we are moving to, as the national partnership with the commonwealth government on skills expired last year. Not one state has signed up to the new one because the terms, to be frank, are unacceptable for all states. It is called the national partnership agreement on the Skilling Australians Fund. How is that funded? It is funded through a specific new levy on employers of skilled migrants, and that cannot become operational until the Migration Amendments (Skilling Australians Fund) Bill 2017 is passed. That cannot be implemented. It has gone through the House of Representatives and it is stuck in the Senate. I think the Senate comes back next month sometime in May for its budget week—the same week as ours—and the levy for the fund is not even in place at this point. I want to emphasise this. Let us assume, even if it comes into operation and we sign up to the terms that the Prime Minister wrote to the Premier about in February 2018, we will still be left with a \$54 million hole in the training budget next year, even if we accept the terms. Why is that? As the member for Warren–Blackwood pointed out, national partnerships come with all sorts of sticks and carrots. This time the commonwealth government, as is its right, has decided that its national partnerships are going to focus only on apprenticeships and traineeships, not on general training, and the state needs the support in general training for the skills we need. Presumably, the other states are of the same view because no other state in the nation has signed up to this national partnership.

That means general training—certificate I to certificate IV—and diplomas, and covering off things like aged care, health and particularly those training programs to support the National Disability Insurance Scheme. I made the

point in question time that over the next four to five years, 25 000 people need to be trained to support the transition to the NDIS. I do not understand why the Liberal Party would find this objectionable. I took note of the critique around consultation, and I also took note of the critique around the lack of certainty. This is the first point that I want to make. The first decision that we are trying to implement now, which was announced in November for a 1 December start date, is a tax integrity measure. The member for Carine said to me that I cannot describe it as systemic. I have never described it as systemic. It is not systemic, but it is not insignificant. That is why the former government tried to act on this and that is why the member for Warren–Blackwood, a former Minister for Training and Workforce Development, made the point. He saw this going on. He tried to tinker with it and it had an impact, but the member for Warren–Blackwood outlined very eloquently the reasons we now need legislation to properly deal with this. We do not consult the sector on a tax exploitation measure. No government has done that. The former government did not do that. The former Barnett Liberal government made a number of decisions over eight and a half years, as it should, and as the Treasurer of the day should in particular. It announced tax integrity measures that would apply the next day. I would expect nothing less. When we find exploitation, we act quickly to shut it down. Later on, legislation comes through to deal with it. That is effectively what this Pay-roll Tax Assessment Amendment (Exemption for Trainees) Bill 2018 is doing. The second part of this, and what the member for Vasse critiqued me on, is the lack of certainty, which is true, but that is why we are going through this consultation phase. It is the exact thing all members opposite demanded from me—consultation. I do not have all the answers about what may be a better replacement regime. I have said that a grants scheme may be a better regime, and I said this in consultation with a range of different organisations, but I accept that a grants scheme can be unwieldy and overly bureaucratic—okay. But what is a better scheme for us to ensure that we can shut exploitation down in the first instance, which is what today’s legislation does, and then move to whatever the regime may be? We have a long consultation process to work that out.

I was interested in the comments made by the member for Warren–Blackwood when he said that the critique the Chamber of Commerce and Industry of Western Australia made to him was that the government should be in this place saying where training should go, but it is perfectly relaxed with the priority skills list put out by the government. Generally, I get that. There needs to be both ends but, ultimately, it is being driven entirely on the basis that it is, as I highlighted in question time today, a tax minimisation measure as opposed to a training measure, which is why we hear these comments. It is not systemic, member for Carine, but it is not insignificant. As a Treasurer, I have to react to these things, and I highlighted that. The CCI traineeships can save companies millions of dollars.

Mr A. Krsticevic: Well, they can.

Mr B.S. WYATT: Yes, but it just highlights the specific focus of not just the CCI, but also a range of organisations that say it is all about payroll tax reductions. In weeks gone by, I have given a range of examples in question time—for example, the company that signed up its workforce to do civil construction training despite the fact that it does not work in civil construction. It has been able to exploit that exemption. Over the last 12 months, around 120 companies have had over 30 per cent of their wages exempted from payroll tax. A person does not need to be a genius to see what is happening.

The point that I want to emphasise to members, which seems to be the main area of concern for the Liberal opposition, is that this is somehow being used as a budget repair measure. The first thing I will say is that I find it interesting that the Liberal Party can critique budget repair measures. The second thing is that it is not a repair measure. It will fund that training hole this year. This exemption will fund 9 600 positions this year if this legislation is successful. If it is not successful, those 9 600 places will not be funded, and that decline will fall at the head of the Liberal Party—that is the reality. The remainder of that shortage of 17 000 training places—I suspect that the shortage may now be higher—is funded by the build-up of cash, member for Warren–Blackwood, from last year. We are rolling that over to fund those other places. Again, I make the point to the member that because the demand and take-up of training inherently bounce around a bit, as he pointed out, if there is a build-up of cash, it will be kept there for training purposes. As I said, we are also hoping to extend the program—this is new—to those small businesses who currently do not have access to an exemption because their payroll is not large enough to get the exemption. This is a good outcome. Despite the fact that I am always willing to do it if I can, this is not an effort to create a budget repair savings measure. All this money is going into training.

Mr D.T. Redman: Effectively, the government is creating a pool of resource that big and small business can access, as I understand it. It is not just small business, although they could have access to —

Mr B.S. WYATT: That is correct—all businesses, but now the smaller ones can have access as well. As the member pointed out, this is not the only support for training. The commonwealth government provides a range of courses and the state provides a range as well, as the member pointed out in his contribution. I just wanted to make that point.

A couple of other questions were raised specifically by the opposition. I think I have dealt with the issue that it is not systemic. I never said it is systemic, but it is not insignificant. I said a minute ago that it is estimated that over

120 taxpayers claim 30 per cent or more of their wages as exempt wages, and they make around 28 per cent of the total value of the exemption, which is not insignificant. The member for Bateman raised another issue about how the government is making a saving from this measure if the additional revenue generated from limiting the exemption is being used to fund additional training places. We are not making a saving. If we were not redirecting this money into training, we would be making a saving, but it is all going into training. I made this point before. This exemption will not generate savings. Stage 1 will generate around \$96 million of additional payroll tax revenue, because the exemption will no longer apply between 2017–18 and 2020–21, and that money will be reinvested into funding over 43 000 training places to help fill the gap created by the expiry of the commonwealth government funding for training places. Yes, a new scheme is coming, but it will be a different national partnership, which is not unsurprising. This was pointed out in some detail on pages 4, 5, 9, 11 and 94 of the 2017–18 *Government Mid-year Financial Projections Statement*. The Leader of the Opposition made the point that commonwealth funding is available and that businesses just need to sign up. I think I have dealt with that. It is a different agreement so it does not apply to general training, which is the area in which we need more effort because of the nature of our population.

Another argument made by the member for Bateman is that payroll tax for an employer is higher than the average; yes, it has been for a while. Indeed, one of the things that exacerbated this over the last decade was the former government's decision to remove the payroll tax threshold on a diminishing scale. At that time, we were about seven per cent higher than the national average, but the former government made the decision to increase payroll tax on those companies by removing their threshold. That is a big part of the reason it is higher. However, the biggest part of the reason is because we have higher wages on average than any other state in the nation. On average, looking at the data given to me by Treasury, we are about three per cent higher than the national average in respect of payroll. But as I said, we were seven per cent higher when the former government removed the payroll tax threshold. The member for Bateman claimed that the focus on new employees removed support from employers such as mining companies seeking to reskill employees. If I could table *Hansard*, I would, because the member for Warren–Blackwood dealt with this very well. Businesses still have an incentive to ensure that their employees are well trained. I do not accept that employers are just going to stop training their workforce because they are no longer entitled to the current payroll tax exemption. It is a disrespectful position to take on those employers in my view—of course they will. What was the quote, member for Warren–Blackwood?

Mr D.T. Redman: If you don't train, they stay.

Mr B.S. WYATT: If you do not train them, they stay—that is right. Someone complained that if an employer trains their workforce, they move on to other jobs, with the alternative being that if they are not trained, they stay. That was a useful comment. I am just going through all the issues that were raised by the member for Bateman. The member for Bateman and the member for Warren–Blackwood raised some substantive issues in their contributions. I am hoping that I have dealt with those now. I will sit down in a minute, but the point I make is that it is not an effort to save money; it is an effort to fund a genuine issue we have, which is a hole in our training effort going forward because of the changing parameters of commonwealth investment in this space. All of this will go into funding 43 000 places and extending it to small business. The member for Vasse has gone now, but I am utterly open to the regime that replaces this, whether it be a grants scheme or something else, as long as we can do this by removing the not-insignificant exploitation that I think all members accept is happening, from what I have gathered after listening to their speeches. I have never alleged that it is a majority or systemic et cetera —

Mr A. Krsticevic: Many.

Mr B.S. WYATT: Yes, it is more than 120, I think, over the last 12 months. There are thousands of payroll taxpayers, but we cannot ignore that or suggest that it is all okay on the basis that we do not like the tax. We have to deal with this. We have actually made decisions on tax integrity measures in this Parliament over the last decade that have saved a lot less than this, but, as the member for Carine knows, perhaps better than most, tax integrity is important for confidence in the system. As I said, this is not coming into the consolidated account; it is going into funding those training positions, by chance, if we think about it. The integrity issues have been there for a while, as we all know, but the timing of the national partnership expiry and the new terms given to us by the commonwealth government mean that we now have an issue with funding that. If we cannot do this, those positions will not be funded.

Dr M.D. Nahan: I accept that there is some uncertainty about the new national partnership. It has not only changed the terms and made different KPIs, but also less money per year is estimated for WA. Those are facts. But you will, undoubtedly, try to negotiate an outcome down the track. There's a gap there now; there might not be a gap as much in the future because you might sign an agreement. I can't answer that. If you do get additional money from participating in the national agreement —

Mr B.S. WYATT: From the national partnership?

Dr M.D. Nahan: Yes. Will you put it into savings or are you going to save it somewhere else?

Mr B.S. WYATT: The commonwealth government will not let us in any event.

Mr D.C. Nalder: No, this payroll.

Dr M.D. Nahan: You're making savings here to redirect to fill the gap with the national partnership. What happens if the national partnership comes back into place in a year's time?

Mr B.S. WYATT: I suspect it means we will have more in respect of the scheme around —

Dr M.D. Nahan: No, I'm asking: what are you going to do —

Mr D.C. Nalder: Will it all still stay in training?

Mr B.S. WYATT: Of course. That is what I was saying to the member for Warren–Blackwood during his contribution.

Mr W.J. Johnston interjected.

Mr B.S. WYATT: Yes. There are two points I want to make on that. One, the Prime Minister has written to the Premier and said that these are the terms. There was a conversation around this, unsurprisingly, at the recent Treasurers' meeting last week, and I have to tell members that I am not getting any sense that the commonwealth Treasury is going to move from the offer that has been put. No state has signed it, because no state finds —

Dr M.D. Nahan: South Australia's about ready to sign it.

Mr B.S. WYATT: It may, whatever, but no state has signed it because I think we all have the same worries around general training. If something unexpected happens and we sign an agreement—regardless of the fact that it still has to get through the Senate to fund the commonwealth contribution —

Dr M.D. Nahan: It's actually funded, irrespective of the Senate decision, in the forward estimates.

Mr B.S. WYATT: Yes, but it is on the assumption that it will get through the Senate. That was made crystal clear to me by Mr Morrison last week. He was trying to get me and other Labor Treasurers who were there to put pressure on our colleagues in Canberra to get this thing through Parliament. If I understand the question: if the commonwealth government came back and said, "Okay, we'll give you X dollars more than we expect", will it all go into training because it will not make up the difference? It does not matter what we do.

Dr M.D. Nahan: What I'm saying is that you're making savings through reform to payroll tax. It will fill the gap of about \$55 million right now—that or thereabouts.

Mr B.S. WYATT: I will tell the Leader of the Opposition exactly what it is.

Dr M.D. Nahan: Okay. Then let's say you sign an agreement in a year's time that brings in, say, \$40 million for training. What we're asking is: will the money that you saved for the reforms proposed in this bill remain in training even if you sign a national agreement; or, if you sign a national agreement, will some of it go elsewhere?

Mr B.S. WYATT: A national agreement with the commonwealth government, as the Leader of the Opposition knows, regardless of the final amount, has to be spent in training.

Dr M.D. Nahan: I know that, I'm worried about the savings made here.

Mr B.S. WYATT: At the state end? No. I dare say that between now and December this thing will be signed, one way or another. It just means we will probably have more money to play with in respect of the small business regime that we develop.

Dr M.D. Nahan: That's what I wanted to say.

Mr W.J. Johnston: They're missing the point that if we sign, we've got to fill the gap. Even if we sign, we've got less money.

Mr B.S. WYATT: Correct. That is what I have been trying to say.

Dr M.D. Nahan: The difference is about \$10 million to \$12 million, according to —

Mr B.S. WYATT: No, it is significant. It is \$55 million a year.

Dr M.D. Nahan: No, it isn't. Not according to the budget.

Mr B.S. WYATT: I am telling the Leader of the Opposition now. I am not trying to be tricky. The impact going forward, if we sign the agreement as is, is \$54 million a year over the forward estimates.

Mr A. Krsticevic: You're not going to sign it, are you?

Mr B.S. WYATT: If we do not sign it, we have to fund these positions. That is what we are trying to do. Does the member for Carine know what this does? If, despite the surprising efforts by the Liberal Party, we get this through and we are able to fund those positions, it would flatline training across the forward estimates. That would not

allow for potential growth. For example, what if there is huge growth in aged care training that the federal government no longer wants to fund? At the moment we have no money to do that. There is nothing, even if we do this. This is simply to flatline the training effort from 2017 levels, and that is what we are trying to do. We have seen a decline in a range of things, whether it is the economy or the increase in TAFE fees. I am not going to have that argument now, but it has been declining. I want to be able to fund the 2017 training levels across the flatlined forward estimates. That does not even allow for growth, and it is a \$54 million hit. I am not trying to be tricky with members; I really am not. That is why I am surprised that the Liberal Party has taken this position, because it is not backdoor-ing money somewhere else; it is all going into training.

No doubt there will be other questions, but hopefully I have explained that for the benefit of the house and I thank all members for their contributions.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clause 1: Short title —

Mr D.C. NALDER: I hope the minister does not mind, but I would like to make some general queries to get a better understanding because he has potentially raised some new things in his response to the second reading debate. Can the minister advise us, so we can have a better understanding—I know this is not on the short title, so I am asking for a little leeway from the minister—how many businesses currently pay payroll tax? I believe it is in the order of around 2 500.

Mr B.S. WYATT: It is 19 400.

Mr D.C. NALDER: So, 19 400 businesses pay payroll tax. Can the minister advise how many businesses will be impacted by this change in payroll tax?

Mr B.S. Wyatt: Currently, 1 750 employers have training contracts, both existing and new.

Mr D.C. NALDER: Does the minister mean employees?

Mr B.S. Wyatt: No, employers. Of those 19 400, 1 750 currently have training contracts for new and existing employees.

Dr M.D. Nahan interjected.

Mr D.C. Nalder interjected.

The DEPUTY SPEAKER: For Hansard's sake, can we have someone on their feet asking a question, please?

Mr D.C. NALDER: Just to clarify that point so that it is on the record, roughly nine per cent of the total employer base that is paying payroll tax is currently claiming the exemptions under the traineeship program.

Mr B.S. Wyatt: It is 1 750 of 19 400.

Mr D.C. NALDER: Further to that point, a minute ago the minister said that up to 120 potential employers have been “gaming the system”. I will not use the term “rorting” and the reason that I will not use that term, which was used earlier, is that the definition of “rorting” suggests fraudulent activity. I would rather use the term “gaming the system”, because I think they are using the law to do something that is legal but not necessarily within the intent of what we are trying to achieve. The minister said that of the 1 750, about 120 are —

Mr B.S. Wyatt: No; it is more than 120. I gave an example that it is estimated that around 120 taxpayers claim 30 per cent or more of their wages as exempt wages—a lot of their wage is exempt—and that alone accounts for about 28 per cent of the total value of the exemption. Above and beyond that there may be, for example, the ongoing rolling over of training or the issues that were raised in question time a few weeks ago of people putting their employees into training programs not relevant to the role of the company. Ultimately, how many do we know of? We probably do not know exactly how many are doing these things, but it is more than 120. That was just one example of some of the suspicious activity, if you like.

Mr D.C. NALDER: I would have thought that the minister or someone in Finance would know the figure or have a closer idea because at the end of the day, it is my understanding that every employee who gets an exemption under training is actually approved by the department, so it should have a fair understanding of where they are breaching this.

Mr B.S. WYATT: It is the nature of the beast. There is an element of uncertainty around the total number, which is why I am unable to give it to the member. The member for Warren–Blackwood looked at the issue of registration.

We looked at it. I did not want to bring in legislation to deal with this. I would have preferred to do it with any other power outside Parliament. But the member for Warren-Blackwood raised the issue of why it is difficult for registration to be the way that we deal with this. The Department of Training and Workforce Development registers a training contract and it is automatically eligible for the payroll tax exemption if it is registered. DTWD can refuse to register a training contract only if it is not satisfied that the qualification set out in the contract is appropriate for the intended occupation during the contract or it is satisfied that registering the contract would result in an outcome that is contrary to the Vocational Education and Training Act. The VET act is so broad that it is very difficult to find a reason to not register. DTWD's registrations are done for reasons outside payroll tax. We cannot use it as a reason for non-registration because it is all about training; hence, we are trying to deal with this now. Basically, the Minister for Education and Training could not limit it through DTWD.

Mr D.C. NALDER: A couple of things come from that. I am trying to get my mind around this. There are a lot of other costs associated with a business putting someone through training, one of which is a downturn in productivity. Unless there is such a financial advantage or, in other words, unless the rebate or exemption they are getting is far greater than the cost of training, I cannot understand why a business would naturally go down the path of doing it. I accept that some are gaming the system to get more through. We actually support the government tightening those measures. But our point comes to this: it is 10 per cent that are going through the training, but we are putting through a policy position that will impact on the 90 per cent that are trying to do the right thing. We will impose the impact on the 90 per cent, promising to do something in the future but not defining what that something is. We cannot tell people how we are going to replace this with something else. We will have to do that down the track. I understand why the government wants to go after the 120, but if 1 900 or whatever the number is —

Mr B.S. Wyatt: There are 1 750.

Mr D.C. NALDER: If 1 750 are actually doing it and there is 120—maybe it is 150 or 180 or whatever, because we are not clear about the number and I am a bit concerned that we are not clear—all the others will be adversely impacted without a clear guideline as to how the government is replacing it. In terms of the level of scrutiny that we are applying and the reason we are not supporting it, we are trying to explain that a lot of payroll tax has been generated in this state and lines have been pushed to us and some of those, according to the minister's briefing, "are expected to save around \$100 million over the forward estimates". It actually states a saving of \$100 million.

Mr B.S. Wyatt: There is also a spend attached to it.

Mr D.C. NALDER: Yes, I know. Does the minister understand that when we read these things —

Mr B.S. Wyatt: You get the spend as well, which is what I was trying to deal with in my second reading reply about the training spaces.

Mr D.C. NALDER: Coming back to the point, we are creating a policy change that does not deal with the exemption. It sounds as though the majority is possibly doing the right thing. I would like to believe that no person is better able to determine the required training within a business than the business owner. I do not believe that we are in a better position than a business owner to know what sort of training they need to improve productivity in their business. I am not saying that I support people gaming the system. From what I hear anecdotally, we are concerned about it but we do not have the specifics of it. This is about the government impacting 90 per cent of businesses that appear to be doing the right thing to go after the 10 per cent that are potentially doing the wrong thing.

Mr B.S. WYATT: I will make two points. As a tax integrity measure, of course the majority are doing the right thing. But because of the generosity of this, which is unlike that of any other state and is very, very generous, it is driving decisions by employers that are—whatever we might call it—rotting, suspicious or not acceptable to the original intent of the program despite its legalities. I have always pointed out that that is what we are trying to deal with. The nature of tax integrity measures means that it is always the smaller group that potentially has a much larger impact. That is why we made the decision. We made the decision and it applies the next day. That is not unusual. The reality is that the spend, if you like—effectively, it is a spend in respect of payroll tax exemptions—is about 2.4 per cent of the payroll tax base. The next highest is New South Wales at one per cent. I am trying to make the point that it is generous. We basically have the same amount in raw dollars as New South Wales; New South Wales has \$85 million and we have \$80 million. It has grown rapidly. In 2005–06 it was \$11 million and now it is \$80 million. It has grown faster than employment, faster than wages and faster than anything else. I had quite an interesting chart that I have no doubt misplaced that highlights that in 2006, about one-third of those who got the exemption were existing employees; the vast majority were new. Over time, that flipped. Fewer new employees than existing employees were getting that benefit and that is why I suspect—I referred to this before—the CCI said that traineeships can save companies millions. This document states that CCI Apprenticeship Solutions can save the mining business \$1.2 million based on an average wage of \$110 000.

Dr M.D. Nahan: But that's apprenticeships.

Mr B.S. WYATT: It is Apprenticeship Solutions.

Dr M.D. Nahan: Is that the title of the program?

Mr B.S. WYATT: That is right; it is the title of a program, which I think does them all, not just apprenticeships. The point I am making is that we have a very generous scheme; everybody accepts that. We have two opportunities to fix the tax integrity measure and then fund those places across the forward estimates that we are losing, and we are losing them. The member also said that we do not know where we are going, and I accept that. That is a problem and I think the member for Vasse raised it. We had to act on and deal with this immediately and now we have this period in which we do not know what the replacement will be, and I get that. I have said that a grants scheme might be the easy one, but the member is right. I think all, if not some, members opposite raised the issue that that might be unwieldy or slow. They are all legitimate questions. How do we come up with a scheme that deals with the issue of exploitation—I will call it exploitation as opposed to rorting to not inflame things—supports training and allows us to fund the training positions in the forward estimates, which we have not yet funded? That is the reality of the problem we have to resolve. I am not a training expert. I am open to advice on this. Ultimately, the Minister for Education and Training will probably bring forward that replacement regime, but of course I will be involved in it.

Mr D.C. NALDER: The minister has just described that there are two elements to this. One deals with the potential gaming and those who are really manipulating the system to gain advantage, and the other one is that the minister is now talking about the scheme being overly generous. I am not saying that it is or is not, but the minister must acknowledge that since we pay a lot more payroll tax—this was my point; I was not trying to substantiate people doing it wrongly—in the order of \$2 400 per employee, using labour force statistics as the workforce, versus \$2 100 in New South Wales. If we look at the exemption, it adds up to around \$52 or \$59 per employee. If that is taken back, employers are still recovering more than in any other state in Australia on a per-employee basis. I accept that the minister wants to target the people who are gaming the system, but we are taking it away from people, saying it is overly generous, without being clear about where the government is going at this point. That is not fair to businesses that are trying to plan and map out what they will do with their employee base. If it is the generosity of a scheme, I would have thought that it would be far more appropriate to come up with an alternative scheme at the time the generosity of the scheme is reduced. I therefore believe that there should be a separation of the two issues that the minister is now describing—one being around the gaming of the scheme and the other around the generosity of the scheme. Does the minister see that point and, therefore, the concern of businesses out there that feel they are having the rug pulled out and are being asked to accept in good faith that there will be a replacement scheme in the future?

Mr B.S. WYATT: They are not having the rug pulled out because in the transition period, all the contracts that were registered at the time of the announcement on 30 November will continue to be treated in exactly the same way. If we separate them, we will then face the problem of how to fund those 9 600 places in 2018? We have to deal with this to fund those places. As I said, we have a cash build-up from last year that can fund 7 400 places, and this will fund the other 9 600 places for 2018. I want to make one point. Pretty much every state has restricted it to new trainees—New South Wales, the Australian Capital Territory, Tasmania and Queensland. It is restricted to new trainees in almost all the states and it is very targeted now. That is the nature of where we have moved because it is effectively driven by applications for registration, and registration is *carte blanche*, to be frank. Because of the nature of the legislation, all states have moved to target it and limit it, which is why we have the scenario that although we are at 2.4 per cent of our payroll tax base, New South Wales is at one per cent, but we can even compare that with South Australia at 0.6 per cent, Tasmania at 0.5 per cent and Queensland at 0.9 per cent. They are all the states; the ACT is not applicable and the Northern Territory is just a little bit higher at 1.2 per cent, but its spend is \$5 million, so it is somewhat different. Finally, on the issue that the member raised around the average, I will give him the details. The average weekly earnings in Western Australia in November 2017 were \$1 333, which was the highest of all the states. Of course, that drives our payroll tax collections. We can compare that with a national average of \$1 192 over the same period. Despite what has happened with wage growth, it is still very high in WA compared with other states. According to the Commonwealth Grants Commission, although WA's payroll tax effort was about three per cent above average in 2016–17, it was not the highest. The Northern Territory, the ACT and Tassie were 10 to 14 per cent higher than the national average, interestingly.

Mr D.C. Nalder: Based on average weekly earnings?

Mr B.S. WYATT: The effort, yes. Ultimately, I get the member's point about trying to separate it, but then we will have that funding hole and we have to deal with that; otherwise, despite demand—the economy will dictate that—looking at where we are now, the hole is around \$17 000, some of which will be funded by the cash build-up, and 9 600 places will be funded by this decision.

Mr D.C. NALDER: So —

The DEPUTY SPEAKER: Member for Bateman, I just remind you that we need to get on.

Mr D.C. Nalder: This is the guts of it—the crux.

The DEPUTY SPEAKER: Sure. Are you happy, minister?

Mr B.S. Wyatt: For what it's worth, I'm very relaxed.

The DEPUTY SPEAKER: You look relaxed, minister.

Mr D.C. Nalder: Now I've lost my train of thought.

The DEPUTY SPEAKER: Sorry, member for Bateman; let us just pause while you get it back again.

Mr D.C. Nalder: I have lost it; I will pass over. I have forgotten.

The DEPUTY SPEAKER: Leader of the Opposition.

Dr M.D. NAHAN: Again on this clause, I would like to come to grips with the statement of the problem. The minister indicated that of the 19 000 businesses that pay payroll tax, 1 750, or thereabouts, access the exemption. Could I get some kind of indication of the distribution of the size of these firms and whether they are small to medium-sized enterprises or otherwise? I assume they are not very large firms because in 2015, the former government put in place a policy of limiting the number of applicants to a maximum of 100 workers per quarter who were eligible for exemption under the payroll tax exemption act. Will this impact people at the margins of the payroll tax—that is, people in relatively small firms that are affected by payroll tax liabilities?

Mr B.S. WYATT: It is a good question and I am not sure whether my answer is going to satisfy the member. Regarding the decision that the former government made to limit it to 100 workers per quarter, it is true that it had an impact—it was effectively 400 workers a year—but it did not limit them in continuing to transition through and re-enrol, if that makes sense. That is ongoing. The nature of the exemption means that the data is not on the size of it, but we can kind of make extrapolations around the size of the exemption and, therefore, what the payroll tax otherwise should have been. I can make the point that it is across all areas of industry. It looks as though the highest is in manufacturing, construction, accommodation and food service, and administrative and support services. There is a lot of information in this document. I am happy to provide it. I can say before I sit down that it is broken down by industry sector and the number of claims in which the total amount of payroll tax exempted is 30 per cent to 50 per cent, 50 per cent to 80 per cent or greater than 80 per cent. It certainly gives that breakdown. All up, the tax exempted is over \$80 million, with over 2 900 separate claims. I am not saying that everything there is illegitimate or suspicious, but it just gives an idea. I will get a copy of the document for the member.

Dr M.D. NAHAN: If the restriction is 100 trainees per firm per quarter and that is 30 per cent of the wage, that is a very small firm in terms of paying payroll tax. That is what it comes down to. The Liberal Party is sceptical about the intent of this. We have all stated the overgenerous nature of this, and in government we tried to address that. It is absolutely overgenerous. The government's aggregate data makes that argument to us. There is no doubt about it. From the stories that I get, for the firms at the margins, from \$850 000 to \$1 million, it really pays off because it pushes them below the threshold in certain circumstances. The government is saying that basically instead of a pretty small firm paying payroll tax, it will be able to spend that money on training and it might contemplate that training. There are all sorts of distortions there. It will affect small firms in the margins of payroll tax and probably areas that have relatively low wages. We want to know the impact and the types of firms that will be impacted by these changes. I guess our general argument here is that our problem is as much about the next piece of legislation as this one.

Mr B.S. Wyatt: I suspect that is right, yes. The next one is the more interesting one.

Dr M.D. NAHAN: Yes, but the government might be throwing the baby out with the bathwater; that is my problem. I could come up with an example to reform this quite significantly right away, but I would have to do some analysis. One of the problems with this payroll tax arrangement is that, as I understand it—maybe I have got it wrong—the exemption is provided in such a way that if a company pays for registered training for an employee, that employee's total wages are taken out of the payroll tax calculation. That is very generous, because it probably exceeds the cost of the training. Instead of taking it off the top, why does the government not take it off the bottom and make it a deduction from payroll tax liabilities rather than reducing the payroll tax? That would do away with the infra-marginal that people try to game, if you like, and optimise the threshold. This is always a problem with payroll tax, because we go from zip to 5.5 per cent if a company can effect it. I have been lobbied by people at that margin on this issue more than anybody else. BHP, Rio Tinto and the big guys have not said anything to us, but for a whole range of small to medium enterprises that are in this margin—some are struggling right now—not only does this take training away from their workers, because they will not be able to afford it, but also it pushes them above the threshold. We are really puzzled. We want to contribute to a good, cost-effective training system, but we do not see the work being done. Our concern is that the government is going to throw away a business-focused

incentive and go somewhere else, and we are going to basically vote on gutting this system rather than reforming it. I would like to see more research. The data we have here is sparse.

Mr B.S. WYATT: Ultimately, I do not think our system could do the proposal the Leader of the Opposition gave without some significant upgrade. That is a good point, because for those SMEs that are just in or out of the payroll tax threshold, that might be the scheme we replace this with. We might target that particular sized employer. The Leader of the Opposition is right; the behaviour of the big ones, the BHPs and Rios, is not going to change as a result of whatever happens here. That is where we might target the replacement. It might be where we get a more effective outcome. It just means we will get more control over the spend, because at the moment it is just demand. There are some limitations that the former government put in, but they have not had the impact of really pushing demand dramatically. As a result, we could probably target that, capture those below the payroll tax threshold at the moment and then fund those places. I am sort of trying to juggle all three of these things.

Mr D.C. NALDER: I have got my train of thought back. The comment the Minister for Finance made when I was last on my feet was about how other jurisdictions are moving towards new traineeships.

Mr B.S. Wyatt: Have moved, I think.

Mr D.C. NALDER: They have moved towards new traineeships, and therefore this is where we are heading as well. I question the logic of some of that, particularly with the occurrence of a lot more disruptive technologies impacting, and that is likely to increase over the next decade or two. We are likely to see a greater requirement in our economy for people to be re-skilled, upskilled or changed. Has that been taken into consideration?

Mr B.S. WYATT: That is a good point. There are principles we are working on in the replacement scheme. Public consultation will start on this within the week. One of the principles we are looking at is for industries or sectors that might be going through restructure or disruption. Maybe we can have a scheme that captures existing employees in those sorts of sectors, because that is a fair point. Again, as I have just been told, those areas could be targeted. We could identify areas that are clearly being disrupted—the member gave some examples yesterday—and try to target existing employees there because their jobs might become redundant and therefore they will need to be retrained.

Mr D.C. NALDER: I think the Minister for Finance probably understands our position better now than he did at the outset of the second reading debate and we now see that part of this is tackling the generosity of the scheme, as well as people who are gaming the system, but we are doing so without having a clear learning point of where we are going to. One of the areas we were flagging was the potential of a grants program. I want to just touch on that briefly so the minister understands where our real concern is. It is twofold. One concern is whether a grants program could be politicised in the future. I will give an example. The local jobs program worth \$39 million was classified as a grants program and I think everybody would agree that it was heavily politicised.

Mr B.S. Wyatt: I am sure you would agree.

Mr D.C. NALDER: I think we would all agree; I do not think anyone could disagree!

We do not want to see a program established in which funding gets channelled through specific favourite causes that are not necessarily in the best interests of Western Australian businesses. Without having that landing point—I understand that the government does not have that—we are struggling to say that we can support this. Ninety per cent of businesses appear to be doing the right thing and up to 10 per cent of businesses are gaming the system. We are trying to tackle gaming the system. The rest is because it is overly generous but we do not have the landing point for those businesses yet and we have to take it on good faith that we will find that in the future and it will be acceptable. That is why we do not support this legislation at this time. We are not clear on how this will flow back through to industry. We understand that 10 per cent may need to be dealt with, but it is the other 90 per cent that I am concerned about. We will take it away without being clear on what they can do in the future. That is the crux of the problem with us supporting this bill at this time.

Mr B.S. WYATT: Tax incentives are inherently not transparent. That is the problem we have; there is no clarity. A grants scheme, if that is where we land, can be incredibly transparent. People can see exactly where it is going or how it is going. I do not want it to become a politicised grant scheme either. Nobody wants that, but it will come back through this place anyway so we can have that conversation. Importantly, if we can deal with the weaknesses around timing—the member is right that people apply and six months later, “Here’s your grant”—that can be addressed and it will be a clearer and more transparent scheme. It is more equitable because those smaller businesses will get access to it. Industry already tells us what it wants funded and that will continue. I am confident that the scheme that will be developed will be rigorous. I will not bring something back here that is open to the sort of exploitation that worries the member.

Dr M.D. NAHAN: It would have been much more helpful if, when we got our briefing, the minister had stated what he has stated today—that is, the government does not know what the system will be. We were clearly told

that the intention was to go to a grant system and that the payroll tax assistance scheme would, effectively, be abandoned. That was a problem because we are looking at this as a second stage.

I want to get a handle on the data about the impact. I have a graph of the current payroll tax exemption that was provided to me. In Western Australia it was \$80 million in 2016–17. The total value of the exemption was 2.4 per cent of the relative payroll tax. I have another graph that is below two per cent and declining in 2016–17. Maybe they used different relatives; I do not know. I am looking at that and it is about \$80 million. It is actually two per cent of taxable payroll and is going down. The problem is whether the minister can resolve that. Reforms were put in at this time. I am not saying that they were adequate and I do not think we even thought they were going to be. We had to come to grips with how to respond. We did what the government is trying to do now, except the government is doing it much more drastically. Where is this trend going? My question is: are the reforms that were put in place in 2015—they are obviously cutting costs by \$20 million a year and are on a downward trend. Given the lags in the training programs, maybe they would go on. Where does the minister think the existing system would stabilise if the government did nothing?

Mr B.S. WYATT: Where is the existing system stabilising? I do not know. The member is right about the chart he is holding up. There are a range of reasons for the decline in the last couple of years that we talked about—I think the member for Warren–Blackwood highlighted some of these. Whether it is around costs, the state of the economy itself, or wages coming down—there are a range of reasons.

Dr M.D. NAHAN: This is the exemptions as a share of the payroll tax base.

Mr B.S. WYATT: The difference between the 2.4 per cent. It is 2016 data. This looks like it is just under 2.4 per cent so maybe I just rounded it up from a table. It is either 2.3 per cent or 2.4 per cent. The point is that the percentage of the payroll tax collected is significantly larger than in all other states.

Clause put and passed.

Clause 2: Commencement —

Mr D.C. NALDER: I have a simple question about this and it is probably a simple explanation. Can the minister explain why this bill will be deemed to have come into operation on 1 December last year?

Mr B.S. WYATT: That was the nature of the announcement. The member may recall that we made the announcement on 30 November to come into effect the next day because it is, effectively, an integrity measure. It is how governments have to deal with closing loopholes to effect that behaviour. It was announced and, administratively, it came in to effect on 1 December. All decisions of government around this, except for the transitioning contracts, are from 1 December, which is not unusual. I get the member's concern, though.

Dr M.D. NAHAN: When does the minister expect the other bill—the second stage—to come through? I know I am going off the specifics of this bill, but when does the minister expect the other one? Will he commit to us that he will have a thoroughly documented case for whatever the government does—both the plan and whatever the alternatives are—and a strategy document with some empirical basis for it?

Mr B.S. WYATT: I am hoping for legislation late this year or early next year. I say that noting that it may change, but that is the aim to get legislation before the house. I think that will allow a significant period of consultation.

I will come back to a point the Leader of the Opposition made a little while ago. I think the preference is for a grants scheme but I want to be clear—that is what we will consult on—that the CCI and others have already raised with me some problems with that and how it might like to see some changes. I am open to those changes, but we have to consult on something. We need something as a point of conversation.

Dr M.D. NAHAN: What happens if it goes to the other place and they stick it in a committee? It is still in effect, is it not? You set it as 1 December; I understand why the government did this and I support it. But, out of curiosity, what happens if it goes to a committee and gets stalled? This bill is unlikely to get on the notice paper of the upper house until August of this year.

Mr B.S. WYATT: I would be anxious if it went into committee. Of course, the other place does what the other place does. Ultimately, I would like to have whatever the replacement regime is through Parliament before 1 July next year because, of course, that is when payroll tax reconciliations will come through. Employers will want to know what the scheme is. I would be worried about an upper house committee process. If I am asked by any upper house members, I will tell them that. We want to get some certainty as soon as we possibly can, combined with a reasonable period of consultation.

Dr M.D. NAHAN: In terms of the collection of revenue, even if it did not get through the upper house until August or September, will the government still collect the money?

Mr B.S. WYATT: The retrospective nature of it means that we are already effectively behaving as though the legislation will make it through. We are starting to see some employers operating on the assumption that they will

not be entitled to the exemption. It would be desirable to keep the period of uncertainty as short as we can. The member knows the reasons. We are trying to run the balance of the consultation period but, ideally, something will be in Parliament so that employers can understand what it is and hopefully that will drive that certainty and then get through Parliament by 1 July so that payroll tax reconciliation can take place next year.

Dr M.D. NAHAN: Out of curiosity, what will happen if the bill does not pass?

Mr B.S. WYATT: Effectively, as a result, we will have to refund those that have not been claiming.

Clause put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 41D inserted —

Dr M.D. NAHAN: We were told, and I think the minister has also stated, that this applies to apprenticeships but no changes will be made to the treatment of apprenticeships under this program. Could the minister confirm that?

I am not across all the vocational education and training jargon, and there is a lot of it. What are class A or class B qualifications? There are a whole range of these classifications. Could the minister describe what this actually applies to? I understand apprenticeships, but are there any restrictions on the type of training programs other than those that are eligible now?

Mr B.S. WYATT: Like the Leader of the Opposition, I am not across all the vocational training jargon either. Class A must be a training contract, no exceptions. Class B may be a training contract, but a person could also effectively use TAFE. Class C is not a training contract. It must not be done under a training contract. In respect of class B, the Minister for Education and Training can make an exception for international students, but it is very limited by the sounds of it. There are some limited exceptions for class B, but they are the three classes. Apparently they are called a restricted B.

Dr M.D. NAHAN: So there have not actually been any changes?

Mr B.S. Wyatt: No.

Dr M.D. NAHAN: To what extent is it possible and what are the difficulties if it was said, let us say, on some of these class B qualifications, “There are certain priorities the state wants to fund under this scheme; therefore tighten up the eligibility for the exemption scheme to certain types, classes or characteristics of training programs”? The government could identify some training programs that are primarily aimed at the individual, some that are aimed at the business, and some that are really important right now—for instance, automation. Could the government use the scheme to say, “Listen, we’re going to tighten up the eligibility for different classes of training programs”? In other words, it would significantly tighten it up—probably in consultation with industry, I would suggest, because it is taking away their freedom to some extent. From what I heard in the debate, particularly from the member for Warren–Blackwood, business generally agrees with the government’s priorities. There is a good reason for that—industry is participating in that. We have special needs in this state because of the composition of our economy. We also have special needs now because of the changing nature of our economy. It seems that rather than going to a grants system, that we will do this. The government could use the exemption system by targeting the types of training that are eligible for exemption.

Mr B.S. WYATT: A broad comment is that it is actually not the qualifications that are the problem. Generally, the qualifications are good. It is the intent and purpose of some of the employers that are using the scheme. Some more detail about the concerns about that approach, member, is that a substantial amount of training for existing workers is to legitimately upskill staff, of course, in specialised industries and occupations. That proposal would jeopardise those genuine traineeship opportunities. The VET act sets out the requirements to establish a traineeship: industry advice informs the minister’s decision on whether a qualification should be established or a traineeship pathway. Industry is unlikely to support removing the traineeship pathways for existing workers. The minister in this instance would be required to act effectively against industry advice. They are the key points.

Dr M.D. NAHAN: Has the government done any analysis of the cost to the employer of these training programs relative to the cost to the state of the payroll tax exemption? It will vary, of course, quite wildly I imagine, depending upon the size of the firm and the type of training. Larger firms now pay much higher payroll tax. The government could say, “For this type of training, we will give you an exemption of X” rather than exactly what is spent. The government could say 80 per cent or whatever. The exemption could be fixed. I am exploring whether, rather than treating this off the income side, we could treat it as a deduction from payroll tax liabilities, like they do in income tax, and it could actually have certain rules to control the growth of those exemptions by saying, “Here is what is deductible” both in terms of type and value.

Mr B.S. WYATT: I think that is in effect what a grants scheme does, but the costs of these training programs are wildly different. I do not think I have an answer to that. Institutions and courses are so different. I will give an example. This is one of the issues driving a lot of the activity. Employers can save significant amounts of payroll tax by enrolling employees in training. It is around \$5 000 for an employee on an annual salary of \$80 000 for

a course that might cost much less than \$5 000. That is why we get this mishmash of courses in the actual industry area that that employer is in.

Mr D.T. REDMAN: I have a point of clarification, minister. I think I know the answer to this, but could the minister confirm this: in the case of group training schemes, a group training organisation is the employer—in many cases for smaller businesses—and they move for the sake of keeping continuity of training in place. I am not sure how many businesses would be payroll tax payers that would have group training employees. Do they come under this? What is the existing rule in respect of group traineeships and group training organisations managing a training program for someone, and will that change under this arrangement?

Mr B.S. WYATT: I did not know this; there are only 27 group training organisations. The vast majority, by the looks of them, do not pay payroll tax in any event due to their charitable organisations exemption et cetera. That exemption will continue to apply to all apprentices employed by a GTO and for trainees that are new employees whose ordinary rate of pay does not exceed \$100 000 a year. I think that answers the member's question.

Mr D.T. REDMAN: Under clause 5 on page 4, line 13, it refers to, in this case, an apprenticeship. It broadens the scope of traineeships and apprenticeships, but it refers to the person on the traineeship, who I assume is limited to the nominal period of the training contract. If someone trips up a bit on their training program and does not complete it or is not on target to complete it in the nominal prescribed period that that traineeship goes for, does that mean that person simply falls back into not being exempted carte blanche in respect of the payroll tax?

Mr B.S. WYATT: As under the current regime, the training contract can be suspended for a period for health reasons or whatever may be the case. While the training is suspended, effectively the suspension of the nominal period, the exemption falls away and the business continues to pay payroll tax until the nominal period starts again after that period of suspension. It can be extended for those reasons. The member suggested there may be a reason. There is that flexibility, as there is under the current regime.

Mr D.T. REDMAN: On page 5, line 23, there is reference to a suspended contract, and the minister described, and I understand, what that is there for. Therefore, what is the purpose, on page 4, line 13, of that subclause, which appears to make some sort of relationship between the nominal period of training and the flow-on impact to the exemption?

Mr B.S. WYATT: Again, I confirm that this is only for trainees and not apprentices. Subclause (3) on page 4, line 13, is the definition of "trainee". That highlights the point. This links with that on page 5 in that they are only eligible for the exemption for the time of the nominal period. That nominal period can be interrupted by the suspension, but during the suspension period they are no longer a trainee for exemption purposes. When the nominal period starts again at the end of the suspension, the exemption will then continue to apply again.

Mr D.T. REDMAN: There is reference on page 5, subclause (5) to ordinary hours. The minister has given an undertaking that cases of regional loadings and all sorts of things might be loaded onto a wage to take it over the \$100 000 threshold, which has been described as a key threshold. Can the minister give us a description of what ordinary hours means and is that a reference to base rate, not including overtime and loadings for a whole range of other reasons? I am not seeing clarity in the bill that gives the limitation that the minister has prescribed to us verbally.

Mr B.S. WYATT: This is a result of conversations, I think, with the member and other members of the Nationals WA. The \$100 000 threshold set out in clause 5 is based on the rate of pay for ordinary hours worked by an employee. Ordinary hours worked by the employee is not defined in the bill, as the member points out; however, it is set out in the explanatory memorandum. The cap that is ordinary hours worked does not include other forms of remuneration such as employer superannuation contributions, bonuses, overtime, allowances et cetera and the Commissioner of State Revenue will issue a revenue ruling to provide further clarity on the application of the cap in this respect. We have tried to do it in a way that deals with that exact issue of particular allowances that the member raised in those briefings.

Mr D.T. REDMAN: Can I just get some clarification about whether there is scope for government outside the legislative process to change the definition of ordinary hours and therefore have some impact on what might be included or not included within that threshold?

Mr B.S. WYATT: No, is the answer to that, because the figure at subclause (5) is specified in the legislation. Then the exemption out of that, or the removal out of that, of super contributions, bonuses et cetera will be effectively dealt with by that revenue ruling issued by the Commissioner of State Revenue. I see the member's question. Would another piece of legislation define ordinary hours of work as something less than \$100 000 or to incorporate everything else?

Mr D.T. Redman: Or to have ordinary hours defined as something that includes some sort of loading.

Extract from Hansard

[ASSEMBLY — Thursday, 12 April 2018]

p2046b-2062a

Ms Jessica Shaw; Mr Ben Wyatt; Mr Dean Nalder; Dr Mike Nahan; Mr Terry Redman

Mr B.S. WYATT: I do not think so, member. Could the government? I do not know, potentially. But will we? No. This bill is designed deliberately for this training. It is not linked to any other legislation that might allow us to do that, and, in any event, if someone ended up in court with a dispute between this and some other legislation, the explanatory memorandum should hopefully deal with that to the satisfaction of the court.

Mr D.C. NALDER: I would just like to clarify whether there is any scenario, particularly before the change and subsequently after the change, in which the exemption that a business is gaining is greater than the actual cost of training?

Mr B.S. WYATT: There are a range of examples. As the Leader of the Opposition pointed out, all wages are therefore captured for exemption, so \$80 000 would be a \$5 000 exemption and the cost of the training course of \$2 000. There are certainly lots of those examples. The example I read out before of the Chamber of Commerce and Industry of Western Australia advertisement was assuming that the average wage is \$110 000. I assume the payroll tax on that would be significantly more than \$5 000. We can find training courses that cost a lot less than \$5 000. The answer to that is yes, it happens.

Mr D.C. NALDER: That has just created more confusion because, by extension, we have not solved that in here—we have for existing employees but not for new trainees. We can now give more back for the training of new trainees on a salary of \$100 000.

Mr B.S. WYATT: That is a good point, but I suspect there are limitations to the definition of “new”. Some new employees will be on wages around \$100 000, but the vast majority will be on a much lower wage than \$100 000. The average wage at the moment is \$91 000, so new employees would be south of that.

Mr D.C. Nalder: The average is \$91 000.

Mr B.S. WYATT: That is the average wage in Western Australia, but new employees are on less than that.

Mr D.C. NALDER: Thank you. That clarifies that the scheme for new employees is such that the exemption that employers can gain may be greater than the cost of the actual training. Thank you for that validation. I will take that a step further because it has confused me a little bit. My understanding was that the exemption applied to only the period in which the training was aligned. The payroll tax is generated over 52 weeks and a training course might last for three to five weeks, so generally it is only a portion of time. I found it difficult to understand how it could be more, but I seek that point of clarification.

Mr B.S. WYATT: Most training contracts last for a reasonable length of time—a year or two—and it is done on a pro rata basis. The employer is getting the exemption for only the period that the training contract runs, which is usually one or potentially two years.

Mr D.C. Nalder: That is the average duration.

Mr B.S. WYATT: Yes. The average duration for a course is about a year or two.

Dr M.D. NAHAN: I will go to proposed section 41D(2), which relates to essentially the exemption for apprenticeships. The general view is that there is no excessive use of apprenticeship programs. Can the Treasurer explain why that is the case?

Mr B.S. WYATT: It is simply because the rigour and length of running an apprenticeship makes it much harder to be used as some measure to avoid payroll tax. Apprenticeships run over a long period of time—three to four years—and are often regulated. An electrical apprenticeship is a classic example. The effort that an employer has to go to is much more dramatic and, as a result, we do not see the use of apprenticeships for this at all. Employment law protects the conditions of apprenticeships, so it is basically not an issue.

Mr D.C. NALDER: I have one more question on this clause to do with the \$100 000 limit. The Treasurer poked a bit of fun at me earlier in question time on this \$100 000 limit, and I accept that. That is part of the political hustle and bustle in this place. Can the minister describe what was the basis for setting that limit at \$100 000?

Mr B.S. WYATT: To a certain extent the member’s comments are probably right. It could have been \$80 000 or \$100 000. I will read some information to get it on the record. The changes proposed to payroll tax exemption refocus the exemption in line with policy’s original intent. At \$100 000 it seeks to strike a balance between limiting the extent to which the WA community subsidises the training of chief executive officers, and I say that because a lot of people on very high wages and other senior well-paid employees are getting exemptions as a result of training. We are encouraging businesses to train newly appointed employees. We are basically trying to strike a balance. The \$100 000 wage cap is well above national weekly ordinary time earnings in Western Australia of around \$91 000 in November 2017, which is the latest available data. It is envisaged that a wage cap will have an insignificant impact on new employee trainees. That is important to note and hopefully it answers the question.

Mr D.C. Nalder: It is really an arbitrary number.

Mr B.S. WYATT: It is a balance. It could have been \$90 000, but then it is below \$91 000. If we want it on the other side of that, it is \$100 000.

Clause put and passed.

Clause 6 put and passed.

Title put and passed.

Leave granted to proceed forthwith to the third reading.

Third Reading

MR B.S. WYATT (Victoria Park — Minister for Finance) [4.36 pm]: I move —

That the bill be now read a third time.

MR D.C. NALDER (Bateman) [4.37 pm]: I appreciate the time the minister gave us in consideration in detail. I want to clearly highlight that the Liberal Party is not opposed to reform in this space. But we still do not support the Pay-roll Tax Assessment Amendment (Exemption for Trainees) Bill 2018, and I will articulate why. Today we have learnt that this bill is really about three issues. One is about the gaming of the system, and there has been much ado about this in the second reading debate. We tried to get to the detail of how much is happening, what it is and how many businesses pay payroll tax. We have really tried to understand how big an issue this gaming is. However, we have learnt that we are not sure; we do not really know. We know that 120 employers have excessive numbers of staff going through training programs, but that accounts for less than 10 per cent of employers. It would indicate that potentially 90 per cent of employers are doing the right thing. We have reacted and created a wholesale policy change based on the 10 per cent of employers not necessarily doing the right thing or what was intended through the exemptions that exist for payroll tax.

The second thing we have learnt today is that government views this as an overly generous scheme; that was mentioned during the second reading debate. For the remaining 90 per cent, the view of the government is that this is overly generous. Our issue is that we are taking away the existing arrangements without providing business with the landing spot in the future. If the government is saying that the scheme is overly generous and it is going to change it, we would have thought it would be appropriate for the government to advise the industry what the changes were going to be before closing off the existing scheme. We would see that as a commonsense, logical approach to take with businesses so that they can have a clear idea of the way forward.

What is interesting about what will become of the old scheme if this legislation goes through both houses is that we learnt today that there are circumstances in which what employers get back from an exemption on payroll tax is greater than the cost of training their employees. We also learnt that although that situation is being removed from existing employees through these changes, it will still exist for new employees undertaking training at around the average weekly earnings. We have made these changes but one could argue that in certain circumstances it is still potentially overly generous in that the exemptions an employer gets are greater than the cost of training an employee. We are going through this pain but still leaving some measures in place, and the opposition questions whether that has been thought through properly and whether this bill will deal with the overly generous nature of the scheme in an appropriate manner.

The third thing we have learnt about why the government is proceeding with this legislation is to do with the state government's relationship with the federal government and the funding shortfall, through the national partnership agreement, for 9 000 trainees. There will be a renegotiation of the national partnership agreement with the federal government for upskilling and training. If we cannot negotiate a good outcome with the federal government, we will need a mechanism to cover that shortfall. We are potentially putting a penalty on employers to bridge that gap. That is one of the arguments we heard for why it is important for this legislation to go through.

As I said, there are three primary issues here, but we still have a fundamental concern that this bill has been somewhat rushed and will fail to deal with some of the extremely generous circumstances that exist. We are also concerned that it is designed to cover a budget shortfall because of the negotiating situation the state government finds itself in with the federal government. We do not think it is appropriate for employers and businesses in Western Australia to be burdened with that. We believe that the government is making these wholesale changes and not just targeting the 120 employers who may be taking advantage of the system. We have to take that situation on face value, because we on this side have no specifics. The government is not just dealing with those 120 employers in isolation; we would support that. It is actually bringing in wholesale changes when 90 per cent of employers are doing the right thing. The legislation will still allow businesses potentially to claim exemptions greater than the cost of their employees' training. For these reasons, we still feel that we cannot support this bill. I want to reiterate that we are not opposed to reform in this sector. We just do not believe that the measures in this bill adequately address the issues.

We also have a problem with the lack of clarity about the landing point. I encourage the government to get moving and consult widely with industry. We have a strong belief that industry is best placed to determine the training requirements of its workforce and that it should not be left to governments or bureaucrats to determine what

a business requires from a training perspective to increase productivity and to adjust to potential changes in the economy or the environment in which it operates.

That leads to another major concern we have with this bill. It will provide exemptions for the training of existing employees. We have a fundamental concern here because we are going through a time of challenges in our economy as a result of unprecedented disruptive technology. We are seeing it in the retail sector with online shopping and we are seeing it in on-demand transport and in many other areas where technology is creating disruptions in the workplace environment. Any jurisdiction that does not take into consideration the potential for disruption from artificial intelligence or disruptive technologies is not necessarily laying the right foundations for the economy for which it is responsible. For that reason, again, we do not support this bill as it currently stands.

I will leave it there because I think I have adequately covered the major points. We have concerns and we will continue to argue that this bill is not adequate and that there are major gaps that the government is going to have to address. There are major concerns out there for businesses, and there are businesses that are concerned, and rightfully so. We will continue to champion the issues and monitor the actions of the government. If the legislation is going to pass through both houses, I recommend that it be considered by a committee of the other place, because I think it requires a greater level of scrutiny to ensure that it delivers what it is intended to deliver.

MR D.T. REDMAN (Warren–Blackwood) [4.46 pm]: Just to tie off the position of the National Party, we will be supporting the government's bill. One of the challenges of being in opposition is that we do not have resources to put into the modelling and options that might be available to say whether something is right or wrong and to put up some alternatives. This is a classic example of a situation in which alternatives could be merited, but we have no capacity to pull that together. Therefore, we are left with what the government presents. It presumably has the resourcing behind it to put up models to make the changes that it thinks are appropriate given the parameters it has to operate within. In opposition, we are faced with the decision of whether we support or do not support that; that is the only question we have to answer. We can interrogate the lines and make sure that everything the government is saying is right and that the legislation reflects it, but as far as we are concerned, we can say only that we support it or do not support it.

We have looked at this legislation very closely and have had a number of briefings, which did not stop at one; certainly, I had at least two briefings on this. Others have had other briefings in support of their asking a number of questions. I was the minister when this issue was first raised so I have a very early description of the challenge. I was probably there for only a short time following that; I think I had about six or seven different portfolios and this was one. I certainly was aware of the issues and I agree with the member for Bateman: it is not roting, but it is someone gaming the system. I think that is accurate, because they are certainly doing it within the current rules. Business does that; it fills out to the parameters that people will allow it to operate within and it will take those best paths.

We sought answers to a number of regional questions. Unfortunately, the government could not drill down to the numbers of regional businesses that were affected, but the global numbers were there. I was certainly aware that there was a level of gaming happening and I am certain that a number of regional businesses that are in that situation that have the scale of operating with payroll tax liabilities are in fact utilising the traineeship arrangements to get a reduction in their payroll tax liabilities.

I was also somewhat satisfied that there are reasons for putting in this legislation. I understand that and it goes to the point the member for Bateman made about who is best to pick what training is necessary in each industry. They work out the best efficiency, what training is needed, what is changing in the economy that needs to be responded to, and therefore they can make decisions about training. Under the arrangements in which someone sitting down in the government's Department of Training and Workforce Development makes the call of who gets a contract and who does not, within the scope of the act, it is somewhat limiting and clunky. I can appreciate the desire to move to giving a very clear, unambiguous legislative platform for who is in and who is out as a smart way to go. Time will tell whether that is right or wrong, but that is what the government is presenting us with.

It is important to note that training is heavily subsidised. I took issue with the current government when it was in opposition for raising issues about us raising training fees. There is now a cap on increases in training fees, but I am sure that it did have some impact on demand. It is interesting how times flip and a few boots are somewhat on the other foot. Training is heavily subsidised. This legislation will change the exemption, which will effectively free up some more revenue for government, which is choosing to put it back into training. It will ensure we do not lose 9 500 funded training places for 2018. People need to remember that whether organisations are paying payroll tax or not, subsidised training extends to big business, small business and government agencies—anyone who wants to take on training can get subsidised training, provided they meet the eligibility criteria and it is one of the areas that the government has identified it will subsidise. A different level of subsidisation will occur depending on whether it is on the priority list. I mentioned that the CCI reflected its confidence in that priority list compared with other training areas that could be identified. There is a lot of subsidised training and there are some winners and losers. On balance, to me, it is not a net loss to the system. I think what the government has put up is more than reasonable.

I think there is another debate to be had when we get to stage 2 about whether a grants scheme is appropriate. I think that will be a really important debate because it is more centred on the government, perhaps—it may or may not be the model—playing a role in who picks up training subsidies and who does not. It might be that the outcomes and the process are much more transparent and we will be able to see what is going on, but it might mean that there are some skewed arrangements in which sectors that probably do not need it get training and other sectors that do need it probably do not. A whole heap of things might play out with that, but that is another debate. This legislation does not set that up to happen; it is in another bit of legislation that will need to come back to the house. What we are dealing with today is simply changing the exemption that will free up more resources for the government, which is leaving it in the training space. The government has given us undertakings along that line and undertakings that if demand changes and resources are identified as being under-utilised at the end of the financial year, it will stay in the system. We will take the minister's word on that; we can only take his word in this place. We hope that there are no unrecognised outcomes from this. Some groups will feel that they have lost something and others will certainly gain something. However, I think the minister still has a little bit of a job to sell to the broader community that the legislation will make a lot more training places available, including those that the bigger companies with a payroll tax liability can access. I support the government's position.

MR B.S. WYATT (Victoria Park — Minister for Finance) [4.53 pm] — in reply: I thank all members for their contribution to the debate. I must admit that I always enjoy consideration in detail. I enjoyed it in opposition and I have enjoyed the couple of times that I have done it in government. We get to have a proper conversation around the legislation, which we do not normally get during the second reading debate. I have a couple of points but I will not speak for long. As I have pointed out, a couple of things are going on here. As the member for Bateman said in his contribution to the third reading debate, there is an issue with the inappropriate use—whatever we are calling it—of an exemption that was designed to focus on new employees. The growth from \$11 million in 2005–06 to \$80 million in 2016–17 far outstripped employment growth and far outstripped wage growth. It is very, very generous and I think that everyone accepts it is very generous. If this legislation makes it through both houses of Parliament, it will allow us to deal with what I think has been the inappropriate use of the generosity of the Western Australian taxpayer. It will take those savings and—yes—put them into funding the hole in our training places across the forward estimates that is specifically focused on general training. We are going to need that because ultimately, the commonwealth government, as I said, changed the nature of a national partnership agreement as it expired and we now go into another one; it is perfectly entitled to do that. The commonwealth government is now funding in a different way that creates this funding shortfall. That is where the funding will go.

One thing I will raise is that I hope the upper house does not send this off to a committee. I am keen to have certainty and the member for Vasse raised that uncertainty will happen while this consultation period goes on, until we know what will happen. I accept the inadequacy of having to deal with this now while we still do not know what the replacement will be, but the Minister for Education and Training and I are consulting in good faith around what that will be and I think we can. The principles we have adopted through public consultation are trying to deal with the issues raised by the member for Bateman around areas in transition that may need, for example, existing employees whose jobs are coming to an end for whatever reason—redundancy, new jobs, new training, new skills. They also need to be incorporated into the scheme that replaces the current exemption, if indeed that is what Parliament decides. I am not keen to have undue delay through an upper house committee because ultimately we need certainty, ideally by the end of this year, with legislation through Parliament by 1 July next year to deal with payroll tax reconciliations. I am keen to get the level of certainty quickly and I think an inquiry by the other place will detract from trying to achieve that certainty. However, as the member for Warren–Blackwood pointed out, this reform has been tinkered with for a long time and this is the fundamental reform that we need to do for a scheme in which all the other states have targeted or limited their generosity. In Western Australia, we are now doing that as well. I certainly hoped that it would have the support of all members in this place; it does not quite, but I hope that ultimately in the other place, members will see the value of this. It is ultimately about funding training places across the forward estimates that are currently not funded. There is no other revenue around to fund those positions. It will hopefully create a system that will open it up to small businesses that currently do not get support for training through the mechanism we are dealing with tonight. I thank all members for their contributions and I look forward to the ongoing negotiations with industry around what may replace this scheme that we are looking to reform.

Division

Question put and a division taken, the Acting Speaker (Mr S.J. Price) casting his vote with the ayes, with the following result —

Extract from Hansard
[ASSEMBLY — Thursday, 12 April 2018]
p2046b-2062a

Ms Jessica Shaw; Mr Ben Wyatt; Mr Dean Nalder; Dr Mike Nahan; Mr Terry Redman

Ayes (34)

Dr A.D. Buti	Mr M. Hughes	Mrs L.M. O'Malley	Mrs J.M.C. Stojkovski
Mr J.N. Carey	Mr W.J. Johnston	Mr P. Papalia	Mr C.J. Tallentire
Mrs R.M.J. Clarke	Mr D.J. Kelly	Mr S.J. Price	Mr D.A. Templeman
Ms M.J. Davies	Mr R.S. Love	Mr D.T. Redman	Mr R.R. Whitby
Ms J. Farrer	Mr M. McGowan	Mrs M.H. Roberts	Ms S.E. Winton
Mr M.J. Folkard	Ms S.F. McGurk	Mr P.J. Rundle	Mr B.S. Wyatt
Ms J.M. Freeman	Mr S.A. Millman	Ms R. Saffioti	Mr D.R. Michael (<i>Teller</i>)
Ms E. Hamilton	Mr Y. Mubarakai	Ms A. Sanderson	
Mr T.J. Healy	Mr M.P. Murray	Ms J.J. Shaw	

Noes (11)

Mr I.C. Blayney	Mr Z.R.F. Kirkup	Mr W.R. Marmion	Mr D.C. Nalder
Dr D.J. Honey	Mr A. Krsticevic	Mr J.E. McGrath	Ms L. Mettam (<i>Teller</i>)
Mr P. Katsambanis	Mr S.K. L'Estrange	Dr M.D. Nahan	

Pairs

Mr R.H. Cook	Mrs L.M. Harvey
Mr P.C. Tinley	Mr K. O'Donnell

Question thus passed.

Bill read a third time and transmitted to the Council.