

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

AUDITOR GENERAL OF ONTARIO

Applicant

and

LAURENTIAN UNIVERSITY OF SUDBURY

Respondent

APPLICATION RECORD

September 29, 2021

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Tel: 416-862-7525

Fax: 416-862-7661

Richard Dearden (19087H)

richard.dearden@gowlingwlg.com

Tel: 613-786-0135

Heather Fisher (75006L)

heather.fisher@gowlingwlg.com

Tel: 416-369-7202

Sarah Boucaud (76517I)

sarah.boucaud@gowlingwlg.com

Tel: 613-786-0049

Lawyers for the Applicant

-2-

TO: Laurentian University of Sudbury
935 Ramsey Lake Road
Sudbury, Ontario
P3E 2C6

AND TO: THORNTON GROUT FINNIGAN LLP
100 Wellington Street West, Suite 3200
Toronto, ON M5K 1K7
D.J. Miller
Tel: 416-304-0559
Email: djmiller@tgf.ca

Lawyers for the Applicant (Insolvency Counsel)

AND TO: STOCKWOODS LLP
77 King Street West, Suite 4130
Toronto, ON M5K 1H1
Brian Gover
Tel: 416-593-2489
Email: briang@stockwoods.ca
Fredrick Schumann
Tel: 416-593-2490
Email: fredricks@stockwoods.ca

Lawyers for the Applicant (Regulatory Counsel)

AND TO: STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9
Ashley Taylor
Tel: 416-869-5236
Email: ataylor@stikeman.com

Lawyers for the Monitor

AND TO: ERNST & YOUNG INC.
100 Adelaide Street West
Toronto, ON M5H 0B3
Sharon Hamilton
Tel: 416-943-2153
Email: sharon.s.hamilton@ca.ey.com

Monitor

Court File No. CV-21-00669471-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

AUDITOR GENERAL OF ONTARIO

Applicant

and

LAURENTIAN UNIVERSITY OF SUDBURY

Respondent

APPLICATION RECORD

Index

| Tab | Document | Page |
|------------|--|-------------|
| 1. | Notice of Application | 5 – 20 |
| 2. | Affidavit of the Auditor General Bonnie Lysyk sworn September 28, 2021 | 21 – 29 |
| A. | Exhibit A - Hansard for the proceedings of the Standing Committee on Public Accounts held on April 28, 2021 (42nd Parl., 1st sess.) | 30 – 37 |
| B. | Exhibit B – Letter from the Auditor General to the President of Laurentian University of Sudbury dated May 18, 2021 | 38 – 39 |
| C. | Exhibit C – OPS Guide For Interaction With The Auditor General of Ontario: Value-For-Money Audits (April 2019) | 40 – 68 |
| D. | Exhibit D – Letter from the Auditor General to the President and Vice-Chancellor of Laurentian University of Sudbury dated August 30, 2021 | 69 – 70 |

-4-

| Tab | Document | Page |
|------------|--|-------------|
| E. | Exhibit E – Letter from President Dr. Robert Haché to the Auditor General Bonnie Lysyk dated August 31, 2021 | 71 – 73 |
| F. | Exhibit F – Email from President and Vice-Chancellor Dr. Robert Haché to the Assistant Auditor General Gus Chagani sent on August 4, 2021 @ 5:23PM | 74 – 75 |
| G. | Exhibit G – Bill 18 | 76 – 83 |
| H. | Exhibit H - Hansard (38th Parl., 1st sess., No. 12A at 541) | 84 – 87 |
| I. | Exhibit I - Hansard (38th Parl, 1st sess, No 33 at 1584) | 88 – 107 |
| J. | Exhibit J – Hansard (38th Parl, 1st sess, No 49 at 2311) | 108 – 129 |
| K. | Exhibit K - Interim Protocol of Access by the Office of the Provincial Auditor of Ontario dated July 25th, 2003 | 130 – 134 |
| L. | Exhibit L - 2003 Handbook for Interaction with the Office of the Provincial Auditor | 135 – 153 |
| M. | Exhibit M - 2006 Handbook for Interaction with the Auditor General of Ontario (dated October 2016) | 154 - 198 |



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Electronically issued : 29-Sep-2021
Délivré par voie électronique
Toronto

B E I W E E N:

AUDITOR GENERAL OF ONTARIO

Applicant

and

LAURENTIAN UNIVERSITY OF SUDBURY

Respondent

NOTICE OF APPLICATION

TO THE RESPONDENT

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicant. The claim made by the Applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

- In person
- By telephone conference
- By video conference

at the following location:

[location]

(*Courthouse address or telephone conference or video conference details, such as a dial-in number, access code, video link, etc. if applicable*)

on a date to be determined.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

-2-

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicant's lawyer or, where the Applicant does not have a lawyer, serve it on the Applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 9th Floor
Toronto ON M5G 1R7

TO: Laurentian University of Sudbury
935 Ramsey Lake Road
Sudbury, Ontario
P3E 2C6

-3-

APPLICATION

THE APPLICANT MAKES APPLICATION FOR:

- (a) a Declaration that every grant recipient is required to give the Auditor General the information and records described in subsection 10(1) of the *Auditor General Act*, R.S.O. 1990, c A. 35(as amended), including information and records that are subject to solicitor-client privilege, litigation privilege, or settlement privilege;
- (b) a Declaration that the Auditor General has a right to free and unfettered access to the information and records described in subsection 10(2) of the *Auditor General Act* that are subject to solicitor-client privilege, litigation privilege or settlement privilege;
- (c) the costs of this proceeding; and,
- (d) such further and other relief as this Honourable Court deems just.

-4-

THE GROUNDS FOR THE APPLICATION ARE:

A. MOTION BY STANDING COMMITTEE ON PUBLIC ACCOUNTS: VALUE-FOR-MONEY AUDIT OF THE OPERATIONS OF LAURENTIAN UNIVERSITY

1. The Standing Committee on Public Accounts passed a motion on April 28, 2021 requesting the Auditor General to conduct a value-for-money audit on the operations of Laurentian University of Sudbury for the period of 2010 to 2020.
2. The Auditor General of Ontario is an Officer of the Legislative Assembly of Ontario. The Office of the Auditor General is an independent, non-partisan Office of the Legislative Assembly of Ontario that serves the Members of Provincial Parliament and the people of Ontario. One of the roles of the Auditor General is to hold Public Sector and Broader Public Sector organizations (such as universities) accountable for financial responsibility and transparency.
3. The Auditor General notified the President and Vice-Chancellor of Laurentian University of Sudbury in May 2021 that the Standing Committee on Public Accounts passed a motion to request the Auditor General to conduct a value-for-money audit of Laurentian University's operations for the period of 2010 to 2020. The value-for-money audit is ongoing.

B. LAURENTIAN UNIVERSITY'S REFUSAL TO PROVIDE PRIVILEGED INFORMATION AND RECORDS TO THE AUDITOR GENERAL

4. The *Ontario Public Sector Guide for Interaction with the Office of the Auditor General of Ontario: Value-for-Money Audits* was signed by Auditor General Bonnie Lysyk and the Secretary of the Cabinet in April 2019. Appendix B to the

-5-

Guide informs auditees about the Auditor General's right of access to privileged information and records. The *Ontario Public Sector Guide for Interaction with the Office of the Auditor General of Ontario: Value-for-Money Audits* was provided by the Auditor General to the President and Vice-Chancellor of Laurentian University of Sudbury.

5. Section 10 of the *Auditor General Act* imposes a mandatory duty on a grant recipient to give information and records to the Auditor General and entitles the Auditor General to have free access to a grant recipient's information and records. The Office of the Auditor General has consistently advised Laurentian University of Sudbury employees that section 10 of the *Auditor General Act* provides the Auditor General with a right of access to privileged information and records.
6. Laurentian University of Sudbury disagrees with the Auditor General's interpretation of section 10 of the *Auditor General Act* and has consistently denied the Auditor General access to its privileged information and records.

C. LEGISLATIVE HISTORY OF SECTION 10 OF THE AUDITOR GENERAL ACT

7. The *Audit Act* was amended in 2004 by way of *Bill 18 (The Audit Statute Law Amendment Act, 2004, SO 2004, c 17)*. Bill 18 received Royal Assent on November 30, 2004.
8. Bill 18 added section 9.1 of the *Auditor General Act*, authorizing the Auditor General to conduct special audits of grant recipients.

-6-

9. Bill 18 repealed section 10 of the *Audit Act*, R.S.O. 1990, c.A.35 which read:

Every ministry of the public service, every agency of the Crown and every Crown controlled corporation shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as the Auditor from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the ministry, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the Auditor under this Act.

10. Bill 18 replaced section 10 of the *Audit Act* with the following provisions regarding the duty of a grant recipient to give information to the Auditor General and the Auditor General's entitlement to have free access to a grant recipient's information and records:

(1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act.

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

11. Bill 18 added section 27.1 which requires the Auditor General and employees of the Office of the Auditor General to preserve the secrecy of privileged information obtained under section 10 of the *Auditor General Act*:

-7-

(1) The Auditor General, the Deputy Auditor General and each person employed in the Office of the Auditor General or appointed to assist the Auditor General for a limited period of time or in respect of a particular matter shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her employment or duties under this Act.

(2) Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate to another person any matter described in subsection (1) except as may be required in connection with the administration of this Act or any proceedings under this Act or under the *Criminal Code* (Canada).

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege.

12. On December 9, 2003, the Minister of Finance (the Honourable Greg Sorbara) introduced Bill 18's amendments to the *Audit Act* (Hansard, 38th Parl., 1st sess., No. 12A at 541) and stated:

The amendments I am introducing today would give the Provincial Auditor the expanded power to conduct full-scope value-for-money audits of the so-called SUCH sector – that is school boards, universities, colleges and hospitals – and also all crown-controlled corporations and their related subsidiaries. These value-for-money audits will report whether money was expended with due regard to economy and efficiency and whether procedures were established to measure and report on the effectiveness of those programs. They will go a long way to ensure that the people of Ontario get the value they deserve from the money they invest in these public services. Organizations subject to this expanded mandate will be required to provide the Provincial Auditor with information and access to their books and records.

13. On April 19, 2004, Member of Provincial Parliament Mike Colle made the following statement about Bill 18 (Hansard, 38th Parl., 1st sess., No. 33 at 1548):

...Just to give you an example of how thorough this is, for instance, the Provincial Auditor under this act will have free access to records, all books, accounts, financial records, electronic data, processing records,

-8-

reports, files, all papers and things on property belonging to or used by a ministry, an agency of the crown, a crown-controlled corporation or grant recipient. So the auditor will have unfettered access to all papers, books and documents.

14. On May 17, 2004, Member of Parliament David Zimmer made the following statement about Bill 18 (Hansard, 38th Parl., 1st sess., No. 49 at 2311):

Let me just briefly refer to what I think are four important sections of Bill 18, because nobody has referred to these sections. I've talked about the philosophy, what we want to do, why we want Bill 18, why we want an empowered Auditor General. I've given a list of abuses that were garnered from a reading of the last report, for 2003. Let me just turn my mind to Bill 18 for a minute or two.

Section 10 is entitled "Duty to furnish information," and this is critical: "Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act." That is a powerful tool.

Subsection 10(2), "Access to records," another hand-in-hand powerful tool along with the duty to furnish information: "The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records ... files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient"—that's the transfer payments—"as the case may be," and any other information "that the Auditor General believes to be necessary to perform" his duties. Another very important tool.

Section 11 is the third tool that the Auditor General has to root out this malfeasance: "The Auditor General may examine any person on oath on any matter pertinent to an audit or examination." That is a powerful tool.

The last, and the overarching authority given to the auditor under Bill 18, is the authority to give an opinion on statements: "In the annual report in respect of each fiscal year, the Auditor General shall express his or her opinion as to whether the consolidated financial statements of Ontario, as reported in the Public Accounts, present fairly information in accordance with appropriate generally

-9-

accepted accounting principles and the Auditor General shall set out”—and this is important—“any reservations he or she may have.”

These are powerful tools to enable the Auditor General under Bill 18 to root out financial mismanagement and to hold all of us here in this Legislature from all parties, and hold the government, accountable to the taxpayers of Ontario. That’s why I am proud to support Bill 18.

15. Prior to the introduction of Bill 18, the Provincial Auditor and the Deputy Attorney General signed an *Interim Protocol on Access by the Office of the Provincial Auditor of Ontario to Privileged Documents* (dated July 25, 2003). The purpose of the Protocol was to enable the Office of the Provincial Auditor to have access to all documents subject to solicitor-client privilege, litigation privilege and settlement privilege, and to recognize the government’s interest in maintaining confidentiality and preserving privilege in those documents:

The purpose of this Protocol is to enable the OPA [Office of the Provincial Auditor] to have access to all documents subject to solicitor-client privilege, litigation privilege or settlement privilege (the "privileged documents") required by the Provincial Auditor to perform his or her duties under the *Audit Act* and to recognize the government's interest in maintaining confidentiality and preserving the privilege in those documents. The Protocol is intended to accomplish this purpose in a consistent way across government.

16. The 2003 *Handbook for Interaction with the Office of the Provincial Auditor of Ontario* (November 2003) stated that privileged documents must be provided to the Provincial Auditor:

... [C]ertain other documents may be subject to solicitor-client, litigation or settlement privilege. Such “privileged documents” are to be provided to the OPA [Office of the Provincial Auditor] under the terms of a protocol between the OPA and the Ministry of the Attorney General (MAG) concerning access by the OPA to privileged documents. The protocol enables the OPA to have access to all documents required by the

-10-

Provincial Auditor to perform his duties under the *Audit Act* while preserving the government's privilege in those documents.

17. The Ontario Internal Audit Division's 2006 *Handbook for Interaction with the Auditor General of Ontario*, informed auditees that prior to the 2004 amendments to the *Audit Act*, the Auditor General's access to privileged documents was governed by the *Interim Protocol of Access by the Office of the Provincial Auditor of Ontario*:

Prior to the amendments to the Auditor General's enabling legislation in 2004, the Auditor General's access to privileged documents (solicitor-client, litigation and settlement) was governed by a protocol between the Auditor General (previously the Provincial Auditor) and the Ministry of the Attorney General. The Protocol confirmed the Auditor General's right to access to privileged information but more importantly it confirmed that the disclosure to the Auditor General does not constitute a waiver of the privilege by the privilege holder and it stated conditions for the treatment of this information by the Auditor General.

The amendment to the *Act*, (s. 10 (3)) "*A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege*" gave legal status to the privilege holder's right to maintain privilege and confirmed that disclosure to the Auditor General does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. The amendment also clarified the Auditor General's responsibility of preserving the confidentiality of privileged information, therefore, employees of the Office of the Auditor General, (s. 27.1 (3)) "*shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor – client-privilege, litigation privilege or settlement privilege unless the person has the consent of the holder of the privilege.*"

Since the legal rights and responsibilities of the Auditor General with respect to these privileges have been formalized in the *Act*, the past Protocol now exists only to assist legal counsel with the processes to follow in providing this information to the Auditor General.

Under this Protocol, Legal Directors are responsible for reviewing documents subject to solicitor-client privilege, litigation privilege and settlement privilege requested by the Auditor General, on a timely basis, before releasing the documents. The purpose of the review is to determine

-11-

whether the documents are subject to solicitor-client privilege, litigation privilege or settlement privilege, to identify any privileged documents that raise special confidentiality concerns such as documents relating to ongoing litigation, and to advise the Auditor General accordingly. Generally, the Auditor General will be provided with copies of privileged documents, however, if the privileged document raises a special confidentiality concern, the Auditor General will inspect such documents on site.

For the Auditor General's audits of the BPS [Broader Public Sector], the BPS entity's legal counsel should provide the necessary assistance in dealing with the Auditor General's request for information and documents subject to solicitor-client privilege, litigation privilege and settlement privilege.

D. SECTION 10 OF THE AUDITOR GENERAL ACT – DUTY TO FURNISH INFORMATION AND ACCESS TO RECORDS

18. As a grant recipient, Laurentian University of Sudbury is obligated to give the Auditor General the information the Auditor General believes is necessary to conduct the value-for-money audit of Laurentian University of Sudbury, including privileged information and records. Subsection 10(1) of the *Auditor General Act* states:

Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.

Pursuant to subsection 10(3) of the *Auditor General Act*, a grant recipient's disclosure to the Auditor General under subsection 10(1) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

19. The Auditor General has a right to free and unfettered access to all records belonging to or used by a grant recipient that the Auditor General believes to be

-12-

necessary to conduct the value-for-money audit of Laurentian University of Sudbury, including privileged information and records. Subsection 10(2) of the *Auditor General Act* states:

The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act.

Pursuant to subsection 10(3) of the *Auditor General Act*, a grant recipient's disclosure to the Auditor General under subsection 10(2) does not constitute a waiver of solicitor client privilege, litigation privilege or settlement privilege.

20. Laurentian University of Sudbury's interpretation of section 10 of the *Auditor General Act* is set out in an email from the President and Vice-Chancellor (Dr. Robert Haché) sent on August 4, 2021 to Assistant Auditor General Gus Chagani:

"... the Auditor General does not have the right to access privileged information. The *Auditor General Act* allows, but does not require, an entity under audit to disclose privileged information to the Auditor General. The Act provides that, if such disclosure occurs, it is not a waiver of privilege, but, again, does not entitle the Auditor General to such disclosure. Of course, the University may choose to disclose privileged information to the Auditor General, but that decision is the University's to make."

21. Subsection 10(3) of the *Auditor General Act* begins with the words: "A disclosure to the Auditor General under subsection (1) or (2)...".

A disclosure under subsection 10(1) is mandatory and an auditee has no choice other than to make the disclosure of privileged information requested by the Auditor

-13-

General (“every grant recipient shall give the Auditor General the information...”).

The disclosure required under subsection 10(1) is not voluntary or a choice that lies in the hands of Laurentian University of Sudbury.

The Auditor General is entitled under subsection 10(2) to free access to a grant recipient’s books, accounts, and financial records. An auditee is accorded no right by subsection 10(2) to deny the Auditor General access to privileged information. The Auditor General’s right of access to a grant recipient’s information and records is unfettered.

22. Subsections 10(1) and 10(2) of the *Auditor General Act* are mandatory provisions, not discretionary provisions that confer a choice on an auditee to disclose privileged information to the Auditor General. There is no carve out for privileged information contained in the disclosures required under subsections 10(1) and 10(2) of the *Auditor General Act*. This is why subsection 10(3) protects the privileged information by providing that the disclosure of the privileged information to the Auditor General does not constitute a waiver of solicitor-client privilege, litigation privilege, or settlement privilege.

23. The disclosures mandated by subsections 10(1) and (2) of the *Auditor General Act* are further protected by the confidentiality and secrecy provisions set out in section 27.1 of the *Auditor General Act*. Section 27.1(3) of the *Auditor General Act* preserves secrecy over privileged information required to be disclosed to the Auditor General under section 10 of the *Auditor General Act*:

-14-

A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege.

24. Section 27.1(3) of the *Auditor General Act* makes it clear that the disclosures mandated by subsections 10(1) and 10(2) include documents that contain privileged information and protects the disclosure of that privileged information by imposing a duty of confidentiality and secrecy on the Auditor General and employees of the Office of the Auditor General of Ontario.

25. The refusal by Laurentian University of Sudbury to provide the Auditor General of Ontario with access to privileged information and records based on Laurentian University's interpretation of section 10 of the *Auditor General Act* necessitated this Application.

E. OTHER

26. *Auditor General Act*, RSO 1990, c. A.35 (as amended).

27. Rules 14.05(3)(d), 14.05(3)(h) and 39 of the *Rules of Civil Procedure*, RRO 1990, Reg 194.

28. It is unlikely that there will be any material facts in dispute requiring a trial.

29. Such further and other grounds as the lawyers may advise and this Honourable Court permits.

THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:

-15-

- (a) the Affidavit of Auditor General Bonnie Lysyk, sworn on September 28, 2021; and

- (b) such further and other evidence as the lawyers may advise and this Honourable Court may permit.

Date: September 28, 2021

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5
Tel: 416-862-7525
Fax: 416-862-7661

Richard Dearden (19087H)

richard.dearden@gowlingwlg.com
Tel: 613-786-0135

Heather Fisher (75006L)

heather.fisher@gowlingwlg.com
Tel: 416-369-7202

Sarah Boucaud (76517I)

sarah.boucaud@gowlingwlg.com
Tel: 613-786-0049

Lawyers for the Applicant

OFFICE OF THE AUDITOR GENERAL OF ONTARIO
Applicant

LAURENTIAN UNIVERSITY
Respondent

-and-

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**PROCEEDING COMMENCED AT
TORONTO**

NOTICE OF APPLICATION

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Richard Dearden (19087H)
Richard.dearden@gowlingwlg.com
Tel: 613-786-0135

Heather Fisher (75006L)
Heather.fisher@gowlingwlg.com
Tel: 416-369-7202

Sarah Boucaud (76517I)
Sarah.boucaud@gowlingwlg.com
Tel: 613-786-0049

Lawyers for the Applicant

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

B E T W E E N:

AUDITOR GENERAL OF ONTARIO

Applicant

and

LAURENTIAN UNIVERSITY OF SUDBURY

Respondent

AFFIDAVIT OF AUDITOR GENERAL BONNIE LYSYK

(Sworn on September 28, 2021)

(Rule 14.05(3) Application – Interpretation of section 10 of the *Auditor General Act*)

I, Bonnie Lysyk, of the City of Toronto, in the province of Ontario, **MAKE OATH
AND SAY:**

I. INTRODUCTION

1. I am the Auditor General of Ontario and as such I have personal knowledge of the matters set out in this Affidavit, except where I have relied on information from others, in which case I have identified the source of my information and believe it to be true.
2. I was appointed Auditor General of Ontario effective September 3, 2013 after having previously served as Provincial Auditor of Saskatchewan and Deputy Auditor General and Chief Operating Officer of the Office of the Auditor General of Manitoba.
3. The Auditor General of Ontario is an Officer of the Legislative Assembly of Ontario.

4. The Office of the Auditor General is an independent, non-partisan Office of the Legislative Assembly of Ontario that serves the Members of Provincial Parliament and the people of Ontario.
5. One of the roles of the Auditor General is to hold provincial Public Sector and Broader Public Sector organizations such as universities accountable for financial responsibility and transparency. One of the ways my Office carries out this role is to conduct value-for-money audits.

II. MOTION BY THE STANDING COMMITTEE ON PUBLIC ACCOUNTS: VALUE-FOR-MONEY AUDIT OF THE OPERATIONS OF LAURENTIAN UNIVERSITY

6. The Standing Committee on Public Accounts passed a motion on April 28, 2021 requesting me to conduct a value-for-money audit on Laurentian University of Sudbury's operations for the period of 2010 to 2020. Attached as Exhibit "A" is a copy of Hansard for the proceedings of the Standing Committee on Public Accounts held on April 28, 2021 (42nd Parl., 1st sess.).
7. Laurentian University is a grant recipient that has received annual grants of tens of millions of dollars from the Government of Ontario.
8. Through a video call and presentation on May 14, 2021 and by a formal letter dated May 18, 2021, I notified the President and Vice-Chancellor of Laurentian University of Sudbury (Dr. Robert Haché) that the Standing Committee on Public Accounts passed a motion to request me to conduct a value-for-money audit of Laurentian University of Sudbury's operations for the period of 2010 to 2020 (attached as Exhibit "B" is a copy of my May 18, 2021 letter).

III. OPS GUIDE FOR INTERACTION WITH THE OFFICE OF THE AUDITOR GENERAL: VALUE-FOR-MONEY AUDITS

9. I signed the *Ontario Public Sector Guide for Interaction with the Office of the Auditor General of Ontario: Value-for-Money Audits* along with the Secretary of the Cabinet (Steven Davidson) in April 2019. Appendix B to the Guide informs auditees about the Auditor General's access to privileged information and records. A copy

of the *Ontario Public Sector Guide For Interaction With The Auditor General Of Ontario: Value-For-Money Audits* (April 2019) is attached as Exhibit “C”.

10. Laurentian University of Sudbury is governed by the *Ontario Public Sector Guide For Interaction With The Auditor General Of Ontario: Value-For-Money Audits* (April 2019) which I enclosed in a letter I sent to President Haché on August 30, 2021 (a copy of my letter dated August 30, 2021 is attached as Exhibit “D”). President Haché replied to my letter of August 30th by letter dated August 31, 2021 (a copy of President Haché’s August 31, 2021 letter is attached as Exhibit “E”).
11. Section 10 of the *Auditor General Act* imposes a duty on a grant recipient to give information and records to the Auditor General and entitles the Auditor General to have free access to a grant recipient’s information and records. The Office of the Auditor General has consistently advised Laurentian University of Sudbury employees that section 10 of the *Auditor General Act* provides the Auditor General with a right of access to Laurentian University’s privileged information and records.
12. Laurentian University of Sudbury disagrees with my interpretation of section 10 of the *Auditor General Act* and has consistently denied my Office access to its privileged information and records. Laurentian University of Sudbury’s interpretation of section 10 of the *Auditor General Act* is set out in an email from President Haché sent on August 4, 2021 to Assistant Auditor General Gus Chagani @ 5:23PM:

“... the Auditor General does not have the right to access privileged information. The *Auditor General Act* allows, but does not require, an entity under audit to disclose privileged information to the Auditor General. The Act provides that, if such disclosure occurs, it is not a waiver of privilege, but, again, does not entitle the Auditor General to such disclosure. Of course, the University may choose to disclose privileged information to the Auditor General, but that decision is the University’s to make.”

A copy of President Haché’s August 4, 2021 email is attached as Exhibit “F”.

IV. LEGISLATIVE HISTORY OF SECTION 10 OF THE *AUDITOR GENERAL ACT*

13. The *Audit Act* was amended in 2004 by way of Bill 18 (the *Audit Statute Law Amendment Act, 2004*, S.O. 2004, c. 17). Bill 18 received Royal Assent on November 30, 2004. A copy of Bill 18 is attached as Exhibit “G”.

14. Bill 18 added section 9.1 of the *Auditor General Act*, authorizing the Auditor General to conduct special audits of grant recipients.

15. Bill 18 repealed section 10 of the *Audit Act*, R.S.O. 1990, c.A.35 which read:

Every ministry of the public service, every agency of the Crown and every Crown controlled corporation shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as the Auditor from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the ministry, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the Auditor under this Act.

16. Bill 18 replaced section 10 of the *Audit Act* with the following provisions regarding the duty of a grant recipient to give information to the Auditor General and the Auditor General's entitlement to have free access to a grant recipient's information and records:

(1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act.

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

17. Bill 18 added subsection 27.1 which requires the Auditor General and employees of the Office of the Auditor General to preserve the secrecy of privileged information obtained under section 10.

18. On December 9, 2003, the Minister of Finance (the Honourable Greg Sorbara) introduced Bill 18's amendments to the *Audit Act* and stated:

"The amendments I am introducing today would give the Provincial Auditor the expanded power to conduct full-scope value-for-money audits of the so-called SUCH sector – that is school boards, universities, colleges and hospitals – and also all crown-controlled corporations and their related subsidiaries. These value-for-money audits will report whether money was expended with due regard to economy and efficiency and whether procedures were established to measure and report on the effectiveness of those programs. They will go a long way to ensure that the people of Ontario get the value they deserve from the money they invest in these public services. Organizations subject to this expanded mandate will be required to provide the Provincial Auditor with information and access to their books and records."

A copy of Hansard (38th Parl., 1st sess., No. 12A at 541) is attached as Exhibit "H".

19. On April 19, 2004, Member of Provincial Parliament Mike Colle made the following statement about Bill 18:

"...Just to give you an example of how thorough this is, for instance, the Provincial Auditor under this act will have free access to records, all books, accounts, financial records, electronic data, processing records, reports, files, all papers and things on property belonging to or used by a ministry, an agency of the crown, a crown-controlled corporation or grant recipient. So the auditor will have unfettered access to all papers, books and documents."

A copy of Hansard (38th Parl., 1st sess., No. 33 at 1584) is attached as Exhibit "I".

20. On May 17, 2004, Member of Provincial Parliament David Zimmer made the following statement about Bill 18:

Let me just briefly refer to what I think are four important sections of Bill 18, because nobody has referred to these sections. I've talked about the philosophy, what we want to do, why we want Bill 18, why we want an empowered Auditor General. I've given a list of abuses that were garnered from a reading of the last report, for 2003. Let me just turn my mind to Bill 18 for a minute or two.

Section 10 is entitled "Duty to furnish information," and this is critical: "Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act." That is a powerful tool.

Subsection 10(2), "Access to records," another hand-in-hand powerful tool along with the duty to furnish information: "The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records ... files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient"—that's the transfer payments—"as the case may be," and any other information "that the Auditor General believes to be necessary to perform" his duties. Another very important tool.

Section 11 is the third tool that the Auditor General has to root out this malfeasance: "The Auditor General may examine any person on oath on any matter pertinent to an audit or examination." That is a powerful tool.

The last, and the overarching authority given to the auditor under Bill 18, is the authority to give an opinion on statements: "In the annual report in respect of each fiscal year, the Auditor General shall express his or her opinion as to whether the consolidated financial statements of Ontario, as reported in the Public Accounts, present fairly information in accordance with appropriate generally accepted accounting principles and the Auditor General shall set out"—and this is important—"any reservations he or she may have."

These are powerful tools to enable the Auditor General under Bill 18 to root out financial mismanagement and to hold all of us here in this Legislature from all parties, and hold the government, accountable to the taxpayers of Ontario. That's why I am proud to support Bill 18.

A copy of Hansard is attached as Exhibit "J" (38th Parl., 1st sess., No. 49 at 2311).

21. Prior to Bill 18's amendments to the *Audit Act*, the Provincial Auditor (Erik Peters) and the Deputy Attorney General (Mark Freiman) signed an *Interim Protocol on Access by the Office of the Provincial Auditor of Ontario to Privileged Documents* (dated July 25, 2003). The purpose of the Protocol was to enable the Office of the Provincial Auditor to have access to all documents subject to solicitor-client privilege, litigation privilege and settlement privilege, and to recognize the government's interest in preserving privilege in those documents:

The purpose of this Protocol is to enable the OPA [Office of the Provincial Auditor] to have access to all documents subject to solicitor-client privilege, litigation privilege or settlement privilege (the "privileged documents") required by the Provincial Auditor to perform his or her duties under the *Audit Act* and to recognize the government's interest in maintaining confidentiality and preserving the privilege in those documents. The Protocol is intended to accomplish this purpose in a consistent way across government.

Attached as Exhibit "K" is a copy of the *Interim Protocol on Access by the Office of the Provincial Auditor of Ontario to Privileged Documents*, dated July 25th, 2003.

22. The 2003 *Handbook for Interaction with the Office of the Provincial Auditor* (dated November 2003) informed auditees that privileged documents must be provided to the Provincial Auditor:

...[C]ertain other documents may be subject to solicitor-client, litigation or settlement privilege. Such "privileged documents" are to be provided to the OPA [Office of the Provincial Auditor] under the terms of a protocol between the OPA and the Ministry of the Attorney General (MAG) concerning access by the OPA to privileged documents. The protocol enables the OPA to have access to all documents required by the Provincial Auditor to perform his duties under the *Audit Act* while preserving the government's privilege in those documents.

Attached as Exhibit "L" is a copy of the 2003 *Handbook for Interaction with the Office of the Provincial Auditor*.

23. The Ontario Internal Audit Division's 2006 *Handbook for Interaction with the Auditor General of Ontario* informed auditees that prior to the 2004 amendments

to the *Audit Act*, the Auditor General's access to privileged documents was governed by the *Interim Protocol of Access by the Office of the Provincial Auditor of Ontario*:

Prior to the amendments to the Auditor General's enabling legislation in 2004, the Auditor General's access to privileged documents (solicitor-client, litigation and settlement) was governed by a protocol between the Auditor General (previously the Provincial Auditor) and the Ministry of the Attorney General. The Protocol confirmed the Auditor General's right to access to privileged information but more importantly it confirmed that the disclosure to the Auditor General does not constitute a waiver of the privilege by the privilege holder and it stated conditions for the treatment of this information by the Auditor General.

The amendment to the *Act*, (s. 10 (3)) "*A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege*" gave legal status to the privilege holder's right to maintain privilege and confirmed that disclosure to the Auditor General does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. The amendment also clarified the Auditor General's responsibility of preserving the confidentiality of privileged information, therefore, employees of the Office of the Auditor General, (s. 27.1 (3)) "*shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor – client-privilege, litigation privilege or settlement privilege unless the person has the consent of the holder of the privilege.*"

Attached as Exhibit "**M**" is a copy of the 2006 *Handbook for Interaction with the Auditor General of Ontario* (dated October 2016).

24. I swear this affidavit in support of my Application for Declarations regarding the interpretation of section 10 of the *Auditor General Act*.

SWORN remotely by Bonnie Lysyk at the
City of Toronto, in the Province of Ontario,
before me on the 28th day of September,
2021 in accordance with O. Reg. 431/20,
Administering Oath or Declaration



Remotely.

DocuSigned by:
Heather Fisher
2F7B29C04CC6424...

Commissioner for Taking Affidavits
(or as may be)

Heather Fisher (LSO#75006L)

DocuSigned by:
Bonnie Lysyk
16599A2A7F47479...

BONNIE LYSYK

This is Exhibit "A" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

**Official Report
of Debates
(Hansard)**

P-32

**Journal
des débats
(Hansard)**

P-32

**Standing Committee on
Public Accounts**

Committee business

**Comité permanent des
comptes publics**

Travaux du comité

1st Session
42nd Parliament
Wednesday 28 April 2021

1^{re} session
42^e législature
Mercredi 28 Avril 2021

Chair: Taras Natyshak
Clerk: Christopher Tyrell

Président : Taras Natyshak
Greffier : Christopher Tyrell

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<https://www.ola.org/>

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7400.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7400.

House Publications and Language Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



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

CONTENTS

Wednesday 28 April 2021

Committee business.....P-507

P-507

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
PUBLIC ACCOUNTS**

**COMITÉ PERMANENT DES
COMPTES PUBLICS**

Wednesday 28 April 2021

Mercredi 28 Avril 2021

The committee met at 1230 in room 151 and by video conference, following a closed session.

COMMITTEE BUSINESS

The Chair (Mr. Taras Natyshak): Welcome back, members of the public accounts committee. As you know, we have a motion on the table. We're going to debate the motion right now filed by Madame France Gélinas, MPP, that the Standing Committee on Public Accounts request that the Auditor General conduct a value-for-money audit on the impact of changes to post-secondary education funding on Laurentian University's operations from the period of 2010 to 2020.

Madame Gélinas, can you move the motion?

M^{me} France Gélinas: I move that the Standing Committee on Public Accounts request that the Auditor General conduct a value-for-money audit on the impact of changes to post-secondary education funding on Laurentian University's operations from the period of 2010 to 2020.

The Chair (Mr. Taras Natyshak): Thanks very much.

Can I also take attendance here? I see that MPP Jamie West is here. Can you tell us who you are and where you're at?

Mr. Jamie West: I'm MPP Jamie West. I'm in my office, probably right above you.

The Chair (Mr. Taras Natyshak): Thank you very much.

MPP Martin, can you tell us where you're at and who you are?

Mrs. Robin Martin: It's MPP Robin Martin. I'm at Queen's Park, in Toronto.

The Chair (Mr. Taras Natyshak): We have a motion on the table, and we'll open the floor to discussion and debate. Madame Gélinas?

M^{me} France Gélinas: Just so that everybody knows, Laurentian University in Sudbury is going through what is called a CCAA process—that's the Companies' Creditors Arrangement Act. This is an act to protect yourself from your creditors. They went into this process in order to pay their creditors. The problem is that many people in Sudbury, Nickel Belt and the northeast are very suspicious of the CCAA process, because all of the decisions are made behind closed doors. That means that most financial documents are not available publicly.

Many people in Sudbury and around are asking for a forensic audit to be done to see what happened at Laurentian. I'm told that KPMG has done a forensic audit for the courts, but those documents are not available to the public; yet they form the basis of decisions made by the CCAA that are, frankly, devastating to our community and really hard to understand. As an example, the midwifery program is paid for by the Ministry of Health, not by the Ministry of Colleges and Universities. It is 100% funded, yet it got cut.

I know that the Auditor General has the power to look at universities, so I would request that her office conduct a value-for-money audit on the impact of the funding to Laurentian University's operations from 2010 to 2020, but also to look—because there are many people who suspect that there has been wrongdoing that led to this, and others basically would just like to know what are the lessons learned from the audit of the financial decisions that were made by Laurentian University.

So I would say that I and many members of my community are just looking for an independent audit that will be public so that people can have their questions answered. Right now, no financial documents are available to the public. With the auditor going in and telling us, basically, whatever she's allowed to share with us, it will calm down a lot of anger, a lot of questions, a lot of anxiety in my community and help to move things forward. And frankly, this is the first public institution, the first university to ever use the CCAA process, so there are probably lessons to be learned financially from this, and this is certainly something that the auditor would be, I'm sure, welcome to comment on.

The Chair (Mr. Taras Natyshak): Mr. Parsa?

Mr. Michael Parsa: I support the intent of this motion, and I do thank my colleague for bringing it forward for the reasons that she mentioned.

The only thing I would like to suggest to my colleagues is that we don't limit this, that we expand the scope of the study. The government funding of Laurentian is about 35% to 40% of the annual revenue. The other portions are tuition and research and funding, private fundraisers, other fees etc. I'd like to see it expanded so that we have a broader scope to truly understand and get the picture of the situation.

I have a short amendment I'd like to propose, if we can discuss it now, Chair. If not, let me know when, please.

The Chair (Mr. Taras Natyshak): You can discuss it now. Go ahead.

Mr. Michael Parsa: It would just be, again, the same motion that Madame G  linas has moved but removing where it says “the impact of changes to post-secondary education funding on”. Once you remove that, that would leave a broad scope for us to be able to cover.

Let me know if you’d like for me to move it, but I think it’s pretty self-explanatory: “the impact of changes to post-secondary education funding on” is to be removed.

M^{me} France G  linas: I would consider this a friendly amendment.

The Chair (Mr. Taras Natyshak): Thanks, Mr. Parsa. MPP West.

Mr. Jamie West: Chair, did you want me to speak on the motion or on the amendment? I just want to know if I’m in order.

The Chair (Mr. Taras Natyshak): You can speak on anything you like, but we have an amendment of the motion on the floor.

Mr. Jamie West: Okay. I’m in favour of the amendment.

I just want to bring some context to the struggles that are happening in Sudbury. I’m the MPP for Sudbury, and Laurentian is located in Sudbury. We were surprised. We had no idea. We knew there were financial problems last summer, in June and July, on a much smaller scale. I believe the Minister of Colleges and Universities knew about six months before they entered the CCAA creditor protection in more detail. But aside from that, the entire community has been shut out from the whole process and does not know what’s going on in the process. They’ve entered in this secretive CCAA creditor agreement that has isolated everyone around.

The feeling in the community is that, if you compare the scenario to the province’s requirement for some of the funding, and the board of governance at Laurentian, who is responsible for fiscal responsibility—they’ve driven the Jeep into the ditch. The workers and the students seem to have been kicked out of the back seat of the Jeep, and now, they’ll drive out of the ditch. We have no answers about how we got into the ditch or how we’ll be safe and not go into the ditch in the future, if I can use that analogy.

The first round of CCAA cuts has created a loss of over 100 jobs. We have lost programs. This is the part that doesn’t make sense for a lot of people. How do we recover and get back on our feet when we cancel programs like economics, math, physics, political science, philosophy, engineering, environmental science and midwifery? Some of those courses are just regular courses that are well-attended.

Midwifery: As MPP G  linas said earlier, there are only six of these in Canada. This is the only one in northern Ontario; the other two in Ontario are in Toronto or Ottawa—which makes a massive burden for northern students, especially those coming from farther north than Sudbury, with those expenses of travelling and staying in another city, which make it unreachable for a lot of people. Laurentian really is a university where the majority of

students who are there are the first in their families, with limited means, to go. It is the only French midwifery program outside of Quebec. It is the only bilingual program in Canada. All that is going to be a loss.

Our physics program: I don’t understand how physics and math can be cancelled at all. SNOLAB is connected with Laurentian University. It is the only clean neutrino observatory, I think, in North America; it’s one of three around the world. Dr. McDonald at SNOLAB won a Nobel Prize in physics. He has described this as Sudbury being intellectually and educationally cut off from attracting other students.

Sudbury is the mining capital of the world. We have more than 100 years of nickel mining. The next evolution of vehicle development—we had the Ford Model T, we had the Detroit wave in the 1950s, and the electric vehicle will be the next wave. Mining is the cornerstone to this. We’ve lost mining engineering at Laurentian University.

We have an Indigenous studies program. It is the oldest in Ontario, the second-oldest in Canada; the other one being in British Columbia. It has been stripped of its core mandates. The professors, who are Indigenous, who developed this over decades, have all been fired. It is now going to be taught by non-Indigenous professors. It has basically gone up on a job board for chemistry teachers and anyone else to apply for. I don’t understand how students will be attracted to a program to teach about truth and reconciliation, to teach about colonialism in a program that basically is part of colonialism, where we’ve bypassed the Indigenous community.

1240

Environmental science: The reality is, the future is in the environment. You can slow it down, you can try whatever you want, but really, that’s where we’re going.

Electric vehicles are the way of the future. We’re moving there rapidly. We are poised in Ontario to be the next Detroit. I’ve heard this independently from car manufacturers who have told me that they can manufacture anywhere around the world. Ontario has a leading edge because of our deep mining resources, because of our manpower, our physical millwrights, labourers, trade school work and because of our higher education—because these machines are as much technology as they are machines. I’ll tell you, as a former employee of Vale, when the price of nickel and copper fell through the floor in 2016 and 2017, it was because of electric vehicles and the demand for cobalt that we were able to keep our doors open in northern Ontario, in mining companies for nickel. Cobalt, before this, was basically a waste product. So we are poised to make a ton of money by being the next Detroit of the future, and Laurentian is critical to holding that together.

One final thing on environmental science—and this goes into mining as well, and it’s difficult to understand. Tailings are a by-product of mining. Basically, it’s a waste mud. It’s toxic. It’s dangerous. It’s full of all these different chemicals. When you mine, it’s the by-product that has been set aside. There is a project happening right now by Dr. Nadia Mykytczuk. She’s a highly regarded

microbiologist in bioleaching and mine remediation. What happens is, you basically dump these tailings, a slurry paste, like very dirty water, and you build a dam; and you dump more and you build a dam; and the dam will be incredibly high. These are all around the world. In this water, as well as the waste product, are precious minerals that weren't able to be leached off or captured properly. Dr. Mykytczuk is working on a process that will lead the world in being able to clean the tailings ponds and recover those minerals, making mining companies even more profitable. This will be a project that, once successful, will be in demand around the world, and Ontario would lead. She has lost her job. This project is in danger of being lost.

I want to remind you again, we're talking about these cuts bringing in \$100 million of negative economic impact to my community. They're talking about that happening annually. On top of that, we've lost our tri-cultural-bilingual mandate, which doesn't seem to exist as strongly anymore.

They tell me that only 10% of students will be impacted, but that number is a little massaged, because the 10% who are impacted are those who have no path forward. Many students, including my son—his major and his minor program have been cancelled, so he's considered not impacted because now—he lost his major, he lost his minor. He can graduate with a general arts BA, but that's not what he enrolled in.

With all this in mind—and I can go on for a much longer time on all the damage of this—what will be the reputation of this university to attract students, to attract professors, to attract donors? And I'm talking about donors for scholarships and bursaries and donors who are going to commit money towards research.

With all of this being behind closed doors, hidden away from everybody, and without knowing what's going on there, how will people gain confidence in Laurentian without having a nice forensic audit to demonstrate what got us in this situation and how we can get out of it?

The Chair (Mr. Taras Natyshak): MPP Hogarth?

Ms. Christine Hogarth: First, I want to thank the MPP from Nickel Belt for bringing this forward.

I lived in Sudbury for many years. Most of my friends are alumni of Laurentian University. Their children go to school there. Some are employees.

I want to thank MPP Parsa for bringing forward this amendment, because it's larger than just the one piece. I think we need to get to the bottom of it, as a whole.

So again, I appreciate the motion coming forward, and I also thank MPP Parsa for bringing forward the amendment.

This really is impacting this community. I hear it every day, as my friends are caught in it, living in Sudbury. It is probably the most important conversation that's happening in that community right now. It affects employees, community members and the Laurentian alumni.

So I just want to say I certainly appreciate this motion and I support the amendment.

The Chair (Mr. Taras Natyshak): Are there any other questions? Mr. Barrett.

Mr. Toby Barrett: I just want to echo the sentiment of the comments so far during these deliberations.

What has happened at Laurentian University is deeply concerning. Personally, I wasn't aware of these developments. I don't know if it's a conflict of interest, but my son was a graduate of Laurentian. We're from the south, and my son spent many years up there. He really enjoyed the university. It opened up so much for my son and for our family to learn a bit more about the beautiful Sudbury area, Manitoulin, that whole neck of the woods up there.

Again, I didn't know about this, and that's understandable. Universities are autonomous. They have a board of governors. They make decisions around that boardroom table. We know, as France mentioned, it's now before the CCAA process, which—I guess that would freeze us out of any influence on that process. Obviously, it's like a court process.

I will mention that as far as government oversight, of course, we have a minister, Minister Romano, who is on top of this and monitoring this. Through Minister Romano—maybe not all members of the committee would know that a special adviser has been appointed. I understand the appointment of the special adviser requires an independent analysis. That special adviser is Mr. Harrison. Obviously, he has quite a reputable background.

To take this further with an Auditor General's investigation or a value-for-money audit—I would support that, not only to get to the bottom of this with respect to Laurentian, but is there other information out there on other universities that we don't know about? And why would we know about it? We don't sit on the board of governors. Do various student bodies know what's going on?

I mention students; that's what this is all about. They pay tuition.

I think of so many families, over the years with all of our universities and colleges, who donate money, and money that's donated through wills—the research that is done and the monetary support for research, say, from the mining industry, the forest industry. Guelph is where I went. The agricultural industry invests a great deal of money in these institutions.

If the public doesn't know what's going on, perhaps this value-for-money audit would give us some direction on how better to have more appropriate oversight.

The Chair (Mr. Taras Natyshak): Any other questions? MPP West.

Mr. Jamie West: I want to expand on MPP Barrett's comment about the donations. One of the things I didn't discuss was the fact that all the money ended up in one bank account, from my understanding. Money that was allocated to go towards research, money that was allocated to go towards scholarships and grants all ended up in one bank account being spent on any project. So students who were working on research found out that the money that they had a legal contract for to provide research had been taken away from them. That's something we need to look at. I want it put on the record for the auditors who might want to look at this.

As well, for any post-secondary educational institution, there are some donors who have very deep pockets, and we're very grateful to them for the success of the education system; but there are also, as MPP Barrett said, donors who leave money in their will, donors who can only afford a small donation and put it forward—who have been contacting my office, devastated that this money has been lost to them. They wanted it to go to a specific program or to support students who are in a specific situation—students coming from an agricultural background or a French background. They're devastated that their really small donations—a couple hundred dollars; maybe \$1,000—have been misused.

We really need to look at this in the situation at Laurentian and then, perhaps, once we get the report, see if this is happening in other areas, so we can prevent it from happening in other cities.

The Chair (Mr. Taras Natyshak): Are there any other questions? Madam Auditor, please go ahead.

Ms. Bonnie Lysyk: I have a question with respect to the 10-year period. What we sometimes find is, when it extends over that length of time, there is an issue with document retention, or people are gone and not there anymore. I just need to understand why the 10-year period was selected for the motion.

The Chair (Mr. Taras Natyshak): Madame Gélinas?

M^{me} France Gélinas: There is no scientific basis behind this.

A lot of people say, "Well, there have been quite a few new buildings at Laurentian that cost money to build." They are beautiful, they are being used, they are up to date and all of this, but they took years to build, and some people point to that—that the investment in infrastructure is what brought us to this point.

I would say I leave it up to your judgment, Auditor, to look back as far as—I put the 10 years because in the last 10 years is when most of the new infrastructure was built. If you want something that has to do with operation since the new infrastructure or something—or you can just take it from us that if you don't need to go back 10 years, don't. I just put it out there because as you start to look, you will see infrastructure investment.

Ms. Bonnie Lysyk: The motion can stay as the motion, and if this passes, once we look at this, we can determine

what a reasonable period is that will provide this information.

Financial information, usually, you can trend, and usually you can look at it and see what has happened over a 10-year period; it's not unreasonable from that perspective. It's more from, if there is something—it's how deep do you go in a period of time that's 10 years before.

If I could come back to the committee, if the motion passes and we go ahead on this, with a time frame once we take a look at what would be reasonable—I am saying that if the motion passes, we'll accept doing work on this. I just might have to come back to the committee in terms of a scope and a timeline in terms of what period of time we cover on Laurentian's operations.

The Chair (Mr. Taras Natyshak): Are committee members comfortable with that approach? Mr. Barrett?

Mr. Toby Barrett: Just to clarify with the Auditor General as far as the scope of the inquiry: I think we all agree that we want to ensure—I know we're doing an audit on what happened, but we also want to look forward and we want to ensure that something like this doesn't happen in another academic institution elsewhere.

Is this motion okay? It doesn't limit your scope as far as findings or recommendations that might help the public have a better university system, as far as looking after the books?

Ms. Bonnie Lysyk: No, that would be something—we can bring back recommendations. Sometimes, a retro look will allow for prospective recommendations. So the motion doesn't limit us.

The Chair (Mr. Taras Natyshak): Any further questions or comments?

We have an amended motion. Can we vote on the amendment?

All those in favour of the amendment of the motion, raise your hands. All those opposed? Seeing none, the motion is amended.

Now a vote on the motion, as amended. All those in favour of the motion, as amended? All those opposed? Carried.

Thank you very much, colleagues. We will now move on to the report-writing on the Office of the Chief Coroner and Ontario Forensic Pathology Service in closed session.

The committee continued in closed session at 1254.

This is Exhibit "B" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



Office of the Auditor General of Ontario
Bureau de la vérificatrice générale de l'Ontario

May 18, 2021

Mr. Robert Haché, President and Vice-Chancellor
Laurentian University
935 Ramsey Lake Road
Sudbury, Ontario
P3E 2C6

Dear Mr. Haché:

On April 28, 2021, the Standing Committee on Public Accounts passed a motion to request the Auditor General to conduct a value-for-money audit of Laurentian University's operations for the period 2010 to 2020.

In this regard, we are conducting audit research and planning to establish the scope and timing for such work. This audit will be under the direction of Gus Chagani, Assistant Auditor General (416-327-2395) and Jeff Chauvin, Audit Director (416-522-3010). As discussed in our meeting on May 14, we would appreciate if you could provide Jeff with the name of a contact person(s) within the university's finance area to obtain information relating to this audit going forward. In the interim, Sara is working with Jeff to provide the following preliminary information that we will begin reviewing:

- a) Laurentian University's Executives and Executive Team members for the past ten years;
- b) The University's 2012-2017 and 2018-2023 Strategic Plans;
- c) Policies/procedures in place during the period 2010 to 2020; and
- d) All Board, Senate and Standing Committee minutes for the past ten years related to Laurentian University governance.

After further consideration, we also formally request access to the same network folders that are available to and accessible by the court appointed monitor. Jeff will further coordinate access to these folders with Sara.

Once we finalize our audit plan, we will advise you more specifically of the scope of the audit. Your cooperation is appreciated throughout the audit process in providing us with timely and direct access to all required information, including electronic records.

To meet new Canadian auditing standards, we will also be requesting the President and/or Vice-presidents, to sign a representation letter at the completion of our work. Attached is a draft of the representation letter for you to review.

Should you or your staff have any questions, please call me at 647-267-9263.

Sincerely,

Bonnie Lysyk
Auditor General

Encl.

- c. Mr. Claude Lacroix, Chair of the Board of Governors
Ms. Shelley Tapp, Deputy Minister, Ministry of Colleges and Universities

Box 105, 15th Floor
20 Dundas Street West
Toronto, Ontario
M5G 2C2
416-327-2381
fax 416-326-3812

B.P. 105, 15^e étage
20, rue Dundas ouest
Toronto (Ontario)
M5G 2C2
416-327-2381
télécopieur 416-326-3812

This is Exhibit "C" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



**OPS Guide for Interaction with the
Office of the Auditor General of Ontario:
Value-for Money Audits**

April 2019

Foreword

The Ontario Internal Audit Division (OIAD) of the Treasury Board Secretariat, in consultation with the Office of the Auditor General of Ontario, has prepared an *OPS Guide for Interaction with the Office of the Auditor General of Ontario: Value-for-Money Audits (Guide)*.


Questions often arise about how the Auditor General conducts their value-for-money audits—more specifically, what audited entities can expect from the Auditor General and what the Auditor General can expect from them. The fundamental purpose of the *Guide* is to provide answers to these questions. It explains how standards and policies are applied in practice to the Auditor General's value-for-money audits and provides information on the roles and responsibilities of the Office of the Auditor General of Ontario (OAGO) and the entities they audit.

The *Guide* presents important information on the Auditor General's rights of access to people, facilities and information, and the legislation governing this access and related protocols. However, nothing in this document limits or diminishes the rights, powers and privileges of the Auditor General under the *Auditor General Act* or any other applicable legislation.


As an Officer of the Legislative Assembly of Ontario, the Auditor General plays a key role in helping the Legislature hold the government and its administrators accountable for managing public funds. The Government of Ontario is committed to supporting this role by exhibiting transparency, cooperation and respect in all dealings with the OAGO.

The information in this *Guide* provides entities selected for audit with a valuable reference towards an effective audit process that encourages productive and respectful relations between the Auditor General and audited entities.

Approvals



Steven Davidson (A)
Secretary of the Cabinet
Head of the Ontario Public Service



Bonnie Lysyk
Auditor General of Ontario

Table of Contents

| | |
|---|-----------|
| Foreword | 2 |
| Table of Contents | 3 |
| Introduction | 4 |
| Part 1: About the Office of the Auditor General | 5 |
| Part 2: Value-for-Money Audits | 7 |
| Phases of the OAGO's Value-for-Money Audit..... | 7 |
| 1. Notification..... | 7 |
| 2. Planning | 8 |
| 3. Fieldwork..... | 9 |
| Factual Clearance | 10 |
| 4. Reporting | 10 |
| 5. After the Report..... | 13 |
| A Road Map for Value-for-Money Audits..... | 14 |
| Appendix A – Roles and Responsibilities of the Auditor General | 15 |
| Appendix B: OAGO's Access to Information | 18 |
| Appendix C: Role of the Audit Coordinator..... | 21 |
| Appendix D: Role of the Ontario Internal Audit Division | 22 |
| Appendix E – Control over the Auditor General's Draft Reports | 23 |
| Appendix F – Drafting Management Responses | 24 |
| Appendix G – Assessing Implementation Status of Recommendations made by the OAGO and/or the Standing Committee on Public Accounts..... | 25 |
| Appendix H – Glossary of Terms | 27 |

* Addendums to the *Guide* will be explored to more fully address the Auditor General's ongoing follow-up work and the Standing Committee of Public Accounts.

Introduction

Background

The *OPS Guide for Interaction with the Office of the Auditor General of Ontario (OAGO): Value-for-Money Audits (Guide)* was developed to help auditees better understand the OAGO and their role in conducting value-for-money audits. It outlines the guiding principles, protocols and responsibilities of the OAGO and auditees during a value-for-money audit by the OAGO.

The *Guide* is not meant to serve as a technical document, or a handbook, but rather contains a number of guidelines that take into consideration the specific aspects of the OAGO's value-for-money audit lifecycle. It will be reviewed for updates and revised, as required, to ensure it remains current and meets the needs of the auditees and the OAGO.

For the purposes of this document, government ministries, organizations in the Broader Public Sector (BPS), agencies of the Crown, and Crown-controlled corporations and their subsidiaries are referred to as the *audited entity* or *auditee*.

Purpose

The purpose of this *Guide* is to:

- outline the phases of the OAGO's value-for-money audit lifecycle, including key requirements, interactions and deliverables; and
- define the principles governing interactions between the OAGO and auditees in a value-for-money audit.

Scope

The *Guide* focuses on the OAGO's value-for-money audits.

For ease of reference, the *Guide* will be available on the OAGO intranet site, OIAD's intranet website at [Ontario Internal Audit Division website](#) and on the Ontario Government's MyOPS – Directives and Policies intranet website at [MyOPS website](#).

To supplement the descriptions in this *Guide*, a Glossary of Terms is provided in [Appendix H](#).

Part 1: About the Office of the Auditor General

Defining the OAGO

The OAGO is an independent office of the Legislative Assembly that conducts value-for-money and financial audits of the provincial government, its ministries and agencies. It also audits organizations in the BPS that receive provincial funding, such as hospitals and school boards. As an Officer of the Legislative Assembly, the Auditor General assists in holding the provincial government, its administrators, agencies and grant recipients accountable for the quality of their stewardship of public funds and for the achieving of value-for-money in the delivery of services to the public.

Maintaining the OAGO's objectivity and independence from the organizations that are audited is critical. The OAGO's independence is assured by the legislative mandate stated in the *Auditor General Act*.

What is audited?

The OAGO's responsibilities include: examining the province's Public Accounts and the accounts and financial transactions of Crown agencies; carrying out value-for-money audits of ministry programs and activities, organizations in the BPS, and Crown agencies and Crown-controlled corporations.

The focus of this Guide is on the Auditor General's value-for-money audits and processes. Refer to [Appendix A](#) for more information on the OAGO's roles and responsibilities, including types of audits conducted and key sections of the Auditor General Act.

OAGO Authority regarding Ontario's Environmental Commissioner

On April 1, 2019, Schedule 15 of the Restoring Trust, Transparency and Accountability Act was proclaimed. This law transfers some of the responsibilities of the former Office of the Environmental Commissioner of Ontario to the OAGO. The Auditor General shall appoint a Commissioner of the Environment who shall be an employee of the OAGO.

The Commissioner of the Environment will conduct audits of the environment under the same processes as the OAGO's value-for-money audits, as described in Part 2 below. He/she will also have other reporting responsibilities with respect to compliance with the Environmental Bill of Rights (EBR), including, for example, reporting on EBR-prescribed ministries' requirements to:

- each develop a Statement of Environmental Values that reflects the environmental issues and considerations specific to its own mandate and considers the Statement when making environmentally significant decisions; and
- receive, consider and respond to requests from the public to investigate alleged contraventions of environmentally significant acts, regulations and instruments (i.e., Applications for Investigation).

Professional Standards**Professional Standards**

The OAGO conducts their audits in accordance with the professional standards established by the Chartered Professional Accountants (CPA) of Canada. The *Guide* includes reference to relevant Canadian Standards on assurance engagements, namely the *Canadian Standard on Assurance Engagements* (CSAE) 3001 which deals with value-for-money audits.

As a member of CPA Canada, the Auditor General is required to maintain a system of quality controls to help ensure professional standards are met and audit reports are appropriate in the circumstances. Staff of the OAGO are, for the most part, members of CPA Canada. As members, they are governed by and required to adhere to the rules of professional conduct of this organization, as well as to the OAGO's internal rules of professional conduct. These rules provide standards of integrity, due care, independence, objectivity and competency in the conduct of professional activities.

Peer reviews are also conducted on OAGO value-for-money audit files by other Canadian Legislative Offices.

Part 2: Value-for-Money Audits

What is a value-for-money audit?

A value-for-money audit is an independent, objective, and systematic assessment of how well the audited entity is managing its activities, responsibilities, and resources. It assesses whether government programs are well managed and provide good value for taxpayers. It does this by assessing whether money was spent with due regard for economy and efficiency, and whether appropriate procedures were in place to measure and report on the effectiveness of publicly funded programs.

Phases of the OAGO's Value-for-Money Audit

The value-for-money audit process includes the following key phases:

| Key Phases | Targeted Timelines* |
|--|---|
| 1. Notification | October – December |
| 2. Planning | November – March |
| 3. Fieldwork [including Factual Clearance] | March-August [factual clearance meeting June - August] |
| 4. Reporting | August-November [Assistant Deputy Minister (ADM) Draft Report – August/October] [Deputy Minister (DM) Final Draft Report – late October] [Tabling Final Report – late November/early December] |
| 5. After the Report | Refer to Section 5 below. |

*Timelines can vary depending on the nature and complexity of the audit.

The *Auditor General Act* requires the auditee to provide the OAGO with free (open) access to audit information, reports, and explanations, as the OAGO deems necessary to complete the audit. Further guidance on the OAGO's *Access to Information* is provided in [Appendix B](#).

To increase the level of service and ensure information is provided to the OAGO in a timely manner, auditees may appoint an in-house audit coordinator. Further guidance on the *Role of the Audit Coordinator* is discussed in [Appendix C](#).

The following are critical steps for each phase. In practice, the activities in each phase can often overlap and as a result are not strictly sequential.

1. Notification

In selecting what to audit, the OAGO examines a variety of factors, including the impact of the program or activity on the public, total revenues or expenditures of the program activity, opportunities to lower costs and improve performance, and, where applicable, the last time the entity or program was audited.

Formal Written Notification

Once the OAGO selects an area to audit, the Auditor General contacts the Deputy Minister (DM)/Chief Executive Officer (CEO) as initial notification and then in writing, and an entrance

Activities by Phase

meeting is scheduled with senior representatives to discuss initial plans/requests and obtain input. Without delay, the DM/CEO will advise his/her respective Minister that the ministry/agency has been identified as a candidate for a value-for-money audit.

Multiple Auditees

When a value-for-money audit includes more than one ministry or agency, the OAGO sends a letter of notification to all entities included in the audit scope.

2. Planning

Understanding the Auditee and Subject Matter

Prior to commencing an audit, the OAGO may conduct in-depth research and interviews with the auditees's representatives to understand the area to be audited, including the entity's organizational structure and operating environment, as well as risks related to the subject matter to be audited.

Meetings and briefings

Meetings and Briefings

The OAGO schedules an entrance meeting with auditee senior management to launch the audit and gain a better understanding of the areas being audited.

The auditee provides the OAGO with information needed to understand the areas subject to audit, including lines of responsibilities.

The level of participants attending audit meetings/briefing sessions depends on the purpose of the meeting and subject matter discussed. It is important for auditee management to ensure the appropriate individuals are in attendance.

The auditee should also consider inviting their respective Audit Service Team Director within the OIAD to the entrance meeting as required. Further information on the *Role of the Ontario Internal Audit Division* is provided in [Appendix D](#).

Fraud confirmation

Fraud Confirmation

As per professional assurance standards, the OAGO inquires of the auditee as to whether they have any knowledge of any actual, suspected or alleged intentional deviation, including non-compliance with laws and regulations affecting the underlying subject matter.

CPA Standard: CSAE 3001 [Para. 50(a)]

Prior to submitting a written fraud attestation to the OAGO and to help ensure the information provided is complete and accurate, auditees should consult with their:

- entity's legal services branch;
- Deputy Minister's Office; and,
- respective Audit Service Team Director, incorporating consultation with the Forensic Investigation Team, within the OIAD.

Written
attestation

Acknowledgement of Engagement Terms

During the planning phase, the OAGO meets with senior representatives of the auditee to discuss the key engagement terms (objectives and criteria to be used to evaluate the audited entity). The auditee should consider inviting their respective Audit Service Team Director within the OIAD to this meeting as required.

Once the engagement terms are finalized and communicated in writing, the OAGO requests the ADM/CEO to sign-off confirming responsibility for the underlying subject matter and agreement on the objectives and criteria.

CPA Standard:
CSAE 3001
(Para A56)

As outlined in the CPA Standards, details of a value-for-money engagement are typically known only at the end of the initial planning phase. Therefore, agreement on the terms of the engagement is obtained from the appropriate party at the end of the initial planning phase. Seeking formal acknowledgement from the responsible party is important in enhancing the reliability and general acceptance of the criteria and to help avoid reaching inappropriate conclusions.

Where the DM/CEO has questions concerning the audit engagement terms, he or she may contact the Auditor General directly for further clarification.

CPA Standard:
CSAE 3001
(Para 47)

Significant Changes

If the OAGO discovers, after the engagement has been accepted, that one or more of the applicable criteria are unsuitable, the OAGO shall revise the criteria and seek acknowledgement from the auditee that the revision is appropriate.

CPA Standard:
CSAE 3001
[Para 50(b)]

Relying on the Work of Internal Audit

CPA Standards require the OAGO to make inquiries on whether the audited entity has an internal audit function and, if it does, needs to obtain an understanding of the activities of that function. The OAGO will contact the Audit Director responsible for the internal audit function related to the underlying subject matter of the engagement and assess whether their work is adequate for the purpose of the engagement before planning to rely on it.

3. Fieldwork

The OAGO meets with auditee staff to obtain and analyze documents and data, review files, conduct tests and surveys, and interviews key stakeholders. To help ensure auditee staff are prepared for meeting with the OAGO, auditee senior management will provide training to their staff to outline the expectations of the OAGO during the interview process. This may include walk-throughs of a process or procedure, gaining an understanding of the auditee's roles and responsibilities and/or assisting the OAGO in gathering appropriate facts.

The OAGO also researches similar organizations and programs in other jurisdictions for comparisons and to identify best practices. The OAGO will occasionally engage external expert advisors to assist with specialized work.

The OAGO gathers evidence to support findings and conclude against the audit objective. Auditee staff are expected to co-operate with the audit team by providing documents and information in a timely manner to complete the examination (further guidance on the OAGO's *Access to Information* is provided in [Appendix B](#)).

Throughout the audit, the OAGO facilitates ongoing and regular communication with the auditee to discuss progress, results of work to date or any obstacles within the audited entity, to ensure that the audit work is completed in a timely manner. The OAGO also seeks the views of senior management, as early as possible, when developing issues and recommendations on actions needed to correct a problem.

Briefing
document

Factual Clearance

At the end of fieldwork, the OAGO schedules an exit meeting with auditee senior management (including ADM/VP level) to discuss the results of the audit. Supporting this discussion, the OAGO provides a briefing document summarizing key audit findings to auditee senior management prior to or at the meeting.

Auditee senior management is expected to review the audit results and provide a timely response where additional evidence is required to support the accuracy of findings and/or facts. Management should also inform the audit team of any new developments that might impact the audit findings.

The exit meeting is one of the primary mechanisms for auditee senior management to communicate to the OAGO any issues, queries or concerns they may have with regards to the accuracy and completeness of audit findings – recognizing the importance of ensuring that timely and accurate facts/evidence are available to the OAGO – prior to the confidential preliminary draft report.

The OAGO expects auditee senior management to identify factual errors, omissions, content changes and any areas that require correction during the exit meeting. The auditee is also expected to provide appropriate supporting evidence for the requested changes on a priority basis at or after the meeting.

Confidential
Preliminary
draft report

4. Reporting

Confidential Preliminary Draft Report

Upon completion of fieldwork and after the factual clearance stage, the OAGO prepares a confidential preliminary draft report on the audit which is sent to the auditee (ADM/VP) for further factual clearance and management responses. To help facilitate the clearance process, efforts are made to provide auditees with a reasonable time period, at least two weeks, to review findings in the confidential report and develop management responses (see Management Responses section below).

The OAGO issues a limited number of copies of the confidential preliminary draft report to the auditee and to those responsible for acting on the findings and recommendations. If additional copies are required, auditees can request them from the OAGO.

The OAGO discusses the draft report with auditee management for factual clearance and makes revisions, if necessary. To help support factual clearance and the preparation of management responses, the Audit Service Team Director within OIAD is provided with a copy of the confidential draft report from the auditee.

Confidentiality of draft reports

It is important for individuals who receive a copy of the draft report to observe confidentiality requirements and control distribution by ensuring the draft report is circulated only to persons authorized to read it.

Restricting the distribution of draft reports is imperative. Individuals who receive a copy of the draft report must ensure that they are not copied, reproduced, distributed, republished or transmitted in any form or by any means.

Refer to [Appendix E](#) for a summary of controls to help ensure confidentiality is preserved.

Drafting management responses

Management Responses

Publishing management responses in audit reports provides the auditee with the opportunity to confirm agreement with the recommendation and to include an action plan that outlines planned actions to address each of the recommendations, and the timelines for implementation. Management responses also provide a starting point for following up on the audit.

Revisions to management responses

The OAGO requires management responses to be directly related to the actions within recommendations. The auditee should make every effort to ensure responses are concise, accurate and relevant. Should there be instances where the OAGO and/or the auditee deem it necessary to make revisions to management responses, both parties will work together to ensure there is joint agreement on the final content. Further guidance on drafting management responses is provided in [Appendix F](#), including the process for communicating revisions to responses.

The OAGO will communicate with auditee senior management revisions to the draft report. Should there be instances where the OAGO and/or the auditee make revisions to management responses, both parties will work together to ensure there is joint agreement on the final content. Where the DM/CEO has questions concerning the revisions, he or she should contact the Auditor General directly for further clarification.

Multiple Auditees

The OAGO reserves the right to provide a copy of the draft report in its entirety to each in-scope auditee or only those portions of the draft report that are relevant to it. A joint response from multiple in-scope auditees or multiple responses from each auditee may be required. Only the auditees referenced directly in a recommendation will provide a management response.

Final Draft Report

Final draft
report

The OAGO incorporates revisions and management responses into the final draft report that have been agreed to with auditee senior management and issues the final draft to the DM/CEO. The OAGO generally provides the DM/CEO with a one-week time period to review and approve the final draft report. A formal letter from the OAGO to the DM/CEO accompanies the final draft, requesting confirmation that the draft report presents audit findings that are factually based and confirms the auditee's final responses.

If time poses a problem, senior management may be requested to facilitate clearing the report with their DM/CEO. Should the DM/CEO have further questions about the draft report and its clearance, he or she should contact the Auditor General directly.

Individuals are not generally identified in audit reports and the OAGO does not subsequently, for the most part, release information beyond that which has already been included in a report.

Where the Deputy Minister/CEO has questions concerning the draft report, he or she should contact the Auditor General directly.

In areas of mutual benefit, the Auditor General may request to be invited to the Corporate Audit Committee and/or Audit and Accountability Committee meetings.

Management Representation Letter

CPA Standards:
CSAE 3001
(Para 61-64)

To comply with professional assurance standards, the OAGO requires written representation from senior management through a Management Representation Letter (MRL) regarding the information that was provided to the OAGO during an audit. Sign-off on the MRL is requested from relevant DMs/CEOs and ADMs/VPs for each value-for-money audit, at the end of audit fieldwork, when the final draft report has been cleared by the DM/CEO. The DM/CEO will copy his/her respective Minister when sending the signed MRL back to the OAGO.

The MRL comprises part of the OAGO's necessary audit evidence and provides confirmation that auditee senior management has provided all information (oral or written) of which they are aware that has been requested or that could significantly affect the findings or conclusion of the audit report.

Since the MRL is created by the OAGO (based specifically on CSAE 3001 provisions) and forms part of their audit working papers, the content should not be revised by the auditee unless authorization by the OAGO has been provided.

Subsequent events

The auditee notifies the OAGO of any material events subsequent to the confidential preliminary draft report and up to the final draft report that may significantly impact the audit and/or the content of the audit report. The auditee also notifies the OAGO immediately should any other matters arise from the final draft report to the date the report is tabled with the Legislature.

5. After the Report

An important part of the OAGO's value-for-money audit process is to follow up on past audits to assess the progress made on recommended actions. The OAGO has several processes in following up on their reports.

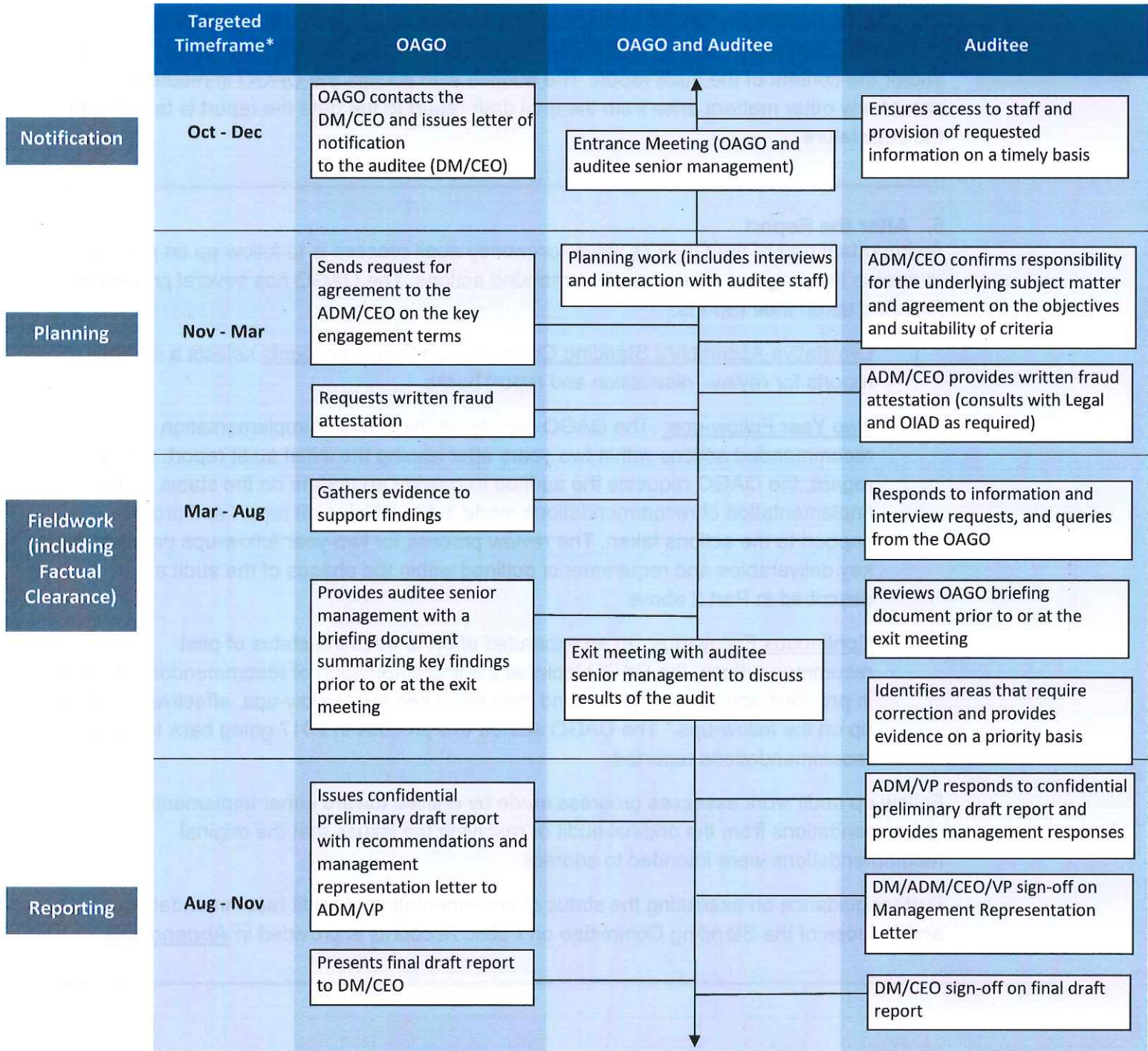
- i. Legislative Assembly's Standing Committee on Public Accounts selects a number of reports for review, discussion and report backs.
- ii. Two Year Follow-ups: The OAGO reports on the status of implementation of recommended actions within two years after issuing the initial audit report. In this regard, the OAGO requests the auditee to provide an update on the status of the implementation of recommendations made in the initial audit report and provide support to the actions taken. The review process for two-year follow-ups parallels the key deliverables and requirements outlined within the phases of the audit as described in Part 2 above.
- iii. Continuous Follow-ups: In an expanded effort to track the status of past recommendations, the OAGO looks at the implementation of recommendations made in previous annual reports, beyond their initial two-year follow-ups, effectively, "follow up on the follow-ups." The OAGO started this process in 2017 going back to 2012 recommendations reported.

Follow-up audit work assesses progress made by entities toward either implementing recommendations from the original audit or resolving the issues that the original recommendations were intended to address.

Further guidance on assessing the status of implementation of audit recommendations and/or those of the Standing Committee on Public Accounts is provided in [Appendix G](#).

A Road Map for Value-for-Money Audits

The following road map outlines the key steps that need to be followed when conducting a value-for-money audit.



*Timelines can vary depending on the nature and complexity of the audit.

Appendix A – Roles and Responsibilities of the Auditor General

Types of audits

Value-for-Money Audits of Selected Government Activities

A key part of the OAGO's mandate is value-for-money audits, which assess whether money was spent with due regard for economy and efficiency, and whether appropriate procedures were in place to measure and report on the effectiveness of government programs. The OAGO is required to report to the Legislature significant instances where it has found the government is not fulfilling its responsibilities in these areas. Audit results are published in the OAGO's Annual Report.

Attest Audit of Public Accounts

The OAGO audits the province's Public Accounts annually in accordance with generally accepted auditing standards in what is known as an attest audit. After the audit, the OAGO expresses an opinion on the financial statements of the province - whether they are fairly presented and comply with Canadian public sector accounting standards. The OAGO opinion is reproduced in both the Public Accounts of the province and in the OAGO's Annual Report.

Attest Audits of Government Agencies

The OAGO examines the accounts and financial transactions of numerous provincial Crown agencies such as the Liquor Control Board of Ontario and the Ontario Securities Commission.

The OAGO also directs the audits of several other Crown agencies that are performed by public accounting firms. The OAGO also has access rights to audits of Crown-controlled corporations, whose audits are also done by public accounting firms.

Value-for-Money Audits of Public-Sector Organizations Receiving Government Grants and of Crown Corporations

The OAGO's value-for-money mandate also includes organizations in the BPS. These include hospitals, colleges and universities, school boards, etc. While the expanded mandate does not apply to municipalities, it does allow the OAGO to determine whether a municipality or other grant recipients spent a provincial grant for the purposes intended. The mandate also allows value-for-money audits of Crown-controlled corporations and its subsidiaries.

Special Assignments

The OAGO may also be asked to undertake special assignments by the Legislature, the Standing Committee on Public Accounts, or a Minister of the Crown.

Auditor General Act

The work of the OAGO is performed under the authority of the *Auditor General Act (Act)*. The *Act* specifies the duties, responsibilities and powers of the OAGO on behalf of the Legislative Assembly. It also outlines the responsibilities of employees of ministries and agencies of the Crown and of those in the BPS in granting the OAGO access to people, facilities and information.

Auditor General Act

Section 10 of the *Act* entitles the OAGO's access to information:

Duty to furnish information

“Every Ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.”

“The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act”.

The OAGO decides on the nature and type of information needed to fulfill their responsibilities.

Section 11 of the *Act* provides for the stationing of the OAGO in an audited entity:

Stationing a member in a ministry

“For the purpose of exercising powers or performing duties under this Act, the Auditor General may station one or more members of the Office of the Auditor General in any ministry of the public service, agency of the Crown, Crown controlled corporation or grant recipient.”

“The ministry, agency, corporation or grant recipient, as the case may be, shall provide the accommodation required for the purposes mentioned in subsection (1).”

Annual Report

Section 12 of the *Act* provides, in part, information on the contents of the Auditor General's annual report including a requirement for the Auditor General to report on any cases observed where:

2. *“In the annual report in respect of each fiscal year, the Auditor General shall report on,*
- (a) the work of the Office of the Auditor General and on whether, in carrying on the work of the Office, the Auditor General received all information and explanations, and...*
 - (f) Such matters as, in the opinion of the Auditor General, should be brought to the attention of the Assembly...*
 - (f) (iv) money was expended without due regard to economy and efficiency, or,*
 - (f) (v) where procedures could be used to measure and report on the effectiveness of programs, the procedures were not established or, in the opinion of the Auditor General, the established procedures were not satisfactory.”*

The OAGO has complete discretion on the scope of the audit, and any significant matter that comes to their attention within their mandate could be examined. The OAGO may report on any cases observed where money was spent without due regard for economy and efficiency, or where appropriate procedures were not in place to measure and report on the effectiveness of programs, where in the opinion of the Auditor General it should be brought to the attention of the Assembly.

Special Reports

Section 17 – the Legislative Assembly, the Standing Committee on Public Accounts or a minister of the Crown may request that the Auditor General undertakes a special assignment. However, these special assignments are not to take precedence over the Auditor General's other duties, and the Auditor General can decline an assignment requested by a minister if it conflicts with other duties.

Audit Working Papers

Section 19 – Confidentiality is an integral part of the audit process. Audit working papers of the OAGO shall not be laid before the Assembly or any committee of the Assembly.

Confidentiality

Section 27.1 – The Auditor General has a duty to ensure the confidentiality of information that comes to their attention during the course of an audit.

For further information regarding the *Act*, please visit: [Government of Ontario e-laws website](#) or [Office of the Auditor General of Ontario website](#).

Appendix B: OAGO's Access to Information

OAGO rights of access

In accordance with the *Auditor General Act*, the OAGO is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the audited entity.

The OAGO is entitled to receive all information they determine is relevant and necessary to enable them to carry out their audits. This may include documents, reports, or explanations from members of the public service and from officers, employees, or agents.

As the OAGO identifies the information they need and who they need to interview, the audited entity is required to give them access. The information that the entity should supply, upon request, includes all forms of communication—written, visual, auditory, and electronic—whether in final or draft form, with the exception of those items discussed below.

Personal information

The *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) do not restrict the Auditor General's access to information. FIPPA, (s. 42 (e)) and MFIPPA (s. 32 (e)) allow for personal information to be disclosed, "for the purpose of complying with an Act of the Legislature."

The OAGO's power to obtain records may be subject to confidentiality provisions in other statutes such as the *Youth Criminal Justice Act*, the *Quality of Care Information Protection Act, 2016* and in court-ordered publication bans. For this and other instances where another statute may limit disclosure for the purpose of complying with an Act of the Legislature, auditee staff should expeditiously obtain advice from their Legal Directors or legal counsel with respect to the application of these provisions and advise the OAGO.

The OAGO's access to information is not limited to information relating to a specific audit. All non-personal information requested by the OAGO that is relevant to their duties under the *Auditor General Act* should be provided regardless of whether or not it is considered within the scope of their audit.

As a general rule, all information requested by the OAGO in the performance of their duties under the *Auditor General Act* should be provided to them. Personal information is provided by the auditee to the OAGO if it is reasonably necessary, in the opinion of the OAGO, for the proper administration of the *Auditor General Act* or for a proceeding under it and no other information will serve the intended purpose. Information requests should be dealt with expeditiously and documents released in a timely manner. The few exceptions are highlighted in the following sections.

Commercially sensitive information

Commercial Arrangements/Commercially Sensitive Information

Documents containing commercial arrangements with private sector parties that have confidentiality requirements and/or other commercially sensitive information should be reviewed by Legal Services Branch prior to being released to the OAGO.

**Solicitor-
client
privilege****Access Subject to Privilege and Cabinet Confidentiality**

Certain documents may be subject to common law privileges (e.g. solicitor-client, litigation, and settlement privilege) and the law of Cabinet confidentiality and Public Interest Immunity (PII). The conditions under which records are subject to these legal privileges and conventions are based on precedents established by the courts, provisions of the *Auditor General Act* and procedures agreed to between the Crown and the OAGO.

Solicitor-client privilege, litigation privilege or settlement privilege are specifically referred to in subsections 10(3) and 27.1(3) of the *Auditor General Act*. These provisions ensure that the disclosure of privileged information to the OAGO does not result in the loss of the privilege and prohibit the OAGO from disclosing privileged information without the consent of the holder of the privilege.

Solicitor-client privilege is the right of a client to refuse to disclose and to prevent the disclosure by another of confidential communications between a lawyer and the client. Three conditions must be met for a claim of solicitor-client privilege:

- The communication must be between a solicitor and client;
- The communication must be for the purposes of seeking or giving legal advice; and,
- The parties must have intended the communication to be confidential.

Litigation privilege protects materials generated for the dominant purpose of litigation at the time the litigation is ongoing, pending or is reasonably contemplated.

Settlement privilege is the right of a lawyer and a client in a legal proceeding to refuse to disclose and to prevent the disclosure of discussions with the opposing party in the legal proceeding of communications in relation to and arising from the settlement or attempted settlement of the legal proceeding.

**Cabinet
confidentiality**

Cabinet confidentiality or Cabinet privilege protects the disclosure of deliberations of Cabinet and its committees, including any records that might reveal those deliberations.

The disclosure of any records subject to these privileges and protections is discussed in further detail in the following sections.

Release of Privileged Documents: Solicitor-Client, Litigation & Settlement Privilege

Legal Directors are responsible for reviewing documents subject to solicitor-client privilege, litigation privilege and settlement privilege requested by the OAGO, on a timely basis, before releasing the un-redacted documents. The purpose of the review is to determine whether the documents are subject to solicitor-client privilege, litigation privilege or settlement privilege, to identify any privileged documents that raise special confidentiality concerns such as documents relating to ongoing litigation, and to advise the OAGO accordingly.

For the OAGO's audits of an agency of the Crown, Crown-controlled Corporation or grant recipient, the auditee's legal counsel should provide the necessary assistance in dealing with the OAGO's request for information and documents subject to solicitor-client privilege, litigation privilege and settlement privilege.

If the OAGO has any issues regarding privilege claims or their use of privileged information, the OAGO will raise them with the auditee.

If the auditee has any questions concerning the OAGO's access to privileged documents, they should raise them with their Legal Directors or legal counsel.

Release of Privileged Documents: Cabinet Confidentiality

In accordance with the Secretary of the Cabinet's changes made in December 2015 to the 2003 Protocol with the OAGO (regarding access to Cabinet Records), when requested by the OAGO, ministries should provide the following directly to the OAGO:

- Approved/final records of the Executive Council, Management Board of Cabinet and Treasury Board including submissions, in their entirety;
- Cabinet Minutes; and,
- Results Based/Program Review, Renewal & Transformation and Capital Infrastructure Plans in their entirety after they have been reviewed by Cabinet.

Ministries are expected to have final Cabinet Records and approved Cabinet Minutes (signed by the Secretary of the Cabinet) in their records. However, if ministries are missing copies of records or are unsure if they have a complete set of records, they should contact the Cabinet Office for assistance.

Ministries are responsible for providing the information to the OAGO and should follow this process to ensure that the OAGO is expeditiously provided with the information they require. If the information requested involves other ministries, they should be informed.

Note: Generally, there should not be any documents in the BPS that are subject to Cabinet privilege. Therefore, unless protected by a specific statute all documents and information should be made available to the OAGO. If clarification or consultation is required regarding giving access to the OAGO then the BPS entity's audit representative or other ministry liaison should contact their ministry representative for the appropriate process to follow.

The provision of highly sensitive documents should be made in accordance with the guidance provided in this Guide. Should any questions arise with respect to requests for information, auditee staff should expeditiously obtain advice from their Legal Director/legal counsel.

This information and the recommendations of the OIAD will then be forwarded to the appropriate executive serving on the appropriate audit committee for resolution.

A BPS staff member, in a similar situation, is also invited to contact the OIAD.

Appendix C: Role of the Audit Coordinator

Role of the audit coordinator

The key role of the Coordinator is to **act as a facilitator** and to help ensure effective and timely provision of information between the OAGO and the auditee.

The Audit Coordinator may be assigned the following responsibilities:

- Schedule initial program overview meetings with auditee staff and the OAGO.
- Assist the OAGO in establishing contacts with the appropriate auditee staff responsible for the various areas of the audit.
- Assist the auditee in ensuring information requests by the OAGO are attended to in a timely manner.
- Brief or support regular briefings to senior management at specific intervals regarding audit status and results.
- Coordinate with the OIAD and other audited entities when the scope of the OAGO work spans different areas/entities.
- Provide support to staff in collaborating with the OAGO.

*The Audit Coordinator should **NOT** be assigned the following responsibilities:*

- Manage the audit process/interactions or restrict the work of the OAGO.
- Screen, select or control information requested or to be provided to the OAGO.
- Attend staff interviews.

Although the OAGO may directly access any person(s) and records deemed necessary, the Coordinator can help advance the audit process and minimize miscommunication or misplacement of documents between the OAGO and auditee.

For BPS audits, the Coordinator may also support communication with the responsible ministry when required.

The Coordinator may seek advice and support from their respective OIAD Audit Service Team in responding to queries from staff.

Appendix D: Role of the Ontario Internal Audit Division

What is internal auditing?

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

OIAD of the Treasury Board Secretariat provides internal audit services, including business consulting and assurance services to ministries and agencies.

OIAD's mission

OIAD's mission is to enhance the ability of its clients to manage resources prudently to achieve their intended purpose by providing assurance and expertise to promote value-for-money and by providing professional advice regarding risk management and sound business practices.

OIAD's Auditor General support role

OIAD's Audit Service Teams provide advice and support to their client ministries and agencies when they are subject to a value-for-money audit by the OAGO. The degree and extent of OIAD's advice and support is determined by the ministry's audit committee. The Audit Service Team Director is a valuable source of information should any significant questions or concerns arise during an audit. In addition, OIAD, in collaboration with Cabinet Office Communications, also prepares briefing materials for senior government officials in preparation for the release of the OAGO's *Annual Report*. When sharing draft reports with Cabinet Office Communications, auditees will continue with a due diligence approach to ensuring confidentiality.

In support of this role, auditees should provide their respective Audit Service Team Directors with a copy of the various draft audit reports provided by the OAGO in a timely manner.

In selecting what to audit, the OAGO may consider work that has been undertaken by the OIAD and may rely on or reference that work in the conduct of their audit. Depending on what work has been done by OIAD, the OAGO may defer or change their audit scope to avoid duplication of effort.

Relying on OIAD's work

The OAGO's reliance on OIAD's work is governed by the *Canadian Standard on Assurance Engagements – Direct Engagements (CSAE 3001)*.

Building this cooperative relationship to help the audit groups to achieve their respective responsibilities requires commitments and contributions from both groups. OIAD and the OAGO strive to maintain close communications regarding OIAD's planned and ongoing audit activities.

Appendix E – Control over the Auditor General’s Draft Reports

The following is a summary of controls that should be considered to ensure confidentiality is preserved.

Confidential Preliminary Draft Report

Typically, limited copies of the confidential preliminary draft are provided by the OAGO (usually in person and sometimes by courier) with advance notice that the report is on the way, to the ADM/VP. Where additional copies are required, the program ADM/VP should request additional copies from the OAGO. The confidential preliminary draft report is provided for factual clearance, consideration of the recommendations and development of management responses. Controls to be considered include:

- Account for the number of copies and the unique number assigned for each copy.
- Maintain a log to control the distribution of all copies and ensure that the report is provided only on a need to know basis only to those who can provide the factual clearance and input on the recommendations.
- To ensure all individuals who receive the report understand the confidentiality requirements of restrictions, a transmittal letter should be included whenever distributing report copies. The letter should state the following:
 - Do not copy, scan, or fax reports.
 - Reports should not be left unattended under any circumstances.
 - Email or hand-deliver any comments on the report to the OAGO and do not send through the mail when possible.

Revised Draft Report

The revised draft(s) is usually delivered in the same manner as above by the OAGO. The controls outlined above should be considered and the ADM/VP should request return of the earlier or confidential preliminary drafts or alternatively direct the recipient to destroy the previous drafts.

Final Draft Report

The final draft report is typically delivered by the OAGO to the DM/CEO prior to tabling/publication. The controls outlined above should be considered and the DM/CEO should request return of the earlier revised drafts or alternatively direct the recipient to destroy the earlier drafts.

Appendix F – Drafting Management Responses

The following guidelines help auditees prepare a management response to be included in the OAGO's value-for-money audit reports. They apply to overall responses and to each response to a numbered recommendation. Adherence to these guidelines will help facilitate the process of finalizing the response.

Focus of Responses

The OAGO expects the overall response to be succinct, factually accurate and directly relevant. The OAGO requests that extraneous information not be included, as it may be more appropriately included in the auditee's communications strategy than the audit report.

Each response to a numbered recommendation must be factually accurate and pertinent only to the specific action items in the recommendation. The OAGO requests that each response to a numbered recommendation clearly indicates how the auditee intends to address the recommendation.

Length of Responses

The OAGO advises that the maximum length of the overall response be 300 words. Responses to numbered recommendations can vary from one to three or four paragraphs depending on the number of action items in the recommendation.

Timing of Responses

Responses are to be received by the OAGO by the date specified in the letter accompanying the draft report that is sent to the ADM/VP or equivalent. If the OAGO does not receive responses by the specified date or agreed upon extended timelines, they may be excluded from the report with an explanatory note stating that they were not received in time for publication. The OAGO provides the ADM/VP or equivalent with a reasonable time period, at least two weeks, to review the confidential preliminary draft report and develop management responses.

Revisions to Responses

Should there be instances where the OAGO and/or the auditee deem it necessary to make revisions to management responses, both parties will work together to ensure there is joint agreement on the final content.

Where there are any residual questions concerning the draft report and/or management responses, the DM/CEO and Auditor General should connect directly to reach resolution.

Appendix G – Assessing Implementation Status of Recommendations made by the OAGO and/or the Standing Committee on Public Accounts

These guidelines help auditees prepare updates on the status of their implementation of the OAGO's recommendations and/or those of the Standing Committee on Public Accounts. Adherence to these guidelines should help ensure that the entity's assessment of the progress it has made in implementing the recommendations will be consistent with the OAGO's own assessment.

Thoroughness and Relevance

Entities providing status updates should ensure they address every action item in the recommendation that is applicable to them. Addressing the recommendation means measuring progress in implementing the action recommended. When doing so, focus on the findings that gave rise to those recommendations so that it is clear how the actions taken or planned, address the issues identified.

Status should be assessed as of a point in time, and the date of assessment should be specified. If actions are still in progress or further actions are planned, provide an expected completion date. If events subsequent to the original report have eliminated the need to act on a recommendation, explain why the recommended action is no longer applicable.

Please note that an entity's implementation of *what it committed to do* in its original response to the recommendation is not the key element to be measured; the key element is its progress in implementing *the action(s) specified in the recommendation*.

Assessment Terminology

For each recommendation and bullet in each recommendation, the entity should indicate the status of implementation by indicating whether:

- the recommended action "has been fully implemented" (i.e., the recommended action has been fully addressed); or,
- the recommended action "is in the process of being implemented by (insert date expressed as month and year)" (i.e., action under way to implement the recommendation, but more action is still needed to fully address it); or,
- "little or no progress" has been made in implementing the recommended action (i.e., no or only limited action has been taken to implement the recommendation, and significantly more action is still needed to address it); or,
- the recommended action "will not be implemented" (provide an explanation); or,
- the recommended action is "no longer applicable" (provide an explanation).

Supporting Information

With their status updates, the entity should forward documentation that provides evidence of or supports the actions being reported.

Where little or no progress has been made in implementing a recommendation or a recommendation will not be implemented, the entity should indicate the reasons.

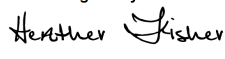
Subsequent to receiving the supporting material from the entity, the OAGO will contact entities to discuss the materials provided and may also ask for further support.

Appendix H – Glossary of Terms

| | |
|-------------------------------------|---|
| ADM | Assistant Deputy Minister |
| Agency of the Crown | <p>An association, authority, board, commission, corporation, council, foundation, institution, organization or other body,</p> <p>(a) Whose accounts the Auditor General is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,</p> <p>(b) Whose accounts are audited by the Auditor General under any other Act or whose accounts the Auditor General is appointed by the Lieutenant Governor in Council to audit,</p> <p>(c) Whose accounts are audited by an auditor, other than the Auditor General, appointed by the Lieutenant Governor in Council, or</p> <p>(d) the audit of the accounts of which the Auditor General is required to direct or review or in respect of which the auditor's report and the working papers used in the preparation of the auditor's statement are required to be made available to the Auditor General under any other Act,</p> <p>but does not include one that the <i>Crown Agency Act</i> states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of the <i>Crown Agency Act</i>.</p> |
| Auditee/audited entity | For the purposes of this document, government ministries, organizations in the Broader Public Sector, agencies of the Crown, and Crown-controlled corporations and their subsidiaries subject to a value-for-money audit are referred to as the <i>audited entity</i> or <i>auditee</i> . |
| Auditee staff | Staff that are part of the entity being audited. |
| Auditee senior management | Senior management (including DMs, CEOs, ADMs, VPs, etc.) that are part of the audited entity (auditee). |
| Audit criteria | The benchmarks used to measure or evaluate the underlying subject matter. Selecting suitable criteria is important because the criteria drive the subsequent audit work and reporting. |
| Audit objectives | Stated purpose of the audit and are usually expressed in terms of what questions the audit is expected to answer about the performance of an activity or program. They provide a sense of direction for the audit team and clearly define what the audit team intends to achieve or conclude on at the end of the audit. |
| Audit scope | Identifies the specific issues to be examined and sets the boundaries of the audit, including the time period under audit. |
| BPS | Broader Public Sector |
| CEO | Chief Executive Officer |
| CPA | Chartered Professional Accountants of Canada |
| Crown-controlled corporation | A corporation that is not an agency of the Crown and having 50 per cent or more of its issued and outstanding shares vested in Her Majesty in right of Ontario or having the appointment of a majority of its board of directors made or approved by the Lieutenant Governor in Council or one or more members of the Executive Council of Ontario. |
| CSAE 3001 | Canadian Standard on Assurance Engagements – Direct Engagements |
| DM | Deputy Minister |

| | |
|-------------------------|---|
| EBR | Environmental Bill of Rights (Ontario) |
| FIPPA | Freedom of Information and Protection of Privacy Act |
| Grant recipient | An association, authority, board, commission, corporation, council, foundation, institution, organization or other body that receives a reviewable grant directly or indirectly. |
| MFIPPA | Municipal Freedom of Information and Protection of Privacy Act |
| OAGO | Office of the Auditor General of Ontario - consists of the Auditor General, the Assistant Auditor Generals (including the Commissioner of the Environment), and such employees as the Auditor General may require for the proper conduct of the business of the Office. |
| OIAD | Ontario Internal Audit Division |
| Reviewable grant | A grant or other transfer payment from the Consolidated Revenue Fund, from an agency of the Crown or from a Crown controlled corporation. |
| SCOPA | Standing Committee on Public Accounts |
| VP | Vice-President |

This is Exhibit "D" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



Office of the Auditor General of Ontario
Bureau de la vérificatrice générale de l'Ontario

August 30, 2021

Dr. Robert Haché
President and Vice-Chancellor
Laurentian University of Sudbury
935 Ramsey Lake Road
Sudbury, ON
P3E 2C6

Dear Mr. Haché:

Re: Value-For-Money Audit

I requested a meeting with Sara Kunto, the former Secretary and General Counsel of Laurentian University. Ms. Kunto has advised that the University must grant permission in advance of any discussion that may take place with me. Although I disagree that the University must provide Ms. Kunto with permission to meet with me or the audit team, to expedite matters, can you please inform Ms. Kunto that she is free to meet with me and my audit team members.

In addition, Ms. Kunto has advised that she is precluded from discussing any privileged and confidential information as the privilege can only be waived by the University. Section 10 of the *Auditor General Act* entitles the Auditor General to privileged information and in this regard I attach the *OPS Guide for Interaction with the Auditor General of Ontario : Value-for-Money Audits* (April 2019) signed by the Secretary to the Cabinet and the Auditor General which further outlines this access. Notwithstanding that the University disagrees with our interpretation of section 10 of the *Auditor General Act*, to expedite matters, I am requesting that the University inform Ms. Kunto that she can freely discuss all matters that will assist our value-for money audit.

Please provide a response to this letter on or before September 3rd.


Sincerely,

Bonnie Lysyk
Auditor General of Ontario

Box 105, 15th Floor
20 Dundas Street West
Toronto, Ontario
M5G 2C2
416-327-2381
fax 416-326-3812

B.P. 105, 15^e étage
20, rue Dundas ouest
Toronto (Ontario)
M5G 2C2
416-327-2381
télécopieur 416-326-3812

This is Exhibit "E" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



Laurentian University
Université Laurentienne

Office of the President and Vice-Chancellor
Cabinet du recteur et du vice-chancelier
Tel/Tél. : 705-673-6567
Fax/Télec. : 705-673-6519

August 31, 2021

Sent via email

Ms. Bonnie Lysyk
Auditor General of Ontario
Box 105, 15th Floor
20 Dundas Street West
Toronto, ON M5G 2C2
Bonnie.Lysyk@auditor.on.ca

Dear Ms. Lysyk,

Re: Response to your letter dated August 30, 2021.

Ms. Kunto is free to meet with you and we will so inform her.

Ms. Kunto is correct that she is precluded from discussing any privileged and confidential information with you. A lawyer has legal obligations to her client to keep privileged matters confidential.

Your letter claims that s. 10 of the *Auditor General Act* entitles the Auditor General to privileged information.

However, your counsel confirmed in his letter of August 15, 2021 that you were not seeking access to privileged information. The University's counsel wrote to him on August 13, 2021, repeating the University's position that s. 10 "does not require audit subjects to disclose privileged information" and stating that, if the Auditor General continued to demand access to privileged information, the matter would have to be judicially determined. Rather than take up that invitation, Mr. Wirth replied, on August 15, that "with respect to the issue of disclosure of privileged documents under section 10 of the *Auditor General Act*, the Auditor General has decided not to legally pursue the production of privileged documents."

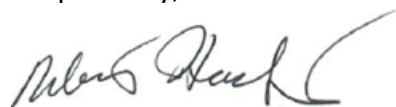
Accordingly, the claims about s. 10 and privileged information in your letter were surprising. We had understood that the issue was no longer being pressed.

- 2 -

In any event, the document you enclosed with your letter does not change the position. It is a guide prepared by the Secretary of the Cabinet for the Ontario Public Service. While it does contemplate that the Ontario government will provide privileged documents to the Auditor General, that is not the case for entities outside the government. Nothing in the document contemplates that grant recipients such as the University will provide privileged documents to the Auditor General.

The University will certainly inform Ms. Kunto that she can freely discuss all matters that will assist your audit, subject to her legal obligation to maintain privilege.

Respectfully,

A handwritten signature in black ink, appearing to read "Robert Haché", with a stylized flourish at the end.

Robert Haché, Ph.D.
President and Vice-Chancellor

This is Exhibit "F" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Fisher, Heather

From: Robert Hache <rhpsc@laurentian.ca>
Sent: August-04-21 5:23 PM
To: Gus Chagani
Subject: Follow up to conversations Today

Gus,

I understand that you spoke to Céleste Boyer today about, among other things, the Auditor General's access to privileged information. I wanted to make clear that the University's position remains that the Auditor General does not have the right to access privileged information. The Auditor General Act allows, but does not require, an entity under audit to disclose privileged information to the Auditor General. The Act provides that, if such disclosure occurs, it is not a waiver of privilege, but, again, does not entitle the Auditor General to such disclosure. Of course, the University may choose to disclose privileged information to the Auditor General, but that decision is the University's to make.

Accordingly, no disclosure of privileged information will be made by the University during the upcoming on-site visit by the Auditor General and her staff.

I understand that you may disagree with the University's position. It may be productive to have our legal counsel speak with yours to try to determine a way forward. For now, I understand that you and your colleagues will have, and have had, access to a great deal of other information. For instance, we have been reviewing in camera board packages for privilege and will shortly be providing to you a portion of them that do not contain privileged information.

Best regards,

Rob h

Robert Haché, Ph.D.

President and Vice-Chancellor | Recteur et vice-chancelier

t. 705-673-6567

f. 705-673-6519



Université **Laurentienne**
Laurentian University

935 chemin du Lac Ramsey Lake Road

Sudbury ON P3E2C6



laurentian.ca Admissions **laurentienne.ca**

CONFIDENTIALITY NOTE - AVIS: COURRIEL CONFIDENTIEL.

You can view the confidentiality terms at <https://laurentian.ca/confidentiality>. Notre avis de confidentialité est disponible au site <https://laurentienne.ca/avis>

This is Exhibit "G" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Français

CHAPTER 17

**An Act respecting the
Provincial Auditor***Assented to November 30, 2004*

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

AUDIT ACT**1. The title of the *Audit Act* is repealed and the following substituted:****Auditor General Act**

2. (1) The definition of “agency of the Crown” in section 1 of the Act is amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

(2) The definition of “Assistant Auditor” in section 1 of the Act is repealed.

(3) The English version of section 1 of the Act is amended by adding the following definition:

“audit” includes a special audit; (“vérification”, “vérifier”)

(4) The definition of “Auditor” in section 1 of the Act is repealed.

(5) Section 1 of the Act is amended by adding the following definition:

“grant recipient” means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body that receives a reviewable grant directly or indirectly; (“bénéficiaire d’une subvention”)

(6) The English version of the definition of “inspection audit” in section 1 of the Act is repealed.

(7) The French version of the definition of “inspection audit” in section 1 of the Act is repealed and the following substituted:

«vérification» S’entend en outre d’une vérification spéciale. Le verbe «vérifier» a un sens correspondant. («audit»)

(8) The definition of “Office of the Auditor” in section 1 of the Act is repealed.

(9) Section 1 of the Act is amended by adding the following definitions:

“reviewable grant” means a grant or other transfer payment from the Consolidated Revenue Fund, from an agency of the Crown or from a Crown controlled corporation; (“subvention susceptible d’examen”)

“special audit” means an examination with respect to the matters described in subclauses 12 (2) (f) (i) to (v). (“vérification spéciale”)

3. The Act is amended by adding the following section:**References to former names**

1.1 A reference in an Act, regulation, order in council or document to a person or office by the former title of that person or the former name of that office set out in Column 1 of the following Table or by a shortened version of that title or name shall be deemed, unless a contrary intention appears, to be a reference to the new title of that person or the new name of that office set out in Column 2:

| Column 1/Colonne 1 | Column 2/Colonne 2 |
|--|--|
| Former titles and names/Anciens titres et anciennes appellations | New titles and names/Nouveaux titres et nouvelles appellations |
| Assistant Provincial Auditor/vérificateur provincial adjoint | Deputy Auditor General/sous-vérificateur général |

| | |
|--|--|
| Office of the Provincial Auditor/Bureau du vérificateur provincial | Office of the Auditor General/Bureau du vérificateur général |
| Provincial Auditor/vérificateur provincial | Auditor General/vérificateur général |

4. Section 2 of the Act is repealed and the following substituted:

Office of the Auditor General

2. The Office of the Auditor General consists of the Auditor General, the Deputy Auditor General and such employees as the Auditor General may require for the proper conduct of the business of the Office.

5. Section 3 of the Act is amended by striking out “Auditor” and substituting “Auditor General”.

6. Section 4 of the Act is repealed and the following substituted:

Term of office

4. (1) The term of office of the Auditor General is 10 years and a person is not eligible to be appointed to more than one term of office.

Same

(2) The Auditor General continues to hold office after the expiry of his or her term of office until a successor is appointed.

Removal

(3) The Auditor General may be removed from office for cause, before the expiry of his or her term of office, by the Lieutenant Governor in Council on the address of the Assembly.

7. Subsection 5 (1) of the Act, as amended by the Statutes of Ontario, 1999, chapter 5, section 1 and 1999, chapter 11, section 1, subsection 5 (2) of the Act, as re-enacted by 1999, chapter 11, section 1, and subsection 5 (3) of the Act are amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

8. Section 6 of the Act is amended by striking out “Assistant Auditor” and substituting “Deputy Auditor General” and by striking out “the Auditor” and substituting “the Auditor General”.

9. Section 7 of the Act is amended,

(a) by striking out “Assistant Auditor” and substituting “Deputy Auditor General”; and

(b) by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”.

10. Section 8 of the Act, as amended by the Statutes of Ontario, 2004, chapter 8, section 46, Table, is amended by striking out “as Auditor and Assistant Auditor” and substituting “as Auditor General and Deputy Auditor General”.

11. Subsections 9 (1), (2), (3) and (4) of the Act are amended by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”.

12. The Act is amended by adding the following sections:

Special audits

Grant recipients

9.1 (1) On or after April 1, 2005, the Auditor General may conduct a special audit of a grant recipient with respect to a reviewable grant received by the grant recipient directly or indirectly on or after the date on which the *Audit Statute Law Amendment Act, 2004* receives Royal Assent.

Exception

(2) Subsection (1) does not apply with respect to a grant recipient that is a municipality.

Crown controlled corporations, etc.

(3) The Auditor General may conduct a special audit of a Crown controlled corporation or a subsidiary of a Crown controlled corporation.

Examination of accounting records

9.2 (1) The Auditor General may examine accounting records relating to a reviewable grant received directly or indirectly by a municipality.

Same

(2) The Auditor General may require a municipality to prepare and submit a financial statement setting out the details of its disposition of the reviewable grant.

13. Sections 10 and 11 of the Act are repealed and the following substituted:

Duty to furnish information

10. (1) Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act.

Access to records

(2) The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient, as the case may be, that the Auditor General believes to be necessary to perform his or her duties under this Act.

No waiver of privilege

(3) A disclosure to the Auditor General under subsection (1) or (2) does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege.

Power to examine on oath

11. (1) The Auditor General may examine any person on oath on any matter pertinent to an audit or examination under this Act.

Same

(2) For the purpose of an examination, the Auditor General has the powers that Part II of the *Public Inquiries Act* confers on a commission, and that Part applies to the examination as if it were an inquiry under that Act.

Stationing a member in a ministry, etc.

11.1 (1) For the purpose of exercising powers or performing duties under this Act, the Auditor General may station one or more members of the Office of the Auditor General in any ministry of the public service, agency of the Crown, Crown controlled corporation or grant recipient.

Accommodation

(2) The ministry, agency, corporation or grant recipient, as the case may be, shall provide the accommodation required for the purposes mentioned in subsection (1).

Prohibition re obstruction

11.2 (1) No person shall obstruct the Auditor General or any member of the Office of the Auditor General in the performance of a special audit under section 9.1 or an examination under section 9.2 and no person shall conceal or destroy any books, accounts, financial records, electronic data processing records, reports, files and all other papers, things or property that the Auditor General considers to be relevant to the subject-matter of the special audit or examination.

Offence

(2) Every person who knowingly contravenes subsection (1) and every director or officer of a corporation who knowingly concurs in such a contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or imprisonment for a term of not more than one year, or both.

Penalty, corporation

(3) If a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed on the corporation is \$25,000.

14. (1) Subsection 12 (1) of the Act is amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

(2) Subsection 12 (2) of the Act is amended by striking out “Auditor” in the portion before clause (a) and substituting “Auditor General”.

(3) Clause 12 (2) (a) of the Act is repealed and the following substituted:

(a) the work of the Office of the Auditor General and on whether, in carrying on the work of the Office, the Auditor General received all the information and explanations required;

(4) Clause 12 (2) (c) of the Act is repealed and the following substituted:

(c) the examination of the consolidated financial statements of Ontario as reported in the Public Accounts;

(5) Clause 12 (2) (e) of the Act is amended by striking out “the Management Board of Cabinet” and substituting “the Treasury Board”.

(6) Clause 12 (2) (f) of the Act is amended by striking out the portion before subclause (i) and substituting the following:

- (f) such matters as, in the opinion of the Auditor General, should be brought to the attention of the Assembly including, without limiting the generality of the foregoing, any matter relating to the audit or examination of the Crown, Crown controlled corporations or grant recipients or any cases where the Auditor General has observed that,

(7) **The English version of subclause 12 (2) (f) (v) of the Act is amended by striking out “Auditor” and substituting “Auditor General”.**

(8) **Section 12 of the Act is amended by adding the following subsection:**

Opinion on statements

(3) In the annual report in respect of each fiscal year, the Auditor General shall express his or her opinion as to whether the consolidated financial statements of Ontario, as reported in the Public Accounts, present fairly information in accordance with appropriate generally accepted accounting principles and the Auditor General shall set out any reservations he or she may have.

15. Sections 13 and 14 of the Act are repealed.

16. Section 15 of the Act is amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

17. Section 16 of the Act is amended,

- (a) **by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”; and**
- (b) **by striking out “the Office of the Auditor” in the portion before clause (a) and substituting “the Office of the Auditor General”.**

18. Sections 17 and 18 of the Act are amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

19. Section 19 of the Act is amended by striking out “Office of the Auditor” and substituting “Office of the Auditor General”.

20. Section 20 of the Act is amended,

- (a) **by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”;**
- (b) **by striking out “the Office of the Auditor” wherever it appears and substituting in each case “the Office of the Auditor General”; and**
- (c) **by striking out “Assistant Auditor” and substituting “Deputy Auditor General”.**

21. (1) Subsection 21 (1) of the Act is amended,

- (a) **by striking out “Office of the Auditor” wherever it appears and substituting in each case “Office of the Auditor General”;**
- (b) **by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”; and**
- (c) **by striking out “Provincial Auditor” in clause (a) and substituting “Auditor General”.**

(2) Subsection 21 (2) of the Act is amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

(3) Subsections 21 (3) and (4) of the Act are amended by striking out “Office of the Auditor” wherever it appears and substituting in each case “Office of the Auditor General”.

22. (1) Subsection 22 (1) of the Act is amended,

- (a) **by striking out “the Auditor” wherever it appears and substituting in each case “the Auditor General”;**
- (b) **by striking out “the Assistant Auditor” and substituting “the Deputy Auditor General”; and**
- (c) **by striking out “Office of the Auditor” and substituting “Office of the Auditor General”.**

(2) Subsection 22 (2) of the Act is repealed and the following substituted:

Pension plan

(2) The Auditor General and the Deputy Auditor General are members of the Public Service Pension Plan.

23. Section 23 of the Act is amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

24. Section 24 of the Act is repealed and the following substituted:

Delegation of authority

24. The Auditor General may delegate in writing to a person employed in the Office of the Auditor General the Auditor General's authority to exercise any power or perform any duty other than his or her duty to report to the Assembly.

25. Subsection 25 (1) of the Act is amended by striking out "Office of the Auditor" in the portion before clause (a) and in clause (c) and substituting in each case "Office of the Auditor General".

26. Section 26 of the Act is repealed and the following substituted:

Conduct of business and employee discipline

26. (1) The Auditor General may make orders and rules for the conduct of the internal business of the Office of the Auditor General and, subject to this section, may for cause suspend, demote or dismiss an employee of the Office or may release such an employee from employment.

Suspension, etc., of employee

(2) Subject to subsection (3), if the Auditor General for cause suspends, demotes or dismisses an employee of the Office of the Auditor General or if the Auditor General releases such an employee from employment, the provisions of the *Public Service Act* and the regulations made under it that apply where a deputy minister exercises powers under section 22 of that Act apply, with necessary modifications.

Same

(3) For the purposes of subsection (2), the *Public Service Act* and the regulations under it apply as if the Auditor General were a deputy minister, but the requirement that a deputy minister give notice to, or obtain the approval of, the Civil Service Commission does not apply.

Grievances

(4) An employee whom the Auditor General for cause suspends, demotes or dismisses may file a grievance with respect to the Auditor General's decision.

Same

(5) The provisions of the regulations made under the *Public Service Act* that apply in relation to grievances authorized by those regulations apply with necessary modifications to a grievance authorized by subsection (4) as if the Auditor General were a deputy minister.

27. (1) Subsection 27 (1) of the Act is amended by striking out "the Auditor, the Assistant Auditor, any person employed in the Office of the Auditor or any person appointed to assist the Auditor" and substituting "the Auditor General, the Deputy Auditor General, any person employed in the Office of the Auditor General or any person appointed to assist the Auditor General".

(2) Subsection 27 (2) of the Act is repealed.

28. The Act is amended by adding the following sections:

Duty of confidentiality

27.1 (1) The Auditor General, the Deputy Auditor General and each person employed in the Office of the Auditor General or appointed to assist the Auditor General for a limited period of time or in respect of a particular matter shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her employment or duties under this Act.

Same

(2) Subject to subsection (3), the persons required to preserve secrecy under subsection (1) shall not communicate to another person any matter described in subsection (1) except as may be required in connection with the administration of this Act or any proceedings under this Act or under the *Criminal Code* (Canada).

Same

(3) A person required to preserve secrecy under subsection (1) shall not disclose any information or document disclosed to the Auditor General under section 10 that is subject to solicitor-client privilege, litigation privilege or settlement privilege unless the person has the consent of each holder of the privilege.

Confidentiality of personal information

27.2 (1) No person shall collect, use or retain personal information on behalf of the Auditor General unless the personal information is reasonably necessary for the proper administration of this Act or for a proceeding under it.

Same

(2) No person shall collect, use or retain personal information on behalf of the Auditor General if other information will serve the purpose for which the personal information would otherwise be collected, used or retained.

Retention of information

(3) If the Auditor General retains personal information relating to the medical, psychiatric or physiological history of the individual or information relating to the individual's health care or well-being, the Auditor General shall,

- (a) remove all references in the information to the name of the individual and to other identifying information;
- (b) retain the information by using a system of identifiers, other than the name of the individual and the other identifying information mentioned in clause (a); and
- (c) ensure that the information is not,
 - (i) easily identifiable by a person who is not authorized to have access to it,
 - (ii) used or disclosed for purposes not directly related to the Auditor General's duties under this Act,
 - (iii) published, disclosed or distributed in any manner that would allow the information to be used to identify the individual or to infer the individual's identity, or
 - (iv) combined, linked or matched to any other information that could identify the individual, except if the Auditor General finds it necessary to do so to fulfil his or her duties under this Act.

Definition

(4) In this section,

“personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

29. Section 28 of the Act, as amended by the Statutes of Ontario, 2004, chapter 8, section 46, Table, is amended by striking out “the Office of the Auditor” and substituting “the Office of the Auditor General”.

30. Subsections 29 (1), (2) and (3) of the Act are amended by striking out “Auditor” wherever it appears and substituting in each case “Auditor General”.

COMPLEMENTARY AMENDMENTS

31. Subsection 11 (2) of the *Ontario Lottery and Gaming Corporation Act, 1999* is amended by striking out “Audit Act” and substituting “Auditor General Act”.

32. Each Act specified in Column 1 of the Table to this section is amended by striking out “Provincial Auditor” wherever it appears in the provision or provisions specified in Column 2 and substituting in each case “Auditor General”.

TABLE

| Column 1 | Column 2 |
|--|--|
| Act | Provision |
| <i>AgriCorp Act, 1996</i> | section 13 |
| <i>Agricultural Rehabilitation and Development Act (Ontario)</i> | subsection 7 (1), section 8 |
| <i>Agricultural Research Institute of Ontario Act</i> | section 6 |
| <i>Alcoholism and Drug Addiction Research Foundation Act</i> | section 16 |
| <i>Algonquin Forestry Authority Act</i> | section 18 in the portion before clause (a), clause 18 (b) |
| <i>Arts Council Act</i> | section 11 |
| <i>Cancer Act</i> | section 12 |
| <i>Capital Investment Plan Act, 1993</i> | subsections 13 (1) and (2) |
| <i>Centennial Centre of Science and Technology Act</i> | section 9 |
| <i>Community Psychiatric Hospitals Act</i> | subsection 4 (8) |
| <i>Courts of Justice Act</i> | subsection 89 (9) |
| <i>Credit Unions and Caisses Populaires Act, 1994</i> | subsection 257 (2) |
| <i>Crown Foundations Act, 1996</i> | subsection 16 (2) |
| <i>Development Corporations Act</i> | section 26 |
| <i>Education Quality and Accountability Office Act, 1996</i> | subsection 24 (3) |
| <i>Election Act</i> | subsection 113 (6) |
| <i>Election Finances Act</i> | section 8 |
| <i>Electricity Act, 1998</i> | section 80 |
| <i>Environmental Bill of Rights, 1993</i> | section 56 |
| <i>Environmental Protection Act</i> | section 120 |
| <i>Farm Products Payments Act</i> | subsection 5 (7) |
| <i>Financial Administration Act</i> | subsection 11 (3), paragraph 3 of subsection 11.4 (2) |
| <i>Financial Services Commission of Ontario Act, 1997</i> | section 14 |
| <i>Freedom of Information and Protection of Privacy Act</i> | subsection 9 (2) |

| Column 1 | Column 2 |
|--|---------------------------------------|
| Act | Provision |
| <i>GO Transit Act, 2001</i> | subsection 13 (2) |
| <i>Legal Aid Services Act, 1998</i> | subsection 65 (3) |
| <i>Legislative Assembly Act</i> | subsection 83 (3), sections 86 and 91 |
| <i>Liquor Control Act</i> | section 6 |
| <i>Metropolitan Toronto Convention Centre Corporation Act</i> | subsection 12 (3) |
| <i>Ministry of Treasury and Economics Act</i> | clause 13 (2) (c) |
| <i>Niagara Parks Act</i> | section 19 |
| <i>Northern Ontario Heritage Fund Act</i> | section 8 |
| <i>Ombudsman Act</i> | section 10 |
| <i>Ontario Agricultural Museum Act</i> | section 13 |
| <i>Ontario Educational Communications Authority Act</i> | section 11 |
| <i>Ontario Energy Board Act, 1998</i> | subsection 4.8 (4) |
| <i>Ontario Food Terminal Act</i> | section 10 |
| <i>Ontario Heritage Act</i> | section 16 |
| <i>Ontario Housing Corporation Act</i> | section 12 |
| <i>Ontario Mental Health Foundation Act</i> | sections 12 and 25 |
| <i>Ontario Municipal Economic Infrastructure Financing Authority Act, 2002</i> | section 15 |
| <i>Ontario Northland Transportation Commission Act</i> | section 39 |
| <i>Ontario Place Corporation Act</i> | section 13 |
| <i>Ottawa Congress Centre Act</i> | subsection 12 (3) |
| <i>Pay Equity Act</i> | Schedule, clause 1 (h) |
| <i>Public Guardian and Trustee Act</i> | section 17 |
| <i>Racing Commission Act, 2000</i> | section 14 |
| <i>Securities Act</i> | subsection 3.9 (4) |
| <i>Social Contract Act, 1993</i> | subsection 9 (2) |
| <i>St. Clair Parks Commission Act, 2000</i> | subsection 11 (3) |
| <i>St. Lawrence Parks Commission Act</i> | section 16 |
| <i>Toronto Area Transit Operating Authority Act</i> | section 12 |
| <i>Toronto Islands Residential Community Stewardship Act, 1993</i> | subsection 12 (12) |
| <i>University Foundations Act, 1992</i> | subsection 9 (2) |
| <i>Waterfront Regeneration Trust Agency Act, 1992</i> | subsection 13 (3) |
| <i>Workplace Safety and Insurance Act, 1997</i> | subsections 168 (3) and 169 (1) |

COMMENCEMENT AND SHORT TITLE

Commencement

33. This Act comes into force on the day it receives Royal Assent.

Short title

34. The short title of this Act is the *Audit Statute Law Amendment Act, 2004*.

Français

Back to top

This is Exhibit "H" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



No. 12A

N° 12A

ISSN 1180-2987

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Tuesday 9 December 2003

Mardi 9 décembre 2003

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

Clerk
Claude L. DesRosiers

Greffier
Claude L. DesRosiers

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

heart of our parliamentary system. It is a system that is not shared by all nations of the world. In the United States, the head of the government, the President, does not come forth before Congress for question period. In our system, that happens. The government is held to account in this House, among other things, through question period. In this Legislature, the government is answerable to the people during question period. So the Executive Council Amendment Act would, if passed, require cabinet ministers to attend at least two thirds of all question periods over a government's term in office.

We're introducing this legislation to demonstrate our commitment to the people of Ontario to the principle of accountability in our legislative system. We believe it will send an important message to Ontarians: The government belongs to the people and is accountable to the people. This Legislative Assembly is an important place where that business takes place and that accountability happens.

We are introducing this bill now, because we believe the standard that people expect from their ministers must be made early in the life of a government's session. In the days and months to come, we will continue to work toward a more open government and encourage greater citizen participation. We will take government in a new direction. We will ensure that the people of Ontario get value for their public services. As we undertake democratic renewal, we will treat our institutions with the respect they deserve—no Magna budgets in this House.

I hope that is what this Legislature would want of the government of the day, and I encourage all members to support the efforts to strengthen our democracy. I urge you all to support this bill.

1400

PUBLIC SECTOR ACCOUNTABILITY

Hon Greg Sorbara (Minister of Finance): On October 2, the people of Ontario chose change. They chose a government that is committed to bringing an open and transparent approach to managing both public finances and legislative institutions.

Yesterday, my colleague the Attorney General and minister responsible for democratic renewal spoke of our plan to bring to this House the most ambitious democratic renewal initiatives ever seen in the province of Ontario. He spoke then, and reiterated just before me, initiatives that would open up government and its agencies, bring the voices of Ontarians to Queen's Park, give members of this House an opportunity to do more on behalf of their constituents, ensure that ministers of the crown consistently attend question period and provide a fixed date for elections in the province.

As well, yesterday my colleague the Minister of Energy introduced amendments to the Public Sector Salary Disclosure Act to make Hydro One and Ontario Power Generation and their subsidiaries subject to the same salary disclosure rules as apply to public servants.

But democratic renewal does not stop there. We need to make the entire public sector more transparent and responsible to Ontarians, because transparency and accountability are the best safeguards of our public services.

To achieve that objective, I am pleased to have introduced earlier today legislation that would, if passed, give the Provincial Auditor new powers to examine the broader public sector. The expansion of powers for the Provincial Auditor would have a direct effect on accountability, since the major institutions in the broader public sector represent the single most significant demand on the province's financial resources. About 80% of total government expenditures, excluding interest on debt, is in the form of transfers to broader public sector organizations and individuals.

The amendments I am introducing today would give the Provincial Auditor the expanded power to conduct full-scope value-for-money audits of the so-called SUCH sector—that is, school boards, universities, colleges and hospitals—and also all crown-controlled corporations and their related subsidiaries. These value-for-money audits will report whether money was expended with due regard to economy and efficiency and whether procedures were established to measure and report on the effectiveness of those programs. They will go a long way to ensure that the people of Ontario get the value they deserve from the money they invest in these public services. Organizations subject to this expanded mandate will be required to provide the Provincial Auditor with information and access to their books and records.

It is not enough just to say that we have put more money into something; we also have to have a clear understanding of how that money is being spent. With this bill today, we'll go a long way toward that objective.

The Speaker (Hon Alvin Curling): Responses?

DEMOCRATIC RENEWAL

Mr Norman W. Sterling (Lanark-Carleton): We have yet another amazing piece of legislation put forward, ostensibly to call the executive council into some kind of accountability. But guess what, folks? This act does nothing of the sort.

First of all, it sets the bar very low: Ministers must be in here only 66% of the time. Ministers should be in here every day, save and except for some ministers who have greater need out in the community. My view is that the Minister of Economic Development and Trade should be here less than 50% of the time, because he should be off trying to make business for Ontario. Other ministers should be here all the time.

The greatest sham of this whole act is, who keeps score? Is it the Speaker who keeps score? No, it's the Premier who keeps score. And on the scorecard there are several loopholes with regard to whether or not you're here. First of all, it's not counted if the absence is justified because of illness, bereavement—everybody understands that—or religious holiday “or some similar reason.”

This is Exhibit "I" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



No. 33

N° 33

ISSN 1180-2987

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Monday 19 April 2004

Lundi 19 avril 2004

Speaker
Honourable Alvin Curling

Président
L'honorable Alvin Curling

Clerk
Claude L. DesRosiers

Greffier
Claude L. DesRosiers

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

19 AVRIL 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

1577

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

"Do not impose a new 8% tax on basic meals under \$4."

In support, I affix my signature.

FIRE PROTECTION SERVICES

Mr Norm Miller (Parry Sound-Muskoka): I have a petition from my constituents in Parry Sound-Muskoka.

"To the Legislative Assembly of Ontario:

"Whereas municipalities are solely responsible for funding fire services; and

"Whereas the previous government committed \$40 million to help small and rural communities in the purchase of new emergency firefighting equipment;

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

"That the province of Ontario proceed with a program to support municipal fire services for the purchase of life-saving equipment, and that the province develop a rural response strategy in consultation with municipal fire services."

I support this petition and affix my signature.

ONTARIO DRUG BENEFIT PROGRAM

Mr Bill Murdoch (Bruce-Grey-Owen Sound): "To the Legislative Assembly of Ontario:

"Whereas the Liberal government was elected after promising in their election platform that they were committed to improving the Ontario drug benefit program for seniors but are now considering delisting drugs and imposing user fees on seniors....

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

"To immediately ... commit to end plans for the delisting of drugs for coverage under the Ontario drug benefit program;

"To immediately commit to ending plans to implement higher user fees for vulnerable seniors and to improve the Ontario drug benefit plan so they can obtain necessary medications;

"To instruct Premier McGuinty to demand more help from Ottawa instead of demanding more funding from seniors."

I have affixed my signature.

SMOKING BAN

Mr Garfield Dunlop (Simcoe North): "Whereas the Minister of Health for Ontario has permitted the administrator of the Penetanguishene Mental Health Centre in Penetanguishene, Ontario, to impose a total smoking ban in the maximum security Oak Ridge division and on the outside grounds; and

"Whereas the decision to impose the ban was made by an executive administrative committee comprised of non-smokers ... without any opportunity being given to the

inmate/patient residents and employees thereof to address the issues and concerns upon which it was made; and

"Whereas the executive administrative committee alleged that it was instituted on the basis of tests which proved that the specially ventilated designated smoking rooms were leaking, but have never produced any evidence of the alleged tests and the ministry itself claims to have no knowledge of them; and

"Whereas the executive administrative committee and the Minister of Health have completely ignored repeated requests when the majority of inmate/patient residents and employees, including non-smokers, for the return of smoking; and

"Whereas the provisions of the Tobacco Control Act and the Smoking in the Workplace Act which prohibit smoking in specific areas do not apply to a place that is used for lodging or residence; and

"Whereas the majority of inmate/patients at Oak Ridge are federal prisoners detained under the Criminal Code of Canada as a result of the commission of criminal offences who would be permitted to smoke if they were detained in a federal institution under the jurisdiction of Corrections Canada; and

"Whereas all other government buildings throughout Ontario permit smoking outside of the buildings within feet of the doorways, and the two local medical hospitals in the Penetanguishene-Midland area permit smoking in specially ventilated designated smoking rooms as well; and

"Whereas all other psychiatric facilities have continued to permit smoking, with the exception of Brockville, which permits it on the outside grounds only; and

"Whereas the total smoking ban has prevented the inmate/patient smokers (who comprise 70% to 80% of the institution's population) from sharing a common cultural behaviour and social interest with their families and friends who also smoke;

"We, the undersigned inmate/patients and employees at Oak Ridge, our families and friends and others, and members of the local community, including non-smokers who are disturbed with the situation, hereby petition members of the Legislative Assembly of Ontario to require that the Minister of Health permit smoking to continue at Oak Ridge or, at the very least, permit smoking to continue on the outside grounds."

ORDERS OF THE DAY

AUDIT STATUTE LAW AMENDMENT ACT, 2003

LOI DE 2003 MODIFIANT DES LOIS EN CE QUI CONCERNE LA VÉRIFICATION DES COMPTES PUBLICS

Mr Sorbara moved second reading of the following bill:

Bill 18, An Act respecting the Provincial Auditor/
Projet de loi 18, Loi concernant le vérificateur provincial.

Hon Greg Sorbara (Minister of Finance): I'm delighted to have this opportunity to say just a few words on the substance of this bill, the political philosophy behind it, why we introduced it and what impact it will have on us in the Legislature and, more importantly, on the people of Ontario.

Could I just take care of a little bit of business first and note that the time allotted is, I understand, one hour, and I will be sharing my time with my colleague the member from Stormont-Dundas-Charlottenburgh, the member from Etobicoke Centre and the member from Eglinton-Lawrence, who is my parliamentary assistant, by the way.

The Provincial Auditor, in this Legislature and in this province, has historically played an increasingly important role in ensuring the transparency and accountability of just about everything we do as a government. Bill 18, An Act respecting the Provincial Auditor, which will amend the Audit Act in the province, is a very significant step in strengthening the role of the Provincial Auditor.

By the way, once this bill is law, we rename the office and he or she becomes the Auditor General for the province of Ontario. That's neither here nor there; that's a little bit of nomenclature. The fact is that every province and the national government use the term "Auditor General," and Ontario will adopt that. What is much more important is the new powers that will vest in the Auditor General, or the Provincial Auditor, as a result of this bill, and I want to spend some time on that.

Before I do that, I want to put this bill in a bit of a political context. As you know, during the recent election campaign that ended on October 2, one of the themes of our party, the Ontario Liberal Party, was in the area of democratic renewal, democratic reform, improving our democratic system. To be sure, reforming our own procedures here and the way our democracy plays out doesn't really create new employment and doesn't add food to the table and doesn't deal with the size of classrooms and doesn't deal with waiting times, but it's still a very important component of what we do as a government, because it deals with the very way in which we govern ourselves.

1600

There were a number of very specific items in the campaign proposals, and I'd like to talk about a couple of them in anticipation of dealing with the Audit Act.

The first, and the one that I think is closest to my own political heart, is our commitment to have fixed election dates in Ontario. It really transforms very significantly our democratic system. I look at the table officers and I think they wonder about how you organize and run a Parliament that isn't subject to the whim of a Premier to call a general election and to dissolve the Legislature. But I personally think that bringing about fixed election dates in the province of Ontario is a very important improvement and reform in our democracy. I believe that because it takes power away from the Office of the Premier and puts that power back in the hands of the

people in this room, the 103 of us who make laws and pass those laws in this chamber.

Once we've passed a bill to establish fixed election dates, the timing of an election is dependent not on when a government leader determines it's a good idea, but on when the Legislature has determined the election shall take place. I think that's a very important reform and I understand that some time over the course of this year, the Attorney General will be making submissions in that regard.

One of the other things we said during the election campaign, and that we have already dealt with in this Legislature: a bill to ban partisan advertising. I think that bill, as much as anything, touched on some of the concerns that the broad population of Ontario had about the previous administration, because all of us as residents and citizens of Ontario had the "benefit" of seeing basically partisan political advertising arriving in our mailboxes, being presented to us on our television screens or on our radios really throughout the eight-plus-year history of the previous administration.

The sum total of that advertising represented hundreds of millions of dollars in, I would say, wasted expenditures, because really that was all about a government using taxpayers' money to tell taxpayers what a great job the government was doing. When you see it in those terms, you see how important it was to initiate that reform, to put it in the form of legislation.

My colleague, the Chairman of Management Board, did that prior to Christmas in the fall sitting of the Legislature. I recall when we were having that debate, it was referred to as "historic legislation," perhaps the first of its kind in North America, to put an absolute ban on the waste of taxpayers' money in partisan advertising. I hope the thinking behind that kind of reform can underpin and be a foundation for all of the things we do on our agenda for democratic renewal.

We took some steps to bring to the attention of the people of the province, through freedom of information amendments and other initiatives, to open the windows, to open the curtains, to shine the bright light of day on two of our most important companies, Ontario Hydro—now Ontario Power Generation—and Hydro One. The initiatives of the previous administration had basically drawn the curtains closed and shut off those very important corporations from the light of day and political inspection by members of this Legislature and the general public. The steps we've taken, I think have been very helpful indeed.

The Audit Act is of a significantly different category, because what we do as we amend the Audit Act and enhance the powers of the Auditor General is give much more power and authority to every single member of this Legislature, whether sitting on this side of the aisle or that side of the aisle. Let's remember that the Auditor General, as he will be called soon, is an officer of this Legislature. He is a public administration official who reports not to the government, not to the cabinet, not to the Premier, not to the Chair of the Management Board;

the Provincial Auditor reports to this Legislature. His responsibility is to follow the direction of the 103 people elected to this House, to inspect and report on and verify all of the expenditures made by the government on behalf of the members of this Legislature.

So his powers, like those of the Ombudsman, are unique. He or she does not take direction from the cabinet and doesn't take direction from the Premier; the Provincial Auditor gets his instructions from those of us who sit in this House as MPPs. This bill expands the power of the Provincial Auditor in a number of very significant ways. In expanding the power of the Provincial Auditor, you expand the power of the members of this Legislature—all of us: government members, official opposition members, third party members.

As we move toward passing this bill, we should remember why it is that we're doing it and what it is that we will be achieving. Probably the most important expansion of those powers is the authority in this act to allow the Provincial Auditor to do so-called value-for-money audits in a wide range of institutions and organizations that, up until this time, have not had to account to the Provincial Auditor.

Mr Rosario Marchese (Trinity-Spadina): It's about time.

Hon Mr Sorbara: My friend from Trinity-Spadina interjects and says, "It's about time," and we agree with him. We agree with him that it's about time. I point out to him that we committed to it in our campaign, and we introduced it shortly after we were sworn in.

I think it's worth it to explain what a value-for-money audit is. Essentially, a value-for-money audit gives the Provincial Auditor the capacity to inspect and report on expenditures made by institutions such as universities, community colleges, school boards and the like, to review the expenditures of those institutions and those organizations and report back to the members of this Legislature about whether or not true value was derived from the expenditures made by them.

Why is it important to us to hear about that through the Provincial Auditor?

Mr Marchese: To all of us.

Hon Mr Sorbara: To all of us. Well, that's simple. I think the simple answer is that we have the burden in this House of levying the taxes amongst the 12 million of us in this province who actually pay for the programs. So we raise the money by way of the taxing power of this House and we allocate the money under laws and regulations made by this House to a wide variety of institutions. So surely this House needs the power to have a Provincial Auditor who can review the expenditures and determine whether we derive value for money.

Mr Dave Levac (Brant): Transparency.

Hon Mr Sorbara: As my friend from Brant says, this gives us a new level of transparency in the management of the public's business.

Mr Marchese: What about reviewable grants?

Hon Mr Sorbara: My friend from Trinity-Spadina is interjecting about reviewable grants. I tell him, had I

more time on this occasion, we could get into that topic in great detail. Unfortunately, I have promised to share the time, and I just want to take the final couple of minutes—

Interjection.

Hon Mr Sorbara: I just want to tell my friend from Trinity-Spadina that as this bill moves through the Legislature, I think it's possible that some will say, "Now, this goes too far. We cannot interfere with the autonomy of crown corporations or hospitals and inspect their level of expenditures."

1610

Our view is very different. This is not a bill that imposes an eye or an inspection that is unwarranted. This bill will give us the capacity to make sure that as we allocate the revenues we derive from taxpayers, those funds are spent wisely and they're spent well.

I know that there's going to be a good, healthy debate on this bill. I look forward to monitoring that debate, and in the end, that this bill will pass, I hope, unanimously in this Legislature. My friends from the New Democratic Party, I think, intend to support it. I'm not sure where the official opposition is, but then I'm not sure about where they are on any particular matter at this time in the evolution of their political history.

Mr Speaker, I want to thank you for the opportunity to speak on this bill. I encourage its swift passage.

The Deputy Speaker (Mr Bruce Crozier): Continued opening debate?

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh): I would like to thank the Minister of Finance for his words in leading out this debate today and setting the tone and language that will be imparted with this bill.

In the few moments that I have to speak in support of this bill, I would like to allude to what we have imparted and to what I have imparted during the fall campaign and what I have imparted since that time, time and time again here in the House and in committee, and that is that we do need accountability. With Bill 18, accountability will be front and centre. For example, it'll match very closely to that which we had talked about as we went out around this province with Bill 8, the Commitment to the Future of Medicare Act, when we talked about accountability. We talked about accountability agreements and we talked about Ontarians wanting a government that will be held accountable. They want agencies, departments and the like in public Ontario to also be accountable for what they do and for the money they spend.

With Bill 18, we are working through amendment to open up government and its related departments and agencies, to bring the voice of Ontarians to Queen's Park. I was elected to represent my riding here at Queen's Park and I'm doing that to the best of my ability, but I do know that when I campaigned, the words "accountability" and "Make sure that our tax dollars are spent wisely," were in the minds and on the lips of those people I met going door to door and those people I've talked to since. They have spoken to us in pre-budget town halls and what not. They continue to speak to us, and we will

continue to listen to them through that dialogue. They are talking about a government and departments and agencies that are transparent, responsible and accountable. We know that transparency and accountability are the best safeguards of public service, and I hope to outline this in my presentation here in the few minutes that I have.

Not only will this bill change the language of amendment, as an example, and it was outlined that the auditor would now become the Auditor General, but it will expand the authority of the provincial Auditor General to provide value-for-money audits, as was explained by the minister, something that Ontarians have been saying to us, especially after seeing the concerns with value for money at the national and provincial levels during the past number of years and months.

For example, last spring—and this, once again, was outlined by many of my constituents as I went from door to door—Ontarians and constituents expressed loudly and clearly their concern with the great waste of taxpayers' money by the former government when a budget was delivered outside the confines of Queen's Park. They were annoyed. That was expressed very clearly. It was expressed in letters to the editor and in the pre-budget public town halls that I had. They saw, when speaking of value for money, a government wasting taxpayers' money outside the House when a perfectly fine forum was in place in this House.

They support what we are doing, they support what Bill 18 stands for, and they support the idea that we have a government that will look after and will put in place and publicly make the expressions that their money is being spent wisely. They witnessed these important tax dollars being wasted. With the money that was wasted just in that situation, think of the number of textbooks that could have been purchased for schools in our ridings. Think of the number of different medical items that could have been purchased for hospitals and what not, from the money that was wasted. That's what this bill is going to do. It's going to give the Auditor General that chance to look at the books, examine the books, and make sure that the money is being spent wisely.

Accountability is what Ontarians want. Ontarians will have an Auditor General who will have the power to scrutinize the spending of not just the Ontario government but also all of its crown corporations and transfer partners. This bill will allow the Auditor General to audit the hydro companies and all related organizations. We know that Ontarians would surely love to see this.

The Minister of Energy, with full-scope value-for-money audits in place, should never have to face what our energy minister has faced in recent months and what my seatmate, the honourable member from Etobicoke Centre, as the parliamentary assistant has faced during the past few months, where Ontarians have been disgusted at what has been divulged and what has been opened, to the extent that it has been. But they want to see more. I think that the Auditor General will have that chance, and will have that authority, to deliver more. I look forward to that.

There's something else that I would like to say. It has been a rite of spring for some time now that hospital administrators, school board directors and superintendents have had public scrutiny of their salaries. This, again, will be an opportunity that those other crown corporations and transfer partners, such as Hydro One and Ontario Power Generation, will also have that opportunity. Here in Ontario, we have that information, of employees and directors and what not, with their salaries being made public too. I think there is a lot that's going to be revealed in the books when this happens. I think it should happen.

We will have checks and balances. We will have regard to economies and efficiencies in the departments that I just alluded to. That's what Bill 18 is all about. There must be procedures in place to measure and report on the effectiveness of programs. The Auditor General will be given this authority. Ontarians have wanted these assurances for a long time that public money is well spent.

This past weekend, I had the opportunity of going into our local college, St Lawrence College in Cornwall. I have been working very closely with the president and the CEO, president Volker Thomsen and CEO Pat Finucan, with regard to concerns and problems with that college. They, I am sure, are excited and very happy to see that the Auditor General will have this chance to go into the books. They certainly would not have anything to hide because they have expressed everything to me.

Do you want to know the greatest opportunity that I had to see where dollars and cents were spent? It was in the open house that the early childhood education program put on on Saturday morning. What an opportunity to see young, dynamic Ontarian students who were taking those dollars and making sure that in programs that weren't at the college—that had been in the past but had left for some years and are now back at the college—they are getting the best bang for the buck out of them. The directors of the program and the students were saying, "We need more. We need more."

1620

I think in needing more, what we will also need is to make sure those dollars that are already there are being spent wisely. Something that's going to happen here is that the Auditor General will be able to see that the public, and the public who are supported by those dollars, will speak loudly and clearly. They're doing it in public expression, as I saw on the weekend, and they will continue to do it as we move forward and get this bill passed in the House and the Auditor General has the responsibility to deliver.

I'm looking forward to this. I know that the senior who's sitting at 4 Gray Avenue in Long Sault in my constituency is looking forward to this and she's watching this afternoon. She's a senior, the mother of 12 children, and I'm number two on that list. She said to me when I got here, "Make sure that the government dollars are well spent." I'm here looking after her needs, after the needs of the constituents of Stormont-Dundas-

Charlottenburgh, of Ontarians, and I think the Auditor General is going to have the responsibilities that we want him or her to have.

Mrs Donna H. Cansfield (Etobicoke Centre): It's a pleasure to be able to stand up in support of Bill 18 and my colleagues. I'd like to begin my discussion of Bill 18 with a little bit of history. A number of irregularities finally became apparent in the government's books after they had been hidden for many years. These findings made it necessary to use new and fundamental legislation to redefine the office and the person of the Provincial Auditor. These problems, including considerable inaccuracies in the public accounts, which I will speak to later, were so serious and so harmful to the province at large that they could be termed, and I will quote, "errors of grave nature." In fact, there were some indications that very serious incidents had occurred within the government treasury itself.

Clearly, the Provincial Auditor needed more independence from the government as well as a more solid mandate for working on behalf of the public to keep government honest. Government needed to view the public's main watchdog in an entirely different and far more respectful light.

There was a situation in 1885 that led to the introduction of the Audit Act, 1886. That act established a Provincial Auditor who could be independent of the treasury department. I believe that Bill 18, before us now, is the modern-day equivalent of that legislation that was passed 118 years ago. Bill 18 redefines the role and the person of the auditor to make them more relevant to today's environment and to the scope of government spending. In fact, in 1886 our budget was \$3 million. Today it's \$75 billion, including a very large deficit that was bequeathed to us by, shall we say, more recent history.

The major new provisions of Bill 18 will expand the capacities of the auditor and our respect for that auditor and for the position. It will rename the Provincial Auditor as our Auditor General. With few exceptions, most of the government auditors throughout the world carry the title of Auditor General. I would imagine our auditor has dealings with counterparts in other countries, and this renaming will give him or her at least in part an equal footing in terms of respect, as well as the office. As well, the title of Auditor General has a domestic cachet that inspires, as I indicated before, the respect the auditor truly deserves.

The title of Audit Act is changed to the Auditor General Act. The Auditor General can examine accounting records relating to reviewable grants directly or indirectly received by municipalities.

The Auditor General will now conduct special audits of grant recipients other than municipalities and of crown-controlled corporations and their subsidiaries. Under the current Audit Act, the Provincial Auditor may carry out only limited scopes of audits of grant recipient organizations. The scope of a special audit is specified and obstruction of a special audit is prohibited. There is

an updated description of the scope of the opinion that the Auditor General is required to give about the financial statements of Ontario.

Bill 18 changes the act to govern the collection, use and disclosure of personal information by the Auditor General. There is a new prohibition on the disclosure of information and documents that are subject to specific types of privilege unless the privilege holder consents.

These new additions to the act are in keeping with new concepts for the protection of privacy in general.

Bill 18, in combination with Bill 25, the banning of partisan advertising and other actions by our government, constitutes yet another fulfillment of our campaign promise. These activities will contribute greatly to the accountability and transparency of the government of Ontario.

On a more practical level, Bill 18 will help ensure that organizations across the broad public sector deliver more value for money, as my colleague indicated. Let me remind you that 50% of total government spending or expenditures go directly to broader public service and to organizations. The Provincial Auditor will have the power to fully scrutinize public sector organizations such as hospitals, school boards, colleges and universities so that the people of Ontario can be assured their tax dollars are spent, and spent wisely.

As the former chair of a board, I can tell you that I often wished for the opportunity for the auditor to come into the school board to audit those books in a very public and accountable way. With my personal experience as a school trustee, I can tell you that our public bodies need the kind of oversight only an experienced professional auditor can bring. I can also tell you that the pressure to spend the public's money unwisely as much as wisely is almost overwhelming, because often you have to spend it or lose it.

By giving the Auditor General the right to investigate spending by crown-controlled corporations and transfer partners, trustees, board members and executives, they will be much less tempted to let their personal feelings indicate spending priorities, amounts and recipients. Clearly, expanding the powers of the Auditor General will affect the thinking at Ontario Power Generation and related energy public bodies, and frankly we welcome the help of an untethered, fully enabled Auditor General to remove any temptation from these companies to waste the public's money.

The best reason to expand the scope of the auditor is contained in his latest report. Just this year he revealed the following. The Tory government failed to address a serious backlog in the court system. The Ontario Court of Justice has the highest backlog of criminal cases in 10 years. They allowed \$60 million in fines to go unpaid. The auditor found 150 types of security risks at Ontario courthouses, including unauthorized weapons, assault, vandalism and theft. Deadbeat parents are \$1.3 billion behind in their court-ordered child support payments.

At the Family Responsibility Office, caseloads per worker are too high—600 to 1,700, versus 400 for

Quebec and 335 for Alberta—and 90% of all calls to the call centre get a busy signal and require repeated phone calls. In some cases the follow-up doesn't happen for a year, and it takes an average of 3.5 years to complete a case.

Some 95% of inspection resources are spent on video retailers, which received a total of eight complaints, while there have only been nine inspectors of debt collectors despite 4,108 consumer complaints.

The economic development ministry spent over \$4.3 billion without a strategic plan. The strategic skills initiative spent 75% of its money on construction equipment instead of skills training. The ministry wasted money on untendered contracts and expensive trips. The auditor found that the PCs doled out over \$1 billion of the innovation trust fund without ministry or legislative oversight, a plan, or even cabinet approval.

1630

Some 27% of waterworks did not submit the minimum number of samples to test for E coli or fecal coliforms. Three hundred non-municipal waterworks have never submitted a test at all. Water inspectors visited only 54 of 357 private water treatment plants and 44 of 1,119 smaller plants in designated facilities. Total inspection activity is at 63% of the 1995-96 levels.

There are eight boards of health without a full-time medical officer of health. Public health departments, 100% funded by the province, receive the same amount of funding as they did in 1991. None of the province's public health units conduct all necessary inspections of food preparers to avoid food-borne diseases, and 14% of children have not received all of their vaccinations by the age of seven.

We already have taken steps to rein in on why spending has been allowed to go on for years before the present government took control. Last fall, we introduced the Public Sector Salary Disclosure Amendment Act, 2003, to require Hydro One, Ontario Power Generation and their subsidiaries to disclose employees who earned \$100,000 or more. Now the Auditor General will have a stronger hand in seeing that we get value for our money when we pay these kinds of salaries.

Ontario citizens have the right to know how governments spend their hard-earned tax dollars. Governments in general believed that in 1886, when they named their first Auditor General, and throughout history, and we believe it today. Unfortunately, some individual governments had wandered from this concept.

We do believe in democracy. It must be increasingly more relevant, more apparent, more transparent and more accessible to our people. We do believe in this relevancy and accessibility, and we rest on the knowledge that people will feel better about their government when they know they are dealing with people who are transparent.

The Auditor General's office holds the key to much of that knowledge, and we have made the key fit the door that the former government had held quite closed. Bill 18 is no less an important component of our plan for the most ambitious democratic renewal in Ontario's history.

We are answering the repeated requests of the standing committee on public accounts to expand the powers of the Provincial Auditor to improve accountability of public organizations. We are responding to the demands of the public, who want more with regard to their economy and to the efficiency in the spending of their tax dollars. And we are taking appropriate procedures to measure and report on the effectiveness of programs that will make this province work so much harder and so much better in the future.

I cannot believe there is anybody in this House who doesn't stand for accountability. I know that when I knocked on the doors in my constituency, the seniors in particular would say, "I ask you to spend my money but to spend it wisely, to let me know what you're spending it on and to measure it, please, for its effectiveness."

That really isn't very difficult to ask, and it's certainly, as well, within the realm and the responsibility of this particular government to respond to. It is an important and integral part of this party's platform as we follow through on the promises and commitments that we have decided to make on behalf of the people who elected us to this Legislature.

So I wholeheartedly support the proposed Bill 18, and I understand that there will be additional speakers to this bill.

Mr Mike Colle (Eglinton-Lawrence): The people of Ontario sometimes have a hard time keeping up with all the different levels of government and how they operate. There are many of us in this Legislature who have had experience—as the member from Etobicoke Centre has, she's been a very involved trustee at the local Toronto school board and, I think, the Etobicoke school board. I mention that because the ordinary citizen assumes there is a very detailed oversight of all expenditures at every level of government, whether municipal, provincial or federal. I know that my experience at the local level and coming to the provincial level is that there's a certain gap in terms of oversight.

I can recall sitting in opposition—in fact, I sat on the public accounts committee—trying to find out how government at the provincial level approved expenditures. I remember inquiring about certain massive expenditures and essentially being told those are not dealt with in the House, they're not dealt with at this committee, they're dealt with in another ministry or dealt with at estimates. There was always a reason we couldn't deal with an expenditure item here on the floor of the Legislature. The assumption that there's line-by-line scrutiny is a vast stretch. That's why I think the public would be pleased if they understood that Bill 18 is really being put forward in terms of trying to bring more oversight to provincial expenditures.

We must remember that almost 80% of the monies the province raises are transferred to different partners; for instance, hospitals, school boards and other agencies. So there is a desire—I remember John Gerretsen, the member from Kingston and the Islands, saying for a number of years that there should be an expansion of the

Provincial Auditor's role. He thought it would be beneficial for the taxpayer, in terms of his or her knowledge, but also beneficial for elected officials, the MPPs, trying to follow the money trail as it left the Ministry of Finance and went off to various municipal partners and crown corporations, so we knew we were getting value for money.

It's all about trying to ensure that money that's very difficult to raise—as we well know, it's difficult to get people to accept taxes in the first place, but it is extremely difficult to levy these taxes, collect them and then not really be able to account for them. Bill 18, in essence, gives greater power and authority to the Provincial Auditor so that he or she can follow the money trail. That's what it's about.

I've had people ask me, "Ontario Power Generation spent \$3 billion supposedly trying to fix Pickering. They didn't fix it. What did they do with \$3 billion?" I get asked that question as an MPP, and I think members on the opposite side get asked the same question. I'm sure, whether they sat in the government on that side or in the government on this side now, it's difficult to answer. In other words, how could we not ask for an accounting of the \$3 billion spent? In part, they brought in the four consultants, the American dream team, who got paid \$40 million to spend \$3 billion. They didn't fix the problem, and we don't really know where the money went. It's not meant to be a partisan comment. It's just a question that is legitimately asked by ordinary Ontarians: "Don't you, as elected officials, follow that kind of expenditure?"

We are being asked how the Ministry of Education spends its money. Where does it go? Who can follow the money from the Ministry of Finance? Who allocates money to the various boards across the province or to colleges and universities? How was the money spent? Was it spent wisely? Frankly, we didn't really have a solid case to defend the expenditures, because our Provincial Auditor—and the number one watchdog of our expenditures is our auditor—could not go to the colleges or universities or municipal partners or crown corporations like Ontario Hydro or Ontario Power Generation and ask to look at their books. He couldn't do that.

1640

We're not talking about a minor expenditure. We're talking about landmark expenditures in our hospitals, in the health care field, to our municipal transfer partners and in hydro—OPG, Hydro One etc. We thought there would be checks and balances when we first came to this place, but in essence there are not enough checks and balances. Bill 18 is putting forward a very strategic use of one of the best departments in this Legislature, and that is the Office of the Provincial Auditor, who operates independently and reports to the Legislature. He does not report, nor is he accountable, to the government. He is accountable, through his annual report, only to the Legislature, and therefore is directly accountable to the people of Ontario.

Like many wonderful things we have in the British parliamentary system, the Office of the Provincial

Auditor is one of the most valuable offices we have here in the Ontario Legislature. The independence and objective oversight that office has are for the benefit of the people paying the taxes and to ensure that the money is well spent.

Up to this point, there were too many parts of government that were off limits to the Provincial Auditor. In other words, the Provincial Auditor could not go to Ontario Hydro, nor could he go to the various hospitals that spend billions of dollars, to see where and how effectively the money was spent.

We know that over past years the Provincial Auditor has done an amazing job in bringing to light essential weaknesses in our expenditure controls. We have seen it time and time again. I can remember the Provincial Auditor questioning the financing of and the whole process of selling off 407. He was the first one to red flag that. He said, "Is this an appropriate way of selling off a government asset?"

I remember him doing a report on the Family Responsibility Office and on our court system. It doesn't matter what area of government, the Provincial Auditor in past years has gone into these areas under provincial jurisdiction and written reports, and the annual report, which are available for the public to view and question, for the opposition to raise and for the media to expose. I think it's a very healthy part of our Parliament here in Ontario.

Like many things we have in this crazy thing called democracy, it's sometimes taken for granted. I think it's even better than the American system. You have this independent person who is directly responsible to the Legislature. I think they have the office of the Comptroller General in the United States, which is a little different. The Provincial Auditor is an office that I think is well worth every cent and every dollar we pay that person and all the people who work with the Provincial Auditor.

This act, for the first time in this province, significantly increases the scope and parameters of this office. This is a benchmark piece of legislation. I know people watching at home will say, "Well, here's another piece of legislation." Bill 18 is almost what I would call safety legislation. It's for the protection of the people of Ontario that money is not going to be squandered or sometimes not spent. It's not as if they're doing it deliberately; there just isn't someone giving a second objective opinion on how money is expended in another department of government.

I think many of the ministries sometimes welcome the fact that the Provincial Auditor comes in and not only suggests improvements but has solutions for them. It is a very important role, not only to criticize and point a finger at the ministry and say, "You shouldn't have spent that money that way and you spent too much," but also to make recommendations on how to get better value for dollars. Then they also indicate in the provincial report that the Provincial Auditor will return the following year to see if there has been any progress or success.

It is, again, one of the unheralded parts of government that doesn't get much profile. It usually gets one or two days of profile when the Provincial Auditor's report is tabled and, depending on how damning it is, it gets more media or less media. But it is an ongoing job of this Provincial Auditor to scrutinize, to give objective analysis and to do a value-for-money audit on the expenditure of billions of dollars. We cannot afford in this province to have any money improperly spent, and by that I mean money that perhaps could have been better focused in a certain area or more strategically used. We can't miss those opportunities. We've got to make sure that the money is targeted to where it can do the most good.

That's why in this government, too, we're also talking about outcome-based, results-based budgeting. If there is money being spent in a ministry, or now in some of these crown corporations, we want to make sure that those crown corporations are getting good outcomes. By that I mean, is there better service for that city in Ontario, better service for the students in our colleges or universities? Is there duplication or overlap? These kinds of comments will be priceless, I think, as the Provincial Auditor goes into these new areas, which, again, up until this point—and if this bill passes—were behind the curtain. They were off limits. The Provincial Auditor was not allowed to trespass into those hallowed halls of the universities or colleges or hospitals.

It's not being done to penalize our colleges or universities or hospitals. In essence, it is an opportunity to get a second opinion, to get a group of professional auditors who have experience in government to go in and compare apples to apples, to ensure that those investments of taxpayers' dollars bring the greatest result for the greatest benefit to the people of Ontario. We know there are not always going to be glowing reports about our ministries, as there were about ministries of the previous government, but at least at the end of the day we can all say that the Provincial Auditor's intentions were good and the Provincial Auditor was right in bringing attention to that kind of expenditure, or lack of proper expenditure, and we agree, whether we are in the opposition or in the government, it was money well spent.

That's why in Bill 18 we are going to give that Provincial Auditor, whose name we are now going to change to the Auditor General, the ability to scrutinize crown corporations, colleges and universities and some of our municipal agencies for the first time. Just to give you an example of how thorough this is, for instance, the Provincial Auditor under this act will have free access to records, all books, accounts, financial records, electronic data, processing records, reports, files, all papers and things on property belonging to or used by a ministry, an agency of the crown, a crown-controlled corporation or grant recipient. So the auditor will have unfettered access to all papers, books and documents.

1650

The Provincial Auditor will also have the power to examine under oath any person on any matter pertinent to

an audit or an examination under the act. That is significant power we are giving the Provincial Auditor. That Provincial Auditor can go to the university, college, hospital and can ask for an interview under oath. I don't think many of us realize that the Provincial Auditor had that power.

Also, for the purpose of exercising powers or performing duties under this act, the Auditor General may station one or more members of the office of the Auditor General in any ministry of the public service, agency of the crown or crown-controlled corporation. This is another useful tool. In other words, the Provincial Auditor doesn't just go in there for a day and say, "We want to see your books." The Provincial Auditor can designate members of his or her staff to stay in that ministry or crown corporation to get a fuller understanding and grasp of the operations of that crown corporation so that they can have a full, comprehensive appreciation of the intricacies of that operation as it is in that crown corporation or ministry. So they can have someone appointed to remain there to get a thorough understanding before they make a recommendation. It's not a hit-and-run, in-and-out type of audit which would not do service—

Mr Marchese: Thorough.

Mr Colle: Very thorough, as my colleague for Trinity-Spadina says. He wants to go in there to have a very thorough organizational view.

Another very important power that the Provincial Auditor has under this act is that no person shall obstruct the Auditor General or any member of the office of the Auditor General in the performance of a special audit. No person can destroy any books, accounts, financial records, electronic data—anything that's relevant must be kept intact so there's no way they can avoid laying all the data in front of the Provincial Auditor.

These are very necessary powers that go a long way in expanding the office of the Provincial Auditor. In the long run, by going into these crown corporations, we'll hopefully avoid some of the questionable expenditures in the past in some crown corporations or funding partners, and put them on guard too that all of us are under scrutiny. All of the ministries have been under scrutiny in the past. Whether it be the Ministry of Health or Ministry of Tourism, all ministries were subject. But now it's not only the Ministry of Transportation that has to be cognizant of the Provincial Auditor coming in, it's also now the presidents of colleges and universities and the hospital boards. They have to understand that they will all be subject to scrutiny. Not for the purpose of, as I said, vilifying or scapegoating, but for the purpose of ensuring that there are uniform standards of expenditures that are transparent and result in the best outcome possible, not for us so much as legislators, but for the 12 million people of Ontario who want to see their tax dollars—which are hard to come by—spent properly and wisely.

We've got before us a very significant piece of legislation which will not make the headlines in the major newspapers and it won't be the topic of late-night

talk shows or talk radio, but this is preventive medicine. What is the old saying in Leamington about an ounce of prevention—if you drink that much tomato juice you'll be able to avoid the doctor? "A tomato a day will keep the doctor away." That's what they say in Leamington. This is prevention. This is inoculation against monies—and as I've said, we're talking about massive expenditures of dollars that we transfer to our partners. We are going to use the Provincial Auditor to follow the money trail to ensure that everyone is using the same benchmarks, the same proper accounting practices and the same approach to ensuring that the people of Ontario will say, "That was money well spent. I won't agree with all the money that was spent, but at least it was money well spent because I have faith in the Provincial Auditor"—as, I think, most Ontarians have—"that there's someone acting as a watchdog." None of us in this chamber—never mind an ordinary citizen who's trying to make a living working, trying to raise a child, trying to take care of their elderly parents—has time to monitor \$75 billion of provincial expenditures. We can't do it.

That's why we need a watchdog of our money, like a Provincial Auditor, who in essence is someone we entrust with a very important role. We trust that job, and the Provincial Auditor, to ensure that every aspect of government is subject to scrutiny on a regular basis. As I said, it's a scrutiny that continues with benchmarks and reports that I think are very useful for us as legislators, even very useful for the ministries involved and, hopefully, the crown corporations involved.

This is really a bill, as I've said—I'll call it the bill for protection of the tax dollar. It's really a protection for the 12 million Ontarians who want to see their dollars spent wisely. I hope we will get unanimous consent on this bill. I don't think there's anybody on either side of the House who doesn't believe there should be expanded oversight over all of these billions of dollars that we spend.

I'm confident that the Provincial Auditor, given this expanded role, will in essence do the hard work required so that the taxes paid will be spent wisely and prudently for the good of all Ontarians. I think Bill 18, again, is a positive step. It's a benchmark piece of legislation, that I hope we can all support. It's good legislation, and I would hope you'll all support it.

The Deputy Speaker: Questions or comments?

Mr Garfield Dunlop (Simcoe North): I'm pleased to be able to rise and make a few comments on the lead-off speech by the minister and all of his colleagues on the Liberal side. I look forward to this debate, especially when the House is as warm as it is today. We know there's a lot of warm weather coming up in the next few weeks. It should be very interesting to debate a lot of these types of bills.

We've been referring to this bill as the Sheila Fraser act, simply because it brings out a lot of points that we've seen Paul Martin suffer at the hands of some of the Sheila Fraser report that came out and condemned many of the things that Mr Martin and Mr Chrétien had accomplished in the last 10 years.

I think what's important is that there's nobody, I don't think, in any political party that doesn't want to see more transparency in government. That's why I believe it will get a lot of support. I would suspect that in the end all three parties will support creating the position of Auditor General, I'm assuming after Mrs Fraser. I think for that reason, we on this side of the House will probably support that in the end.

However, we do look forward to all the debate that will take place on this. Obviously a lot of things have to be corrected, some of the things about partisan advertising. It's amazing when someone talks about the millions of dollars spent on partisan advertising by the previous government, yet if you go back through the NDP, through the Peterson government, through the Harris government, the same amounts of money, in perspective, have been spent on government advertising, plain and simple.

You're doing it already. Look at your Trillium hand-out, from the Trillium board. In the last copy I saw, there were eight pictures of members of the Liberal Party in the Trillium book. Plain and simple as that.

Interjection.

Mr Dunlop: No NDP members, no Conservative members, but eight Liberal members. I look forward to further debate on this.

The Deputy Speaker: Questions and comments. The member from Trinity-Spadina.

Mr Marchese: Spadina. Trinity-Spadina.

The Deputy Speaker: That's what I said.

Mr Marchese: That's what you said. I was just repeating it, in case. I have every reason to believe that all of the New Democrats will support this bill. I haven't caucused with them, but I have every reason to believe that we will be supporting it. The whole issue of transparency is important to taxpayers and citizens alike. We all want accountability in terms of where public dollars are being spent. So in this respect, there's no reason to think that anybody would be opposing such a bill.

Here is a question we pose to you: This individual has expanded powers, beyond that which he or she had in the past. We now know that they will be able to do audits of hospitals, school boards, universities, colleges and crown corporations such as Hydro One and OPG. This leads me to believe that the expanded powers give more burden and greater responsibility to the Auditor General and his or her staff, and therefore it would seem to me that that individual could use a couple of bucks.

1700

There is nothing in the bill or in this discussion that makes me believe that you folks have thought about this, or if you did, none of you articulated the need to put in a couple of dollars for this office. I would assume you would agree with me that if he is going to have these expanded powers, with all these additional responsibilities, then the money should follow. Mike, I know you said you can't put it in the bill, but I didn't hear any one of the five speakers—because I think there were four or five—say, "Money will follow. Don't you worry." Make me believe that.

Mr John Wilkinson (Perth-Middlesex): I am very happy to speak to this, to the Minister of Finance and his comments, to his parliamentary assistant and my colleagues. My comments have to do with the fact that I grew up in a family of auditors. My father is a chartered accountant, and beyond that, he's a certified fraud examiner. He's one of these people who actually goes into the court as an expert, whom the courts rely upon to tell about fraud.

One of the things we've looked at is that you have a situation where there is a difference between what's known as a quantitative audit and a qualitative audit. A quantitative, as you know, is whether the credits and the debits add up: Is there any money missing? But it doesn't answer the question, how was the money spent? Was it spent well? Was it spent to achieve the result that was requested or was it wasted?

We have audits with all of our transfer partners. When we send 80% of the money that we have to spend out to school boards, hospitals, universities and colleges, we merely ask, is the money missing? "We gave you the money. Did you spend it?" We don't have the ability, until we pass this act, to ask the question, are we getting value for that money? When you put in quantitative audits, what you get is people knowing, "Don't steal the money. Someone is checking. Someone is checking to make sure that at the end of the project it all adds up. Don't even think about stealing the money."

But now we need to progress. As the member for Etobicoke Centre said, we haven't reformed this act since the 1800s. We need to go into the modern age. The modern age says that we have to ask that question, are we getting value? The mere fact that we can ask that question will raise the standards and send a message to all of our transfer partners that, "Now you are accountable for the value for the money that you receive from taxpayers." That's why I am very pleased to support this act and I'm encouraged that other parties will support this act as well.

Mr Jerry J. Ouellette (Oshawa): I appreciate the opportunity to rise to speak on Bill 18, An Act respecting the Provincial Auditor. I very much appreciate the comments. When you read the bill, there are a couple of areas of concern that I hope we'll be able to find out about, possibly through the committee process.

Under subsection 4(1): "The term of office of the Auditor General is 10 years and a person is not eligible to be appointed to more than one term of office." In 4(2) it says: "The Auditor General continues to hold office after the expiry of his or her term...."

If I was in government and didn't want a new person after 10 years, I just wouldn't appoint a new one. Effectively, what somebody could do is extend that time as long as they wanted to so that the same individual could retain that time. I think some timelines need to be in there that within a period of time he has to be replaced. Otherwise, some governments could continue on with the same individual if they desired. Well, that's up to the government of the day.

The other one is 9.1(1), where it speaks of "a reviewable grant received." What is a reviewable grant in order

to be looked at? What is the process to initiate a review of that grant? I think some of this stuff comes out, as members will find out, through the regulation process. These are just some of the things I think we would like to find out about. "On or after April 1, 2005, the Auditor General may conduct a special audit of a grant recipient with respect to a reviewable grant received...." What is the process to start that? Can the public at large come forward and say they'd like to have this reviewed? Is there a process to go through that? Hopefully the government members may be able to enlighten us on what the intent is in that area as well.

The municipalities were also mentioned. I wasn't sure I caught the full remarks on that, but it says in subsection 9.1(2), "Subsection (1) does not apply with respect to a grant recipient that is a municipality," and then when you get down to 9.2(1), "The Auditor General may examine accounting records relating to a reviewable grant received directly or indirectly by a municipality." What's the intent there and how would it unfold? Hopefully the members will let us know that.

The Deputy Speaker: Reply to the questions and comments?

Mr Colle: I want to thank the member from Oshawa for those comments. Staff have already started looking at those. I think as we go through this bill, those are the kinds of questions we've got to clear up. I also want to thank Mr Wilkinson, the member from Perth-Middlesex, "the agricultural capital of Canada," he calls it. Maybe we should call this the Wilf Wilkinson Memorial Act, since his father was a famous auditor from Belleville. They called him the "Belleville auditor." I also want to thank my colleague from Trinity-Spadina.

This bill is quite valuable to all of us, as I think the comments have noted. If we can make this bill work, it's going to bring a lot more credibility, not only to the Legislature and how we spend money, but also to all our transfer partners. At first, there was reluctance to do it. I remember the origins of this when, as I said, the member for Kingston and the Islands, who was chairman of the public accounts committee, would constantly ask in opposition that this kind of legislation be brought forward. We made that commitment in our platform, we made that commitment in opposition, and we are now bringing Bill 18 forward because it is sound, it is what is needed, and I think in the long run the public of Ontario will be better served if there's this wider power to the Provincial Auditor.

As the member from Trinity-Spadina said, there is an issue of resources here, that taking on more tasks will certainly involve appropriate resources, and we're cognizant of that. But in essence I think there's agreement that the functions of the Provincial Auditor are worthwhile functions that we need to invest in, and this bill, for the first time in decades, expands the role of a very important office, the Provincial Auditor.

The Deputy Speaker: Further debate?

Mr John O'Toole (Durham): It's a pleasure this afternoon to rise on behalf of the opposition party, and I

should alert you that I will be sharing some of the time with various members of our caucus who will have the courage to stand and speak to this very important bill.

I think the member from Simcoe North said it best: It's called the Sheila Fraser Act. That should ring some sense of fear into the Minister of Finance who, as we all know, is potentially under investigation, just prior to getting to present the first budget in the province of Ontario—under a cloud, I might say, but I won't go down that road. I'll just say that the member from Eglinton-Lawrence, as the parliamentary assistant to the Minister of Finance, is here today. I was pleased he responded to the member from Oshawa, who raised a couple of very good points, I might say. In fact, they're points that are intended to be part of my remarks this afternoon, however brief they might be.

I looked at this bill, and I'm going to go at it in sort of—it's not really that large. For those viewing this afternoon, it's 12 pages. Half of it's French, so that means it's six pages and, of that, there are two full pages of scheduled agencies. So it really comes down to about three or four pages, pretty much general wording, changing the name from the Provincial Auditor to the Auditor General, and giving him authorities that everyone in the House would agree with.

In fact, in some ways it's a compliment to me personally—and I don't want to take this—because I did serve, as Mr Colle would know, as parliamentary assistant to the Minister of Finance for a couple of years, and take great interest in this topic. In fact, it was on December 3, 2002, that I introduced Bill 218. It was a private member's bill because, having been in the ministry and listened in public accounts, as well as on the finance and economic affairs committee, which I am still on, I introduced this bill entitled An Act to amend the Audit Act to insure greater accountability of hospitals, universities and colleges, municipalities and other organizations which receive grants or other transfer payments from the government or agencies of the Crown.

1710

In fact, when I reviewed and parallel these two bills, the current bill that we're debating, Bill 18, and my own bill, basically the title on my bill is a little bit longer, more specific, but I thank Minister Sorbara for respecting the hard work that I and my caucus at that time did to bring accountability.

In fact, I have some remarks on the former Provincial Auditor, Mr Peters, for whom I had a lot of regard and, I would say, considerable respect. I'm going to introduce this and try to see if those listening today can sort out the explanatory notes, mine or theirs, and see if there is any difference.

“The bill will amend the Audit Act to enable the Provincial Auditor to have access to the financial records of crown agencies, grant recipients and crown-controlled corporations. The auditor is authorized to audit the financial statements of grant recipients. It is an offence to obstruct the auditor in the performance of the audit. The auditor is allowed to examine people under oath. The

auditor is required to keep information confidential that comes to the auditor's attention while performing the duties under the act.”

That's just the preliminary. Here's another one; it's another bill. For the viewers here, we're not all chartered accountants, but I think we have to have oversight on public expenditures. No one would disagree with that at all. I think for the general public it's interesting to understand that there's about a \$70-billion-plus budget, and of that \$70 billion, I would say about \$60 billion is transferred to the partners that are mentioned that will be under this audit. Those partners would be municipalities, universities, schools and hospitals, often referred to as the MUSH sector. It will extend to crown corporations, which would include OPG, Hydro One—the whole energy sector would be subject to this in terms of those public sectors.

The explanatory note in another bill I'm reading here should be somewhat common:

“The Audit Act is amended to change the title of the Provincial Auditor to Auditor General and to make corresponding changes to the title of the Assistant Provincial Auditor and the name of the Office of the Provincial Auditor.” These are basically mechanical things that they're doing. There is one section here, as I start to move into this, and the member for Oshawa mentioned this as well:

“Section 4 of the act is ... to specify the term of office of the Auditor General is 10 years. A person is not eligible to be reappointed.” I would like clarification of reappointment within the term, because there are some other sections here that would allow the auditor to be suspended, which raises the question of the independence of the auditor. I think there needs to be some further work done on this bill. I hope that it would be sent to committee.

“The new section 9.1 of the act authorizes the Auditor General to conduct special audits of grant recipients, other than municipalities”—that was raised by the member for Oshawa—“and of crown ... corporations and ... subsidiaries. The expressions ‘grant recipient’ and ‘special audit’ are defined in ... section 1 of the act.”

All this is to say that there is no one on any side of the House who doesn't want complete accountability and transparency. So my sentiments in remarks from the opposition are that we for a long time—not just the fact that I introduced this, and I'm going to repeat it, back on December 3, 2002, and now again the bill, as I've demonstrated, is almost a word-for-word lift. I thank legislative counsel for the advice they gave me and for the fact that we followed it—in fact, I would say that even in the public audits you would see that much of the advice given by the auditor during the auditor's annual report while we were in government—it was clear that we were very supportive of many of the recommendations he made. I think the member for Trinity-Spadina outlined it earlier, when he asked the question of the minister or his parliamentary assistant, “Where's the money?” Quite honestly, they're creating not just a new

name for the office and the new roles and the much broader expanding mandate, but where is the money? We will be looking carefully.

The Minister of Finance announced today that the budget would be on May 18, which is good. I think technically we will be waiting to see if there is any money. In fact, I will also be looking at it from my own audit perspective, as is my duty, to see if any of the 230 promises are fulfilled: the 8,000 nurses; a maximum of 20 students in classes in schools; or perhaps they will roll back the toll on the 407; or maybe they will reduce auto insurance. In fairness, I doubt it. They haven't enacted any of those.

In fact, the member from Whitby-Ajax asked a question of the Minister of Finance today, and I didn't feel satisfied by the answer. I'd like to refer that question directly to the auditor. Would that be allowed under this bill? Could members, who are completely blocked from any kind of reasonable answer, follow up with the auditor directly from this House? I'm looking at members and ministers in the House today.

I know there was an announcement last week by the Minister of Training, Colleges and Universities. I've had it from my college president, it's in the press, it's in the media: It's not enough. They've put a freeze on tuition for two years, which is good, but that reduces the revenue to the colleges and universities and it reduces the money for our students. I put it to you that there will be fewer classes and there will be more in the classes. That's what will happen. I can tell you as sure as I'm standing here that they've really introduced larger class for the colleges and fewer specialty classes.

The problem I find throughout most of this is that the accountability must be extended. In fact, I think members of the opposition and certainly the critics of those particular ministries must be able to refer unanswered questions in this House—whether it's the tolls on the 407 or whatever—to the auditor, to specifically direct their actions. I put that on the floor here today. Hopefully there will be responses to it.

I'm going to start driving a small bit further down into the detail. This is the Ontario Economic Outlook and Fiscal Review that was presented here by Mr Sorbara earlier in the year. I just want to get a couple of things on the record. On page 8 of Mr Sorbara's document—I'm reading his own document here—he says this “must be our watchword as we begin to redesign government.” This is under the title “Restraint.” It goes on to say, “So we're asking our partners in health care, in education and in the rest of the broader public sector to temper their requests for more.” I think that's a very clear signal of predetermining the outcome of fair collective negotiations.

It goes on to say, under “Redesigning Government,” in the minister's own words, “In education, for example, we need stronger student achievement in numeracy and literacy. We need to reduce our health care waiting lists and we need to improve our air quality.”

There are a number of commitments there, not just the 230 promises—I'm trying to stay focused here. I'm

wondering if we can audit that. That would be a good place to start. We're all here. We go to the people, we lay out our platform, and I am of the view that this is an issue before all parties here today. I'd like to have all the platforms costed and put to the people honestly, because today's public are much more informed, and I think much more engaged, than in years gone by.

This is in response to the standing committee on finance and economic affairs, the pre-budget consultation process. I'd be happy to supply copies of any of these documents I refer to and quote from to persons who want copies. Just call my constituency office or log on to the Web site and you will find out who I am and what I'm about, as well as listening to your concerns.

In the pre-budget consultations there were a number of things outlined that I think are important. There is a list of recommendations; for instance, “that the government keep its promise to tell taxpayers what specific improvements we expect from every new investment, and provide a value-for-money analysis for any program spending increases or new program investments.”

That sounds reasonable. That recommendation was turned down, voted down by the six members of the government, the Liberal caucus members. It was under that whole shadow of “Were they listening?” that the 49 recommendations, almost exclusively, were turned down—almost all.

1720

For instance, we had a very respectful presentation in Niagara Falls. The member from Erie-Lincoln, Mr Hudak, was there. I commend him on the record here today. He stood and presented a very valid argument. This is recommendation number 39. I'm going to read it. He drafted it, I believe:

“That the requests from the Sherkston Shores campground for the introduction of a tag/sticker program on recreational vehicles and the Minister of Finance to stop the current policy of assessment be referred to all affected municipalities, especially the city of Sarnia, the Ministry of Municipal Affairs, MPAC and the Ministry of Finance for their comments; and

“That these comments be forwarded to the standing committee on finance and economic affairs for consideration.”

This just brings me to one point that I really want to put on the record here: MPAC, the Municipal Property Assessment Corp, is another corporation—

Mr Lou Rinaldi (Northumberland): You formed it. You wrote the rules.

Mr O'Toole: You're the government now.

There's a presentation from John Holt from CLT Canada—and Marcel Beaubien, I might say, did a great deal of work in the whole area of assessment, trying to get it right.

Interjections.

Mr O'Toole: They're barking; they're trying to shut me down. I'm trying to be as patient and respectful as possible, under some pressure.

MPAC would be a very good place to start the audit, I'd say immediately.

Interjection: Yesterday.

Mr O'Toole: We may be getting behind on that audit.

Again, I'm just drawing to your attention that these are recommendations to make the government more accountable. There was one section in here—I'm looking for it and I'll probably find it. This is with respect to Mr Peters's audit of the \$5.6 billion. I'm quoting from page 5 of the standing committee report:

"The report on the review of the 2003-04 fiscal outlook prepared by Mr Peters builds a case for a potential \$5.6-billion pressure on the province's finances, but there are several factors that must be considered at the same time. Firstly, Mr Peters clearly states in the introduction of his report that he 'carried out a review, which does not constitute an audit.'" The reason that the report does not constitute an audit is that Mr Peters was granted access to only a select amount of information, selected by the government, the McGuinty government. Under Bill 18, they will be in non-compliance with the bill for refusing to submit all the documents, a barrier to the auditor. Maybe we should go back and have a look. Is the bill strong enough? Does the bill go far enough? "Without complete access to all the government's financial information, it was impossible for Mr Peters to perform a complete analysis of the status of the provincial books."

If we had Sheila Fraser there—talk about the ad scandal.

Interjections.

Mr O'Toole: The interim auditor is just that, interim, because Mr. Peters has left. I would make a recommendation here on the floor today that we hire Sheila Fraser. Let's get to the bottom of this thing now. Let's start and go forward.

Interjections.

Mr O'Toole: Secondly, for those listening, Mr Peters's report contains an opinion of the state of the province's finances at a point in time that he expresses. Here's a quote: "no opinion as to what the actual deficit for the year ending March 31 ... will be". There it is. That's the end of the quote. Those are very technically important details.

There's one other thing, in the short time I have left. I want to make sure that my good friend from Barrie-Simcoe-Bradford has a chance because, as a practising lawyer—and Deputy Speaker, I might say—he hardly has enough time, sometimes, to fulfill all his duties outside of here. But he does want a lot of speaking time. You can usually catch him Thursday morning, if you're so interested in his legal interpretation. But you'll have to wait until Thursday.

The last validation—this is quite an important document. For those members that are paying attention—there are a few—this is a report of the office of the provincial controller, fiscal and financial policy division, Ministry of Finance. It was issued in January, 2004—rather current. I'm quoting from page 19:

"As in the private sector, public sector organizations are subject to independent audits. The government of Ontario relies on both internal and external audits. Internal audits work with the ministries to ensure that proper control of spending and other financial activities are followed as activities are planned and carried out." Here's the point: "The office of the Provincial Auditor acts as the external audit for government. In December 2003, the government tabled amendments to the Audit Act that would give the office wider powers, including value-for-money audits."

Really, that's what I want to get down to. It's fine for ministers to stand in their place and pontificate, whether it's on energy or health care. We heard today that many vulnerable people are being denied access to a life-saving treatment by the Minister of Health. A value-for-money audit would determine, whether it's a child with autism, if it is a value-for-money experiment. When the Attorney General, Michael Bryant, is in court denying people access to autism treatment—intensive behaviour; quite expensive. A value-for-money audit and those things, I think, are appropriate in those particular cases.

I do have a number of other points that I would like to make, but out of respect for my good friend and seatmate, Mr Tascona, who has been quite constant at nagging me to wrap up my time. So with that, there's much more to be said on Bill 18. I support it conceptually because it really does replicate—for the readers, they should get a copy of Bill 218. It was introduced by me on December 3, 2002. Thank you for your time, and good bill.

Mr Joseph N. Tascona (Barrie-Simcoe-Bradford): I am going to be speaking with a number of other colleagues. I really appreciate the member from Durham relinquishing the floor today. I would say that, as usual, he spoke to the point. He said he was only going to speak 10 minutes, but what's the extra half-hour?

Mr O'Toole: Let's have it audited.

Mr Tascona: It's already on the time. I don't think you have to audit it.

I want to speak on the bill. This bill has got a lot of different provisions that I think have to be addressed, perhaps with some amendments coming forth. One of the clauses, which is clause 12, the new article 9.1, limits the power of the Auditor General to begin work under this bill until after April 1, 2005. The date today is April 19, 2004. So the act is set up so that the auditor cannot go back farther than grants received after this bill comes in effect. What's happening is grants that are being given to these agencies, crown corporations and their subsidiaries, now and up to April 1, 2005, are not going to be subject to this act.

I would suggest very seriously that if this act is to have any substance at all, it should be amended to give the auditor the power to act immediately once this legislation is given royal assent, which in all likelihood could be given at any time, depending on how fast the government wants to put this bill forth. There were two bills last week when I was in the Chair that were given royal

assent. Bill 15 and Bill 47 were given royal assent last Thursday. So the government can move this bill along.

1730

Obviously it is a bill that has some merit. And certainly we are looking to give the auditor greater powers. As the member from Durham indicated, that's something he was looking for even last year, in terms of greater authority.

There's also the new section 10, which gives the Auditor General broad access to information and specifies that "disclosure to the Auditor General ... does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege." This section has to be explored in detail as to its effect on the use of the information given to the Auditor General.

There's also a new section 11.2, which deals with access of the Auditor General to information, and punishment if access is impeded or documents are destroyed. The question is, is the punishment outlined sufficiently severe, where we see that you have impeded access or documents have been destroyed?

There is also a new section 12, which outlines the content of reports of the Auditor General. We should question whether these statements are sufficiently broad, and do they allow for special reports?

There's also a new section 27, which deals with secrecy on behalf of the Auditor General employees who receive information. Section 27.1 deals with the issue of privileged information. The question is, how did these clauses affect the use of information given to the Auditor General?

The new section 27.2 deals with the protection of personal information which may be given to the Auditor General. The question is, are these protections sufficient? That's something that has to be looked at.

Now, the bill may be sufficient, as far as it goes, but it should be amended to give the Auditor General the power to begin operation under it immediately. I don't know why there's a delay until April 1, 2005. That's going to have to be explained by the minister responsible.

The question also is, what is the balance to be achieved between the protection of privacy and the use of information by the Auditor General?

Also, what resources will be dedicated to the Auditor General to ensure the ability of the office to carry out work under this act? That's something that's going to have to be dealt with.

But I want to refer, at this point in time, to the red book, as we'll call it, which was part of the election platform of the Liberals. It says, "Government that Works for You," and in that document there's a section that deals with "Accountable agencies and appointments." It states, "We will lift the veil of secrecy on government agencies and appointments. Major government agencies, boards and commissions are large and important bodies. Yet they operate with too little accountability to the people of Ontario."

Well, one of the major accountability issues—and I sit on the committee for agencies, boards and com-

missions—is when there are appointments to these agencies and boards of the government; and the one loophole that the government has decided not to close under the standing orders is where there's an interim appointment, which means it's not a full-time appointment and reappointments. Neither one of those comes before the agencies, boards and commissions committee. They bypass it, because if you do an interim appointment—the government has done a number of them, for example, under the Ontario Municipal Board and the Assessment Review Board, to name two; and also under the Ontario Lottery and Gaming Corps boards—that's another one where they made an interim appointment. Neither one of those appointments went through our committee. And any reappointments will not go through this committee.

I think if the government wants accountability, if you're making appointments as the chairs and the head persons of those particular commissions, why wouldn't you allow the agencies, boards and commissions committee to at least interview these individuals? I've put that on the record at that committee a number of times, and I would hope that when we deal with democratic renewal, that's something the government's going to look at in terms of dealing with that particular committee to make it truly accountable.

The other question is, there seems to be a slowdown with respect to the FOI process, which is certainly not playing by the rules in terms of releasing or answering information from FOI requests. That is just not being done. If we're talking about transparency and accountability, why is that freedom of information process being slowed down? There has to be an answer given to us by the Minister of Finance, who's responsible for this particular bill.

Just to digress for a moment, I want to point out to the members that I just received number 11, the MPP birth certificate update from the Minister of Consumer and Business Services, Jim Watson. I appreciate getting this update because it proves to me that he is a very responsible minister.

But he still hasn't fixed the problem. He goes on to say, "I'm pleased to report that the office of the registrar general is securely on track to provide better service to the citizens of Ontario. Staff at the ORG are continuing to increase the number of certificates issued. The total number of calls and the number of requests to our call centres continues to see a decline, and there has been a 20% decrease in the average number of telephone calls received from MPP offices."

What he also reports is that 62 person-days of overtime were worked in Thunder Bay and Toronto on the weekend of April 3 and 4. The minister is in the House and I want to thank him for this update. I've been keeping them. I have number 9, number 10, and number 11 now in my office. We had a good conversation the other day, and I want to put on the record that we have just been deluged in my office by these birth certificate requests. What happened was, the registrar's office,

which is responsible for it, had been sending them down to my office. I bring that to the minister's attention and hope that practice is going to stop—I know he's working hard on this problem—because we're not equipped to deal with all these birth certificate requests. I think I probably have the third-largest riding population-wise.

Interjection: We need an audit. Is that dealt with in this legislation?

Mr Tascona: Perhaps this may have to be subject to an audit. That might be a good one with respect to what's going on on this particular issue. But the minister is working with us. I've got number 11, "MPP Birth Certificate Update," and I want to point that out for the record, because I'm looking forward to number 12. My staff is still working hard on that issue, and we're just not staffed to deal with those types of problems.

I also want to digress for a moment to—I was at the multiple sclerosis walk yesterday, which was a tremendous walk in my riding. I believe we raised over \$130,000 for the MS walk. They have a number of issues and one they pointed out to me yesterday, and I'm glad—well, the Minister of Transportation was here. But what he's undertaken to do, to his credit, is to deal with the disabled parking permit program review. To the credit of the Minister of Transportation, he has said that he's going to review this program. I'm looking forward to the disabled parking permit program review because that was an important issue, and I raised it at the walk for MS yesterday. And I can tell you that that's a big issue for the Simcoe county chapter of the Multiple Sclerosis Society newsletter that I received. This walk was across the province. It's also a provincial organization, which is where we're going with this review.

That's something that's very important as we progress with respect to accountability and transparency. So I wanted to compliment the Minister of Transportation on undertaking that review, and also the Minister of Consumer and Business Services for providing me the update number 11 with respect to birth certificates.

I have raised a number of issues with respect to how this bill applies. I don't know whether the parliamentary assistant's here in the House. I'd like to get an answer in terms of why it's not in effect until April 1, 2005. We know this bill can be put through fairly quickly and given royal assent and can be made active fairly quickly in terms of the fiscal year that's coming up. What that really means is that this bill won't be effective until next fiscal year, April 1, 2005. We just entered fiscal year 2004.

That's all I have to say on this bill. I know other members—Laurie Scott wants to speak on this, and other members who are here, so I'll give up my time now—much shorter than the member from Durham in terms of his time—so we can continue.

1740

Ms Laurie Scott (Haliburton-Victoria-Brock): Thank you to all the speakers on this bill this afternoon.

I would like to follow up on some of the remarks that have already been made by my colleagues who have spoken before me. I'm sorry to go over ground that has

already been covered, but I do feel it's important to emphasize some of the areas of Bill 18 which could be strengthened.

As a new member of the Legislature, it's important to bring forward the changes that may help the bill become a better piece of legislation. The first area which our caucus feels could be made better is in clause 9.1. This is a clause that allows the Auditor General to begin his or her work under the new legislation on April 1, 2005, as was mentioned, notwithstanding the fact that this will come into effect on April Fool's Day, which, in my opinion, is never a good idea. But I agree with my colleagues from Durham and Barrie-Simcoe-Bradford that the important part here is that the legislation should come into effect as soon as it is passed, and the sooner, the better.

I understand that there may be a need for some delay in the implementation due to the need to change over other regulations, but I'm sure the minister has received this advice from the lawyer of his ministry. Notwithstanding the ministry's lawyer's advice, I believe it is important for the public to have the legislation become effective immediately upon its passage. Bringing the legislation back to April 1, the auditor cannot go back further than the grants received after this bill comes into effect. Allowing the bill to come into effect immediately allows the auditor to react sooner.

The Auditor General's new powers around the balance between achieving the protection of privacy and the use of the information collected is the second area where we would like to see Bill 18 tightened up. New clause 10 gives the Auditor General broad access to information and specifies that, "A disclosure to the Auditor General ... does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege."

New clause 27 deals with secrecy on behalf of Auditor General employees who receive information. As well, clause 27.1 deals with the issue of privileged information, and clause 27.2 deals with the protection of personal information that may be given to the Auditor General.

The balance between the public's right to know information and the right of the individual to their own privacy is an important issue which many governments, both provincially and federally, have struggled with for many years. My constituents will want to know if this government has taken into consideration this important balance. As an example, what are the assurances from this government that they have cross-referenced Bill 18 with the changes that have been made in Bill 31, the act with respect to the protection of health information? Bill 18 broadens the Auditor General's ability to examine the books of school boards, municipalities and, of course, hospitals. Does Bill 18 contemplate the changes being made under Bill 31? Very often the preparation of legislation within a ministry is done with care and proper preparation within that ministry. However, often in large governments when bills are being prepared which cross ministry boundaries, the due diligence is not as strong.

For example, I hope the Minister of Finance and the Minister of Health and their staff have done the proper work that's entailed in the preparation of these two bills.

In our rapidly changing society, with the advent of new technologies and the explosion of access to information through computers, we want to make sure on this side of the House that the government is properly protecting the right of privacy of individuals yet enhancing the powers of the Auditor General.

The third area which I would like to bring to the attention of the Legislature with regard to Bill 18 is the proper funding of the expanded role of the Auditor General's office. The bill contemplates a large increase in the potential audit capabilities of this office. In this House, we all know that the power to expand the Auditor General's authority is only theoretical if it is not backed up by proper funding and staffing. I look forward to the budget—the date was announced by the Minister of Finance today to be May 18—to hear whether the government will properly fund these expanded powers.

The Liberal government has made many public statements about the perceived size of the province's deficit. This government has already spent \$3 billion of taxpayers' money in the last six months. They have many more promises from their political platform that they must fund. I hope that this government is not increasing the powers of the Auditor General for political expediency. That proof will be in the amount of money that this government puts toward the implementation of this bill.

I have been following the federal government's auditor, Sheila Fraser, and I commend her for all the work she's done. Certainly, transparency and accountability should be the number one priority of this government. There will be an investigation into this government and its actions as soon as possible.

I hope that they do put the money toward the expanded powers of the office and that the government commits to its actions and it's not just rhetoric.

Thank you for the opportunity to speak to this bill today. I turn it over to my colleague from Simcoe North.

Mr Dunlop: I'm really pleased to be able to rise and speak for a few moments on Bill 18—as I called it earlier in one of the two-minute comments, the Sheila Fraser act.

I want to thank the member for Barrie-Simcoe-Bradford, the member for Durham and my colleague from Haliburton-Victoria-Brock for their fine comments on this particular bill. In particular, I want to thank Ms Scott. As a newcomer to this House, I think she has been a very valuable member of our caucus. We're very proud of the fact that she has done so much hard work and is working very hard on behalf of her constituents in Lindsay and all those little communities that make up the great riding of Haliburton-Victoria-Brock. As you know, she had big shoes to fill with Chris Hodgson leaving this House; he was a very well respected member. I have to say to her constituents what a great job she has done.

We've had some interesting topics already today. The first thing I think of is the comments made earlier today

on volunteer recognition in this House. I think we all look around from all of our different ridings. What a great week it is when we can actually recognize the volunteer work that goes into this great province. We hear it over and over again in our ridings. I spent the whole weekend at various functions. I didn't get a chance to say it in a statement today but I wanted to congratulate people who really aren't looking a lot today at an auditor bill; I wanted to congratulate the people of Elmvale for the fantastic job they did on the weekend with their annual maple syrup festival.

As well, we talked today about the Ontario Trillium program for organ donation. What a fantastic program that is as well. In different provinces across our country—actually, it's even advertised on some of the hockey games and the sports events. I'm noticing there's a lot more advertising making people aware of that particular drive to make sure more people are aware of that.

Then we get around to the announcement today by the Minister of Finance. The Minister of Finance says that there's going to be—surprise—a budget on May 18. What a surprise. I wonder how many people guessed that date. We knew three weeks ago that that was the date. When you were in opposition on that side of the House, you begged every year, “We should have a budget by the end of March every year in this House. What's wrong with you?” By God, here we are later, we're back here in this new Liberal government, and you've already stretched it out almost to the first of June. How are the school boards and the hospitals going to get their grant allocations protected? How are they going to know what kind of funding they have to work with?

1750

Why do you think they actually announced May 18—four days after the by-election. You know what? I don't think it's going to be a very pretty budget, and I think those folks over in Hamilton might have a different opinion on this. I think they actually are concerned the Liberals might lose that riding, and I don't think they're going to be very happy about that, so, “We shifted it over to May 18.” I know that Mr Sorbara would never say that, but I think that was the underlying thought behind announcing it in this House today, the same as he announced last week this fantastic decrease in auto rates, a 10% decrease. Yet we've heard nothing but horror stories that everybody's insurance rates are going up. Last week he told us they're going down, and now we're counting on him to commit to those words.

I'm a little bit concerned when he starts talking about the Sheila Fraser act. The Minister of Finance stood up today and talked about all the wonderful things that this government will be doing. I was surprised that he's still on the Americanization-of-Ontario politics. I can't believe this, these fixed election dates.

The minister, Mr Sorbara, when he was on this side of the House, brought in a private member's bill. We couldn't believe it. He wanted to Americanize Ontario politics with fixed election dates. He got very hot, very upset about that. He's still on that path. I don't know if

we want that here in Ontario. I don't like fixed election dates myself. Quite frankly, I can't see the advantage.

I like the fact that we're different than the United States. I'm a true Canadian patriot. I believe that there's something special about having the Premier or the Prime Minister having the flexibility in calling that election date. The Minister of Finance spoke about that quite a bit in his opening leadoff today. He talked about Americanizing Ontario politics again with the fixed election dates.

Very simply, I think it's kind of nice watching Paul Martin run around after the Sheila Fraser reports. We're talking about the Sheila Fraser act here, but I'm referring to the Sheila Fraser reports. He doesn't know when to call an election. Possibly the Minister of Finance or the Prime Minister would like to actually have more—I'm glad now he has that flexibility because he's in big trouble. He's in huge trouble. He looks like it, when you see him speak now. He looks like no one believes him any more. He looks like that.

So that's why I'm kind of interested to see what the Sheila Fraser act will—

Mr Levac: Are you running federally?

Mr Dunlop: No, I'm not, but I'm very interested in Mr Martin. We sat on this side of the House for eight years, and you folks as well, and we watched Mr Martin and Mr Chrétien just crucify the health care system. We watched them crucify our Armed Forces.

Now we're finding out that the Sea Kings are going to be 50 years old before they're replaced. Brian Mulroney was going to have them replaced in 1993. Now they'll be 50 years old. We're expecting young people in our military to float around, to serve our country in 50-year-old helicopters. That doesn't sound like Americanizing Ontario politics.

The other thing—

Interjections.

Mr Dunlop: I'm sorry, I didn't mean to be getting under anybody's skin here.

The Deputy Speaker: Order.

Mr Dunlop: The other thing he started talking about today was banning partisan ads. That's really interesting. I look at some of the ads we had on in the last couple of years, the ads on Telehealth. What would be wrong with telling the people of Ontario they should have a Telehealth system? We spent hundreds of thousands of dollars on Telehealth. We told the public about how valuable that program was. You're not going to cancel Telehealth, are you? Is that part of your budget plan? You're not going to cancel that, are you? I sure hope not. It's a fantastic program.

I bet all you folks from ridings in northern Ontario really appreciate Telehealth, because it's through the whole 705 now. It's got to be a fantastic program. We had to advertise that. We had to put ads out on that to inform the public. We made millions of little fridge magnets etc to make sure that the public knew about Telehealth.

Flu shots: Partisan advertising is informing the public about flu shots?

Interjection: We didn't say that.

Mr Dunlop: Yes, you did. Flu shots were part of our advertising program. We informed everybody with large newspaper ads all across the province how valuable flu shots were for you. And I think you did the same thing last fall. After you were elected, I'm sure you ran ads asking people to get out and get their flu shots.

Then we have all the information thanking the public, thanking the citizens of our province, thanking our health care professionals for doing a fine job with SARS. There were millions of dollars spent on that advertising, and we informed the public. I really don't think there was anything wrong with that. I would hardly call that a partisan ad.

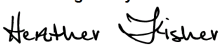
The fact of the matter is there are so many things—too bad Mr Bradley isn't here right now. The Ministry of Tourism has great programs for the marketing of our province. Even after the SARS recovery—and I know Mr Bradley has followed up on our program with the SARS recovery money. I'm pleased that he has. I think he's done a fantastic job. I think it's important that we market this beautiful province, whether it's in New York state or Quebec or Manitoba or Wisconsin. We have to get people in here to spend their money, and that should get them used to seeing what we have here: one of the most wonderful places in the world to live.

I always brag to my colleagues, especially to the member from Parry Sound-Muskoka, Mr Miller, that I have the best riding in the province for tourism. He argues against me every time. I understand this year the bikers are all going to go up to Parry Sound-Muskoka and I'm disappointed. I thought they should have come to Simcoe North and had their convention there because I happen to think my riding is the best riding across the province as far as being an overall good, valuable riding. It's very diverse. I hope Minister Bradley, the Minister of Tourism, will continue to spend money on SARS recovery funding and all those sorts of things. Again, a lot of partisan ads have gone into OTMP. Maybe it's a bad thing, but I hope the minister will pick up on that.

Then you had your town hall meetings. I actually had my own town hall meetings and they were very well attended. I didn't use the expensive brochures that Mr McGuinty supplied. I understand that the consultant who ran those town hall meetings actually cost the taxpayers of Ontario over half a million dollars. Is that true? Maybe somebody can correct me in the Q and A after, but I think half a million of our hard-earned taxpayer dollars, from our working families here in Ontario, to be paid to a consultant to have town hall meetings is far too high. I think he could have done it in a much more orderly manner that would not have cost quite as much money. But we're not going to go there today, OK?

Then we have all the partisan ads about informing the public on things such as black bears and the spring bear hunt and the difficulty Ontario had with that last year. The Ministry of Natural Resources I think has done a remarkable job of trying to send out an educational program to all the different people across our province,

This is Exhibit "J" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)



No. 49

N° 49

ISSN 1180-2987

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

**Journal
des débats
(Hansard)**

Monday 17 May 2004

Lundi 17 mai 2004

Speaker
Honourable Alvin Curling

Clerk
Claude L. DesRosiers

Président
L'honorable Alvin Curling

Greffier
Claude L. DesRosiers

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2295

“Whereas meeting the requirements of regulation 170/03 has meant and will mean excessive costs and financial burdens for all drinking water system owners; and

“Whereas there is no demonstrated proof that this new regulation will improve drinking water that has been and continues to be safe in rural municipalities; and

“Whereas Ontario regulation 170/03 was passed without adequate consultation with stakeholders throughout Ontario; and

“Whereas stakeholders should have been consulted concerning the necessity, efficacy, economic, environmental and health impacts on rural Ontario;

“Therefore, be it resolved that the Legislative Assembly of Ontario abandon the implementation of and immediately repeal regulation 170/03, as well as amending the pertinent enabling legislation.

“We, the undersigned, support the attached petition.”

I do as well.

ONTARIO BUDGET

Mr Khalil Ramal (London-Fanshawe): “To the Legislative Assembly of Ontario:

“Whereas the parliamentary tradition in Ontario of presenting annual budgets in the House of the Legislative Assembly has existed for decades; and

“Whereas the previous government in 2003 showed disrespect for our public institutions and the people of Ontario by presenting a budget inside a private, for-profit auto parts factory; and

“Whereas the Dalton McGuinty government and the current Minister of Finance will be presenting the 2004 budget inside the Legislature on May 18, 2004;

“We, the undersigned, petition the Legislative Assembly of Ontario to uphold parliamentary tradition and hold a public presentation and debate of the 2004 budget, and every budget thereafter, by our publicly elected members of Parliament inside the legislative chamber.”

I affix my signature to this petition.

ONTARIO DRUG BENEFIT PROGRAM

Mr Norm Miller (Parry Sound-Muskoka): I have a petition from my constituents in Parry Sound-Muskoka.

“To the Legislative Assembly of Ontario:

“Whereas the Liberal government has said in their election platform that they were committed to improving the Ontario drug benefit program for seniors and are now considering delisting drugs and imposing user fees on seniors;

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

“To halt the consideration of imposing an income test, delisting drugs for coverage under the Ontario drug benefit plan or putting in place user fees for seniors, and to maintain the present Ontario drug benefit plan for seniors to cover medication.”

I support this petition and affix my signature to it.

ORDERS OF THE DAY

AUDIT STATUTE LAW AMENDMENT ACT, 2004

LOI DE 2004 MODIFIANT DES LOIS EN CE QUI CONCERNE LA VÉRIFICATION DES COMPTES PUBLICS

Resuming the debate, adjourned on May 10, 2004, on the motion for second reading of Bill 18, An Act respecting the Provincial Auditor / Projet de loi 18, Loi concernant le vérificateur provincial.

The Speaker (Hon Alvin Curling): I understand that it's on the opposition side.

Mr John Yakabuski (Renfrew-Nipissing-Pembroke): I'm pleased again to rise to address Bill 18 here in this chamber, as I did last week before we moved on to other business.

The first thing I'd like to do is congratulate Andrea Horwath for winning the Hamilton East by-election. It's a big win for the NDP. I think it's a big win for Ontario. The Liberals went to Hamilton with the wallet open. They were going to buy the by-election. But the people have repudiated their platform in spades—or maybe not their platform; maybe the fact that they just can't live up to their platform—by sending an NDP member to the House here. I do congratulate Andrea for being successful.

We had a very good candidate, a very fine candidate ourselves in Tara Crugnale. We were very pleased with the campaign we had. However, it wasn't our time in Hamilton East.

I think what has been demonstrated clearly is that the people of Hamilton East—and they're representative of the people of Ontario—have had it. They've had it with the broken promises of this government and they're only seven months into their mandate. So they've sent a clear message to the government, and we're hoping that the government is hearing that, because tomorrow, as you know, is budget day.

I'm going to get back to that a little early because we are talking about Bill 18, respecting the Provincial Auditor. While we're substantively in agreement with this bill, we do have concerns about it as well. One of the things I started to talk about was the lack of retroactivity in this bill, which goes against the grain of this government because it is a government of retroactivity. It likes to go back on everything, including private school tax credits, the seniors' education property tax credit and a number of other things, but it doesn't want to give the auditor the power to go backward if there's a problem that should be looked into.

One of the other things we're concerned about is, is this just a smokescreen on the part of the government to try to convince people that they're actually doing something concrete and solid about making sure the auditor has the necessary powers and ability to bring down a report that will be clear in its judgment when it

comes to misdeeds on the part of the government and spending your money, or are they just trying to cover up the fact that they haven't really done a whole lot as of yet and they're trying to convince us that they're really concerned about the money? The way that this government has been spending money should be a concern to everybody. It should be a concern to all Ontarians, the way this government is spending money.

It goes back to what really is the Liberal principle and the Liberal way. They don't have the ability to manage money. They just have the ability to take more of it. They just want to take more of your money. That was clearly the way they governed between 1985 and 1990. They had the biggest tax increases in Ontario's history at that time, but they're outstripping them in this government.

What this government fails to understand, but the people of Ontario understand, is that there's a lot of concern about what's going to happen tomorrow with this budget. The auditor should be worried about that too. They've already broken promise after promise, and tomorrow, watch out. If you've got zippers on your pockets, you might want to do them up, because tomorrow is going to be a tough day for Ontarians. They're going to be digging in there, and they're going to be digging in there deep.

What the average Ontarian can't do is say, "I want to buy this or buy that," or "I want to get a new this or a new that. All I have to do is go to my employer tomorrow and say, 'By the way, my wages have just gone up 20%. I'm just raising my wages.'" You see, you can't do that as an employee in Ontario, or anywhere else in the free world that I know of, because you have an agreement with your employer. You're paid so much for the work that you do.

But what the Ontario government wants to do now—they're going to need more money. They say, "We need more money." They shouldn't be saying, "We need more money"; they should be saying, "We've got a situation where we promised we were going to balance the budget, so we're now going to do that." But no, what do they do? They go to people and say, "We need more money. We're just going to you and we're telling you that you'll be paying more." You can't do that as an employee, but they're doing that to the people of Ontario in spite of the fact there was an ironclad promise on the part of the Premier that said, "I will not raise your taxes."

1550

What else is going to happen tomorrow? A myriad of user fees could be coming our way. The people of Ontario are going to take a hit tomorrow like Sonny Liston is coming back from the grave. It's going to be like one of his left hooks; it's going to be the knockout blow. I'm really concerned about what's going to happen tomorrow.

But I want to get back to this auditor's act. The bill respecting the auditor should certainly be dealing with regulation 170/03 as well. I'm looking at the impact of that on people in my community and all across rural Ontario. It's going to be devastating.

Last week the minister, under intense pressure from the people of Ontario, rural people, the Progressive Conservative and New Democratic Party caucuses, backed off a bit and announced a moratorium. Well, that's not good enough. We've got to know what's actually going to happen out there, because they're just buying six months of grace. The Liberal Party is just buying six months of grace so that six months from now when the summer is past, when the campgrounds have had their summer, "We're just going to slide it under."

The minister has the nerve to get up here and say, and say to the press, "This is a flawed piece of legislation. That's the problem. The problem was the previous government." I'll tell you, the minister had no problem putting this ad in the newspaper back in the spring. She was all sold on 170/03. Had she herself not read the regulation? Did she not know the impact that was going to have on people across rural Ontario? Did she not have any idea?

This has come back now in spades. People in my riding and in rural ridings like those of my friend from Simcoe North, my colleague from Haliburton-Victoria-Brock, my colleague from Parry Sound-Muskoka and other rural ridings have brought this issue back, and the minister is getting nervous. Do you know why? She's a little worried about what's going to happen in Hastings-Frontenac-Lennox and Addington as well because it's a serious oversight on the part of bureaucrats that they have allowed this regulation to get this far. There have got to be some substantive changes made. A six-month moratorium won't do. There have got to be some changes and we should be made aware of them as soon as possible.

Of course, we are talking about Bill 18, An Act respecting the Provincial Auditor. As I said, substantively we want to see a tough act that gives auditors strong powers, because the auditor is going to have a heck of a job on his or her hands over the next 10 years, looking after the mess this government is going to be creating with the financial situation and the money they'll be taking out of the pockets of people in Ontario.

There's no doubt that the tax burden on the people of Ontario—I don't know exactly when tax freedom day is in the province today, but under the previous government it continued to get earlier and earlier in the year because they ran the province without having to take all your money. They increased health care spending to a record over \$28 billion in this province and lowered your taxes at the same time. This new government is going to raise your taxes, empty your pockets, empty your bank account, and you're going to be left with nothing.

The Speaker: Questions and comments.

Mr Rosario Marchese (Trinity-Spadina): While I agree with the member for Renfrew-Nipissing-Pembroke on some matters, I have to express some reservations about the previous Conservative government. John, if you could create a deficit—let's say it isn't \$5.6 billion; let's just say it's \$4 billion—in good economic times, it worries me.

People understand that you might create a deficit in difficult times—some people might, if they want to be

frank, although Liberals always want it both ways. They often say of the NDP, about when we were in power, "You didn't spend enough." For example, tuition fees: "You increased tuition fees by whatever percent," they would say.

In the same breath, paradoxically, they would say, "Yes, but you created the deficit. We would never create such a deficit." You understand the dichotomy of Liberal politics. If you create a deficit, they say, "Ha, only New Democrats do that. Liberals wouldn't do that." If you don't spend on some programs in that recessionary period, Liberals accuse you of not spending enough and cutting back. You understand the point I'm making, don't you?

Mr David Zimmer (Willowdale): Explain it to me.

Mr Marchese: Only Liberals can do that. See, you understand, I've got my own problems—to which I will speak, whenever I have an opportunity—with Liberals. Don't misunderstand me. I've got a lot of concerns about that. They refuse, for example, to tax the highest-income individuals in Ontario because they made a taxpayers pledge. I know you have disagreement with that, too, in different ways, but I believe that's the fair way to go in terms of where you get your money. So because they don't want to break that promise, they're going to go after everyone tomorrow with marriage certificates, licences, birth certificates, death certificates. You name it, tomorrow you're going to get whacked.

Ms Jennifer F. Mossop (Stoney Creek): I'm very happy to respond to the statements of the member of Renfrew-Nipissing-Pembroke.

First of all, I hope the Tories also listen to the voters in Hamilton East, because they got so few votes in that election they didn't even get a blip on the graph. You weren't even on the radar screen in this thing. I hope you listen to the message that those people sent to you.

They're telling you, "We know what you did when you were in power. We know the mess you left, we know the damage that you did, and we know the mismanagement. We know that is why there is no money. You didn't leave us any money to do anything with. You spent it all, and then you spent some more. Then you tried to hide the fact that you spent it all, and then you spent some more." That's why I am supporting this bill, because we don't want people trying to hide the things that they do, when they give untendered contracts to their friends and they create extra layers of bureaucracy and keep the money out of the grass roots programs.

So yes, it is going to take us a little while to clean up the mess, but we are rolling up our sleeves, we have consulted the people of Ontario, and I'm telling you that next time we go to the polls in Hamilton East and all across this province, you will find a very different result, because we will have done the work. We will have cleaned up the mess.

Your result will not change; I'll tell you that. You'll still be down there, just a bare little blip on the graph down there with your votes, because people won't forget

too soon your legacy, and we won't let them forget too soon the legacy that you left.

This is a very, very important initiative. This is a very important bill and initiative. We have to have accountability. We have to have accountability all throughout government and crown corporations, in every corner. We cannot leave any stone unturned when we look at how the taxpayers' dollars are being spent. It's coming out of my pockets, it's coming out of your pockets. It's coming out of everybody's pockets, and we have to be accountable and responsible, and we will be.

Mr Garfield Dunlop (Simcoe North): I'm pleased to rise to make a few comments on my colleague the member from Renfrew-Nipissing-Pembroke's statement today in the House. As you can tell, he's a very knowledgeable person. He understands exactly what's happened here in the past and where we're going in the future. He makes a very valuable new member, and we're very proud to have him in our caucus.

I listened with interest to some of the comments. I think we've got a real issue. Tomorrow is a very special day, of course, in any government, and for the Premier and for the Minister of Finance, it's their opportunity to try to showcase their platform and to showcase where the government will be going in the future.

I think, of course, they've got some very, very severe problems, and the severe problems really account for the billions of dollars that you made in promises during the election campaign and throughout the previous two years leading up to the campaign. They all weren't made in the 30 days of the election campaign. I have people coming into my office on a regular basis showing me letters from Mr McGuinty about what he promised in a certain segment or a certain issue. Of course, those people are back now, wondering: "This is what he showed me. Here's a copy of the e-mail. Here's a copy of the letter. It looks like he's not going to fulfill his promise." And we say yes. Of course that all relates back to that 60-page cabinet document that you refused to release to our party. That document, we understand, basically shows the spending promises, the cost of your election platform. That would have been in the tens of billions of dollars. They're trying to dilly-dally with this \$5.8 billion, which is really peanuts when you compare it to the tens of billions of dollars in election promises that you promised to the citizens of Ontario. Of course you'll pay for that tomorrow, with Mr McGuinty's and Mr Sorbara's first budget.

1600

Mr Khalil Ramal (London-Fanshawe): I'm honoured to rise to talk about this issue, which I spoke about last week. It's very important to all of us. As we've detailed in the past, it's important to our government and it's important to the taxpayers of this province.

I was astonished when I heard the member from Simcoe North say \$8 billion is not important for our budget and not important for our economy. I don't know what he's talking about. That's why, I guess, there was mismanagement by the past government, spending

money left and right regardless of any issues. They have no respect for taxpayers' money. They call it peanuts. Eight billion dollars should be spent on health care, education and social programs. The member has no respect for the money, no respect for any issues. He has no respect for taxpayers' money. He called \$8 billion peanuts—nothing, not important. No wonder, after eight years of mismanagement, that government put us in the hole. That's why we have a lot of problems in health care, problems with education, problems with our social programs. Those people have no respect for the value of money and no respect for taxpayers' money. That's why we're in a mess.

I guess if we pass this bill it's going to be important to all of us. At least we're going to have an auditor to monitor every penny that goes out of this government, used and invested wisely in our infrastructure, in our health care, in our education. I recommend that all members of this House support this bill, because it's important to every one of us, regardless of party. Regardless of the party we come from, we have to remember one thing: We are here to protect the people of this province; we are here to protect the taxpayers' money.

The Acting Speaker (Mr Ted Arnott): That concludes questions and comments. The member for Renfrew-Nipissing-Pembroke has two minutes to reply.

Mr Yakabuski: I want to thank the members from Trinity-Spadina, Stoney Creek, Simcoe North and London-Fanshawe for their comments. I hoped I would be responding to their comments on Bill 18, but they hardly addressed it. They've gone all around the bill. Anyhow, I do want to comment on some of their comments, particularly the member for Stoney Creek, who wanted to talk about the deficit.

You know, every home has a budget. In our house, we plan to buy a certain number of things during the year, and we have a budget. If we get partway through that year and things aren't turning out the way we expected, we have to make some changes. My wife and I sit down and we say, "You know, we can't afford that. We're going to have to make some adjustments on the expenditure side or try to make some adjustments on our income side."

Do you know what? That's the way you run a budget in the province of Ontario too, except now that the Liberals got elected. They got elected in October, half-way through the budgetary period, and they did nothing. They did nothing. They were well aware of the terrible year 2003 was, with respect to unbelievable events—SARS, mad cow, West Nile, the hydro blackout—that made such a tremendous impact on the budgetary situation of the province. It was up to them to sit down and say immediately, "We've got some issues here. We've got to address them." How did they address them? They spent six months whining and crying about the last government, how it ruined the province, how it left them in such a bad state. But they didn't do a thing to mitigate the financial situation. Now we're at budget day tomorrow, and it's going to come back to haunt them.

The Speaker: Further debate?

Mr Marchese: I'm happy to have the opportunity to speak to this bill, or indeed any bill that comes before this House. Without having consulted all the other New Democrats, I suspect the majority would support this bill. It's really not offensive to anyone that I am aware of. I think it will do some good things, and in this regard I will be supporting it.

The couple of things it does do: First, this auditor is going to have a new name. Rather than the Provincial Auditor, we'll have the Auditor General, something that will strike fear in the hearts of many individuals and institutions in the same way that Sheila Fraser has struck at the heart of so many Liberals at the federal level. In this regard, it can do nothing but good, because wherever there is malfeasance it should be found, and who better than the Auditor General? Who better? The other thing it does, of course, is that the Auditor General will now do audits of hospitals, school boards, universities, colleges and crown corporations such as Hydro One, OPG—no problemo. This is good.

People should enjoy today, particularly as it relates to this bill we're debating, because come tomorrow, a whole lot of people are going to get whacked. They're not going to be happy. Come Mr Tuesday mañana, a whole lot of people are going to be coming after the Liberals like you've never seen.

Mr Ramal: How do you know?

Mr Marchese: I'm going to tell you. The Liberals refuse to tax the fat cats, those who have money. You wouldn't dare touch people with money. The Tories wouldn't do it, certainly, because they continued with their tax cuts on the fat cats. What will Liberals do? What will they do? What will they say? What did they say they would do? They have a pledge that they're not going to increase taxes. I understand the Tories, but the Liberals signing that dumb pledge that Monsieur McGuinty signed? I don't know. It was not one of the greatest acts in a lucid moment of a Premier, in my humble opinion. It was a serious mistake.

In refusing as Liberals to tax those who have—fat cats, let us say—what are the options for tomorrow's budget? The options are that they're probably—well, they've gotten away from taxing fat, I understand, which is good, because they were about to do the stupidest thing, David, of taxing hamburgers under four bucks, you know, that kind of stuff, fatty foods. They were going to try to get away with it by explaining that this is for the betterment of people's lives, that this would be better for their health if they taxed sandwiches at \$4 and less.

Mr Ramal: It was a rumour, sir. It was a rumour.

Mr Marchese: They were about to do stupid things like that because they failed to take on the fat cats, those who have money to give, those who have been the biggest beneficiaries of the Tory tax cuts. Liberals are going to leave them alone, because the Liberals, McGuinty, signed the pledge: No new taxes. So tomorrow, good citizens, get ready for a shellacking, a whacking, because they need money.

What are they going to tax? Alcohol. It's easy to tax alcohol. Tobacco. It's easy to attack tobacco. They're going to increase fees on marriage licenses, birth certificates, death certificates. By the way, on the birth certificate stuff, I've got to tell you, I was waiting for my marriage certificate for about seven months, and they're going to increase the fee to get it. Maybe you won't have to wait seven months, maybe it'll be six, but I have a suspicion that it will be probably 10 months or a year from now if you're applying for a marriage certificate. It ain't coming. Imagine this: I waited seven months, and people are waiting for birth certificates for six, seven months to a year. David, can you believe that? You might say you'd understand it if the Tories did it, but under a Liberal jurisdiction, you would think it would be fixed today. People in need of a birth certificate are still waiting. So you're going to get whacked tomorrow with higher fees for birth certificates that you've got to wait a year to get—not a pretty thing.

1610

Interjection.

Mr Marchese: “Where would you get the money?” I just explained, David. You want me to explain it again? If you tax income, it's fair, it's just, because under the progressive income tax system we have in Canada, those who have a little more pay a little more. Unfortunately, there are so many gaps and loopholes that rich guys, people who know how to get around the laws, are able to save money. But income taxes are the fairest way to get the money. That's what I was saying to David. That's how you should get it. But he and his colleagues refuse to do that.

Wait for tomorrow; good news is coming. I'm waiting, George. George says, “Be here.” I'll be here, George. I hope to be closer to you. We'll have to wait for yet another week and a half or two, but we'll be closer to you soon, George. By the way, George, I wouldn't miss that budget announcement tomorrow for the world. In fact, I'm drooling at the prospect of what the finance minister might deliver tomorrow.

Fat cats, you're OK under the Liberals. Poor folk, wait for a shellacking tomorrow. It's sad, for Liberals who often gesture thusly, as a way of expressing that they have a heart. There's no heart there. It's gone. It's dead as a rock, as solid as a rock. There is no heart. Tomorrow you'll see it.

Instead of reinvesting, they're simply reinventing themselves. They are going to reinvent government in the same way the Tories tried to do it. This is another way of reinventing government, by saying, “We'll be more efficient. We'll dig out the extra dollars somewhere.” I don't disagree with that. If there are dollars to be had in terms of how money is invested or how it is not invested properly, if this does it, I say, God bless; this is a good thing. But it's about reinventing yourselves, not re-investing.

You've broken every promise. The only promise you should have broken is that you will increase income taxes on the wealthy as a way of recovering lost revenue,

approximately 16 billion bucks by that previous government. If you don't recover that lost revenue, you are operating under the same box. You understand that, Doctor? It's the same box. If you are operating under those tight guidelines, you've got to squeeze rocks for the extra money. You just can't do it. It's not going to work. That's why I say that I drool at the prospect of what it is that you might offer tomorrow.

Michael, you guys are about to whack families with a health care fee that McGuinty in opposition said was bad, was wrong. Now, this is rumour, says my friend from London-Fanshawe. He says, “It's only rumour,” the way George and others are saying, “It's only rumour. Everyone's speculating about rumours.” I've got no problem with floating ideas, getting some feedback, and if they're bad, you throw them out—no problemo. I think it's OK, but if this rumour were to be true, that tomorrow you're going to announce a health care levy, one that McGuinty opposed, it's bad.

This is not to say that McGuinty hasn't broken any other promise. God knows the list is long. Why review those lists? It's irrelevant, really. Everyone knows. As Leonard Cohen sings, “Everybody knows.” Isn't that a good song? I love that song. But everybody knows, so why enumerate the litany of broken promises?

I'm telling you, good citizens, keep an eye on the budget. Keep George accountable. Greg Sorbara—Mr Tuesday, Father Tuesday, Reverend Tuesday—tomorrow, he'll fix things. He'll fix things, all right. That's why I'll be here.

Speaking to this bill, it is a good bill. But David, I hope you're amused by everything else I'm saying.

Mr Zimmer: I'm paying careful attention.

Mr Marchese: That's good.

Speaking to this particular bill, there is never any mention of extra pecunia to do this work. You understand that these are expanded powers we're giving to the new Auditor General, expanded powers to do more, because now you're going to go after colleges etc. So you need more money, right?

Ms Caroline Di Cocco (Sarnia-Lambton): You have to be here at 4 tomorrow.

Mr Marchese: You got it. You knew where I was going. See, the Liberal rump here and others knew where I was going. I wasn't even so subtle, I suppose. I don't know. But if you've got more work, the Auditor General says, “Give me the money. Show me the money.” Remember, the Auditor General—

Ms Mossop: We'd show you the money if they had left us any.

Mr Marchese: Now, you can blame the Tories all you want, but when you introduce a new bill, it becomes your bill—not theirs, yours. So the problemo around this bill, as I was trying to express before you were just interjecting, is that you need some money. Do you agree?

Ms Mossop: I agree.

Mr Marchese: OK. The rump here agrees that we need more money for the Auditor General to do this job. Has anyone heard any Liberal, minister or otherwise, say, “We need more money”?

Mr Dave Levac (Brant): No.

Mr Marchese: No. Exactly. I haven't heard one Liberal say, "Don't you worry, Marchese. The money is coming."

Mr Mike Colle (Eglinton-Lawrence): I told you last week.

Mr Marchese: Michael, you indicated as a gesture to me—"Where's the pecunia?" That's what I said. "Where's the pecunia?" Right? When I did my two-minute—

Mr Colle: Health and education.

Mr Marchese: No, I'm talking about this bill. Forget health and education at the moment, although I could go on on that. But let's stick to the bill, right? The Auditor General says we need more. I say it's only obvious that if you expand his powers, you'll need more. Michael Colle agrees with me that, yes, you need the bucks. Hopefully, it will flow. What more can I say? I'm assuming, because you like this bill, there will be hearings, and I suspect there will be lots of people saying what I am saying: Where's the money?

Hon Harinder S. Takhar (Minister of Transportation): Give it to the NDP.

Mr Marchese: The Minister of Transportation says, "Give it to the NDP." Please, I wasn't asking that. God, it's not for me to have the money. It's for the Auditor General to have the money, because if the Auditor General has the money, that individual, man or woman, can independently do the job that Bill 18 wants him or her to do. The money is connected to the independence of that position so that you're not begging the government constantly for money. I understand this. If the Auditor General doesn't get the money, one could become somewhat soft and vulnerable in one's ability to independently criticize the government, because if the money is not there and the money is to flow based on the kinds of decisions the Auditor General makes—you understand—the Auditor General could potentially lose his or her independence. You will agree with that, as a lawyer?

I think he agrees—passive agreement. I believe it's connected. Give the person the money so they can do the independent job that you, I suspect, want them to do. So I suspect the money will flow.

Yes, there will be some people out there—institutions no less, like hospitals, universities, colleges, school boards—who will argue, "We're already doing this. Please, we don't need an Auditor General's review, because we're already doing it." They will argue perhaps that this is redundant. They will say, "Why would you spend money to do something that we're doing?" I'm sorry. I say to those institutions or to individuals in those institutions, what our Auditor General will do is to look for value for money.

Yes, we agree with the concept, and why wouldn't we? Yes, let's review processes and procedures to make sure that we, as funders of these institutions, agree with the direction they're going in. I've got no problem with the fact that some people will object, and I disagree with the objectors, should there be any—I suspect there are—

if they argue that, or argued it or will argue it in the future. I think this is OK, and I think the Auditor General, whoever that person will be, if they are like Mr Peters—remember him? You guys hired him for a while. He was a good man. I liked Mr Peters. I liked him because he played no favourites with any political party. That's what you want in an Auditor General.

You want an Auditor General like Mr Peters, who was equally scathing of New Democrats, equally scathing of Tories and, I suspect, would have been, had he been here, equally scathing of Liberals, because I think he's a very ethical person. He wants to do the job, and he wants to do it right.

1620

So my hope is that we will have someone like Mr Peters or a Sheila Fraser type at the federal level who will dig deep into the annals—

Mr Zimmer: The bowels.

Mr Marchese: —the annals, bowels of malfeasance, possibly, and fix the problems, wherever they might be.

Mr Zimmer: The Tories' malfeasance.

Mr Marchese: The Tories were bad, and he would have found something equally bad in the Liberal administration, had he remained. But not to worry, because whomever you hire will do the job as effectively and objectively as Mr Peters. Some people describe Mr Peters as an equal opportunity scathing officer. I think that's true. I always liked him. I dealt with him in committee, and I found him always to be a very fair man.

This bill proposes a 10-year term. I think a 10-year term is good. I think it's good to put in the legislation. Clearly, it wasn't in previous legislation that you had a defined term. I think that's a problem, because people in such a position, under the way it was written in the bill, could be there for life. I don't think it's right.

I don't think it's right for people to be there for five years and then assume or pretend that the job is theirs, should they say, "Yes, I'm willing and interested in remaining as the privacy and information person." With all due respect, I believe she's a very able person. But I hear tell from a number of sources clearly that she might have resigned if she didn't get the appointment, and I don't agree with that. If a person is able and competent, they should have the confidence to reapply for the job and not ask the government that it be given to them without that process of interviews, where you go before peers and you're judged on merit and your experience. So I disagree profoundly with what you did in not rehiring and having all three political parties being part of that, but rehiring based on what principle I can't define, can't explain and can't defend.

So I'm happy that Bill 18 puts into place a 10-year term. After that, I presume that person is gone—"Sayonara. Thank you very much for the work you've done"—and we move on with another person. I prefer that kind of scenario, where things are very clear. The old process wasn't clear, and the process the Liberals selected for the rehiring of the privacy and information officer was, in my view, mistaken and wrong.

So the leader's been stood down. I suspect our colleague will speak to it. My suspicion is that they will support the bill too, but I don't want to speak for her.

Coming back to the comments I made in the beginning, I get awfully tired when the Liberals complain about New Democrats: "God, they didn't spend enough," and "God, they spent too much." It's tiring. It really is tiring. You would think, after a while, Liberals would learn something and say, "We're in charge now. We've got the limousine. We've got the wheels. We've got some extra money. Yes, we're going to get a reduction because we can't balance the budget"—it's not a big deal, I suppose; a couple of bucks less. But you're in charge now, and you've got to move on.

I've got to tell you, some of your ministers look bad when they constantly say, "Oh, but you did this," and "Oh, the Tories did that." After a while, it gets so tiring. Just do the job. Do what you want to do. Do what you can do. Talk about what you're doing to deal with the problems you've got. Defend what you're doing, and hope for the best. At the end of it, you just hope for the best. I would prefer that. But to attack New Democrats in the 1990-95 period, when we are accused of creating a deficit and not spending enough, is inconsistent, you understand—paradoxically not smart to say.

I'm happy to say I'll be supporting this bill.

The Acting Speaker: Questions and comments?

Mr Levac: I appreciate the opportunity to comment. The member from Trinity-Spadina did me a good favour; that is, he actually spoke about the bill and indicated that he and, without putting words in his mouth or assuming anything, I suspect the NDP are on side with this, on the understanding that Bill 18, the Audit Statute Law Amendment Act, is something that is good for the province and good for the people of Ontario.

One of the things I've said from the very beginning is that I wanted to bring the message and concerns of the people of my riding—110,000 voices—to Queen's Park and have Queen's Park assist us with what we need to do for our hopes, dreams and aspirations, particularly with the money they give and loan to the government to spend back out and not have Queen's Park tell them what it's going to do to them.

I think that's exactly what this bill is about. It's taking the action the member was talking about. What action are we going to take? Well, we're going to take this action because we've seen years and years of the way we put money over here and it disappears, and put money over there and it disappears and doesn't get fed this way. This is accountability and clarity. It's very clear and it's going to be transparent. It's opening it up.

Eighty per cent of the money spent by government agencies is spent outside the realm of this Legislature and the auditor. We're going to bring that in and say, "We should be accounting for all the money that's being spent." Disclosure of where that money is going is what the people of Ontario want. They want to know that the money being spent on all those institutions that are supported by provincial money is accountable and transparent—we can see and it's clear.

I want to thank the member from Trinity-Spadina. That's what he was talking about, and I think he supports that. That's the good news about this.

Mr Gerry Martiniuk (Cambridge): It's always my pleasure to listen to the member for Trinity-Spadina. He has always entertained me, but on those occasions when I listen closely, he has a great deal to say, a great deal of wisdom, in my opinion. It was interesting that he varied from the bill somewhat, in that he had to instruct some of the hecklers from the Liberal benches as to their responsibilities in this House.

Responsible government is what we have in the parliamentary system. It's not representative government; it's supposed to be responsible government. We have a bill before us that is presented by the government, and they are responsible. But I can't help but think that the viewers get confused at times, because I certainly do.

I recall meeting with a group of Japanese students travelling through Cambridge, who told me about their form of government. They have a single, unitary government and one for their municipality—two little governments. Then it was my turn. I had to explain to them what government was like in Cambridge. First of all, we had a city, which they had. They recognized that. Then we had a school board, which was way over here. They were elected representatives. Then we had a regional government. So we're up to three levels of government already. Then I had to explain to them that we had a provincial government for the province of Ontario and a federal government. By the time I had finished explaining, and perhaps I didn't do a good job, they were somewhat confused. We get calls from our constituents daily looking for information, and they also get confused as to who is responsible for what.

1630

Mr Colle: I wanted to comment on the debate by the member from Trinity-Spadina. I think he made some good points. Bill 18 is bringing forth additional powers to the office of the Provincial Auditor. There's no doubt that he will take on more varied and challenging tasks, because now he will be going into the whole area of hospitals and universities and looking at their various accounting practices and making sure they adhere to accepted accounting principles, as he's done here in the Legislature.

I think Mr Erik Peters, who was here for the eight years I've been here, certainly gave credit to the office of Provincial Auditor. He was impeccable, extremely fair and tough. Sometimes the public doesn't appreciate that officers of the Legislature are doing an amazing amount of work for the public, protecting not only the public purse but also the public interest, making sure institutions are being run fairly and in a very efficient manner and that they are following accepted practices. That's what Bill 18 is about, and we think this is a step forward in ensuring there is more accountability in government.

I would like to correct my friend from Cambridge: Yes, this government is responsible, but since 1837, from William Lyon Mackenzie, we have responsible and rep-

representative government—you can have both. So having representative government doesn't preclude being responsible.

Anyway, this is good legislation. It does a lot of good for the public interest, and that's why I think all sides are supporting it.

Mr Pat Hoy (Chatham-Kent Essex): I'm pleased to rise and make a few comments in this debate on Bill 18, which encompasses various aspects of the Provincial Auditor. The role of Provincial Auditor in this province is to be cherished by the people of Ontario. The Provincial Auditor ensures that monies that are collected by not only this government but governments in the past and most assuredly into the years ahead are spent well. We want to make sure the monies are spent to the benefit of those persons who have entrusted governments with their hard-earned tax dollars.

In the past, the auditor has made reports on all governments and keeps governments in check, making sure that further recommendations put forward by the Provincial Auditor are acted upon, so that indeed those monies are well spent and the accountability of elected officials remains paramount. The Provincial Auditor's main role, in my mind, is to ensure that we who are entrusted with those dollars spend them wisely and to the benefit of all. This is indeed a step forward in that regard.

The bill talks about the term of office of the Provincial Auditor. I think it's important that there be continuity in that occupation. I think, too, that the person who holds that office must continue to have the trust of both sides of this House, not only the government but also the opposition side, so that the people of Ontario are served very well through the initiatives of not only our government but governments of the past and governments that will be here for many years to come.

The Acting Speaker: That concludes questions and comments. The member for Trinity-Spadina has two minutes to reply.

Mr Marchese: I thank the respondents and have a reaction to some of them.

First of all, I'm supporting this particular bill. My suspicion is that some others in our caucus will too, but I can't speak for them. Secondly, the members from Brant, Eglinton-Lawrence and Chatham-Kent Essex spoke about the need to expand the responsibility of the Auditor General into other fields. I understand that. I wasn't disputing it. No one is. We don't have to explain to the public, each and every one of us each and every time, why we are doing it. I think we understand it. It's for that reason that I said we need the money to be there to support the functions of the Auditor General. But no one spoke to that. Not the member for Brant, the member for Eglinton-Lawrence or the member for Chatham-Kent-Essex spoke to the issue, the recognition that the responsibility is heavier and, therefore, "We agree with Mr Marchese when he says we're going to have to put some more money in." Not one cent. Maybe other speakers will, as they speak—possibly next. But if you assure us and the public that the money is coming, people

will feel a little better, because no one is arguing that the position you're creating with expanded powers is bad. I suspect most speakers are saying it's good. But if not accompanied by money, it's a problem. That's mostly what I spoke to. There are other things I spoke to, but I hope other Liberals will address that when they speak to this bill.

The Acting Speaker: Further debate?

Mr Phil McNeely (Ottawa-Orléans): I will be sharing my time with the member for Sarnia-Lambton.

I'm pleased to rise in this House to address Bill 18, An Act respecting the Provincial Auditor, an act that would permit the Provincial Auditor to have access to the books and records of schools, school boards, universities, colleges, hospitals, and even OPG and Hydro One. It concerns me that a city the size of Ottawa, with a total budget of \$2 billion, has the scrutiny of 21 councillors and a mayor with considerable budgets at their disposal, and they're moving toward an external auditor right at this time, while health care, under scrutiny of a volunteer board with about the equivalent of \$2 billion in expenditures, same as the city of Ottawa, does not have that scrutiny. We must make sure that taxpayers' money is well spent. Value-for-money audits are needed throughout the organizations where roughly 80% of our government expenditures occur. So the new Provincial Auditor will have the ability to look at that 80% of the dollars and will have the responsibility of making sure the taxpayer is protected.

There's a concern to me as well as a councillor that we heard a lot about how well our city was run but we could never compare the cost of services delivered on a city-to-city basis, or service-to-service basis. We could never get that information. It would seem to me to be a fairly simple task to compare city to city. That should be done so we can select the best practices, to place our city managers in a position where their management can be compared with their peers across the province. City politicians and managers do not want this scrutiny, but it is absolutely essential.

I'm no longer with the city, but I see the same problems now that I've become a provincial member: concerns like the CCAC in Ottawa, where they're able to build their own case management system from scratch while there are dozens CCACs across the province. They should have generic case management systems that are adapted for local conditions. Where was the leadership in this province that allowed one CCAC to spend \$2 million reinventing the wheel? And it'll probably turn out to be less than round when it's completed.

I want to know what the service delivery costs are in each hospitals, and how well-managed hospitals can be rewarded and poorly run institutions can be assisted with the transfer of best practices across the province. This is not about fraud, as far as the main element here. We have to go out and look at value for dollars spent. I think that's what we're interested in and that has to be a big part of the new terms of reference for the Provincial Auditor.

I sat on the committee for the auditor's report for three days and I saw how a small contract for mould removal,

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2303

which started with a pre-qualification process for works under \$100,000, was negotiated. It turned into an \$8-million project, then a \$21-million project and finally a \$30-million reconstruction of the courthouse with only \$6 million of that awarded competitively.

1640

I would just like to read from the auditor's report: "The project, then estimated to cost approximately \$8 million, was therefore carried out without a fixed-price contract and without proper competitive acquisition process for a project of this size. In addition, the ministry did not obtain ministerial or Management Board of Cabinet approval for not following competitive selection procedures before awarding a contract of this magnitude." So there's no doubt that we need a lot more effort on behalf of the auditors in here.

On the same project, "Notwithstanding the ministry's and ORC's efforts to deal as quickly as possible with the health concerns at the former courthouse, during the period of more than two years taken to complete the project, large contracts were awarded without following competitive selection procedures, and approvals to deviate from required Management Board of Cabinet directives were not obtained from either ministry senior management or Cabinet." We see that there is a real need to have that.

I think this Liberal government has a different attitude toward responsibility in this way. I also saw how under the last government the FRO, the Family Responsibility Office, would not improve the administration of the case management system, probably because they did not believe in bothering deadbeat dads, but it was costing this province about \$10 million a year in additional social assistance—a figure accepted by the ADM, by the way—because when we these deadbeat dads did not pay up according to the court orders, these moms and these kids across this province went on social assistance. They had to.

Thank goodness Minister Papatello has ordered FRO to move on and acquire a computer system, a case management system that will permit the following of the defaults in a timely manner. Court orders will be enforced in a timely manner and the hard-working parents and their children will be able to look after themselves. They will not have to turn to social assistance because the system failed them, a system that was set up for the parents and children.

We may now branch out and audit where big dollars are being spent. I do not feel the major target is fraud. The major target of the additional audit powers and, I hope, added budget, must be to find and promote the best practices across this province and to have teams available to come in and improve programs that are in trouble.

Our government has taken the protective shield off Hydro One and OPG. This is an obvious extension to be able to audit the billions of dollars spent on health care and education. These extended powers for the Provincial Auditor will permit this province and this House to see the best practices across this province, to see where

service delivery is the lowest cost and more timely. This will focus on attention on achievers and failures in service delivery across the province. Why should the taxpayer not know the cost of a particular surgery, the cost of drugs for patients in certain long-term-care institutions? Why can our systems not scrutinize the service delivery? Why can't we act businesslike and protect the taxpayers' hard-earned dollar? How could a Minister of Energy like the member for Nepean-Carleton permit the rip-offs that went on on their watch? How can a minister permit such dealings which cost this province billions of dollars?

The new powers and duties for the auditor will permit him to review the crown corporations, but that oversight should have been provided by the Minister of Energy, as someone has said before. When this oversight is not done, the Provincial Auditor will be able to pick up the slack and we will not have any more of these major overruns that we have seen. Bill 18 would make sure that we never have this incompetence again running so much of our province's resources.

It has been said that doubling the auditor's office would cost \$9 million. I am not sure of that figure. I never got the budget for it. It would seem to me that scrutinizing a health care budget alone of over \$20 billion would warrant a \$9-million increase just on its own. Consider that provincial policy has mandated that mental health spending was to move from 70% institutional and 30% community. That was 10 years ago. We haven't reached those objectives. Provincially, we have moved from 30% to 58%, but in Ottawa we are still stuck at the 30% in community. The dollars aren't moving out into the community in health care. Why is that? What's different about Ottawa? I think that if we have more of a budget and we have more powers for the Provincial Auditor, we will find out why these things happen, why when decision are made they are not followed through by certain parts of this province.

I would like to see a program from the Auditor General that would present realistic programs and budgets for that office in order to move from a passive review-type program to a proactive program seeking our best practices, praising achievers and directing management teams to improve institutions and programs that do not deliver the required returns. It takes resources to discover the problems and then to monitor the improvements.

I believe that there is a terrible resistance to change within our bureaucracy and the institutions that are funded, that only when programs like CCACs can be compared on an apples-to-apples basis across the province can we, as members of Parliament, provide the oversight to improve our spending, get value for taxpayers' money and bring back confidence to our institutions.

I support this legislation. It is difficult to believe that we have not gone this way long before, and I hope the budget is provided and the approach is well designed with the help of the private sector so that we, as members of Parliament, can do our job, which is spending the money of the taxpayers of this province in a manner that gives each one of us a better return on the tax dollars.

The Acting Speaker: I understand the member is sharing his time. I recognize the member for Sarnia-Lambton.

Ms Di Cocco: I thank the member from Ottawa-Orléans for his comments regarding this legislation. I'm pleased to rise to speak to this legislation because it truly is about accountability to the public, and it's about more transparent and responsible government to Ontarians. That's what the essence of this bill is.

The government under Premier Dalton McGuinty is transforming the way it does business in this province. This is one piece of legislation among others that truly is going to change the way government does business and begin to restore confidence in the public for government and how government does its job.

The role of the Provincial Auditor—and under this legislation the new name is going to be “Auditor General”—in Ontario is going to be expanded. Expanding the purview that the Auditor General will have is going to ensure that we have agencies, transfer partners—80% of our tax dollars are given to these transfer agencies such as school boards, hospitals and many other transfer agencies. What will happen here is that these agencies will now come under the purview of the Auditor General so that he or she is able to track the money, to decide or to look at whether or not we are getting value for money in these agencies.

I watched in the last session of this Legislature when, whatever government did, there was always the notion that government really shouldn't be in people's faces, that we should have small government and that government really didn't have a role. There was a notion that the corporations were all good and that the public sector was wasteful and bad. That was the sort of ideology with which this province was governed at the time.

When the Auditor General, or the then Provincial Auditor, would look at how government was doing its job, he came up with many areas that revealed a lot, revealed a great deal of mismanagement. What was happening too that may or may not be known: The way the Provincial Auditor was dealt with by the government of the day was that they would cut the resources as almost a way of punishing the Provincial Auditor for his comments.

Many times I remember sitting in the committee that the Provincial Auditor sat in and he was actually denied access to the figures and to the paperwork under various ministries at the time, which, by the way, was unprecedented; that had never happened. Not only did the Provincial Auditor not, in my view, have his role expanded; it was actually undermined many, many times. There was a lot of evidence of that in the past four or five years that I was here in opposition.

1650

I want to talk about this legislation and what it would do if passed. This legislation, if it passes, would provide to the Auditor General an expanded power to conduct value-for-money audits in institutions in the broader public sector. I mentioned school boards and hospitals,

but it would also have the oversight for universities, colleges and all crown-controlled corporations, including Hydro One, Ontario Power Generation and their subsidiaries.

Not only were Hydro One and Ontario Power Generation not under the purview of the Provincial Auditor, but in 1997 they were removed from freedom of information. So we had a way of doing business which was about not having transparency, and what we are going to do is restore that transparency and accountability.

What is this value-for-money audit? What is it characterized by? Well, it's about whether or not money is spent in a way that is most efficient; in other words, the best use of dollars. It's value for money. When you go and buy something, you want to make sure that your dollars are buying the best product or you're getting the best value for the dollar that you're investing.

It also looks at—and this is another of these value-for-money audits—whether appropriate procedures are in place to measure and report whether the programs are effective. The member for Ottawa-Orléans certainly gave some examples where there were no procedures, or contracts were given out without any kind of tendering process. What this is going to do is put that kind of scrutiny into our public bodies.

The highlights under the amendments to this Audit Act—and I want to put this on the record again. I'm also glad that the member from Trinity-Spadina is in favour of this bill. He has restored my confidence in his scrutiny of legislation. I have to say that when we look at the proposed amendments, the Auditor General would be able to conduct discretionary, full-scope value-for-money audits of the broader public sector, but they do exclude municipalities.

Why is that important? It's important because the people of Ontario deserve to trust how government is spending their hard-earned tax dollars. The Provincial Auditor—or now, when this act is passed, the Auditor General—will be the checks and balances that are put into place to ensure that the government and the transfer partners of the provincial government are spending their dollars wisely.

Over the years, I believe there has been a lot of mistrust of how government does business and how the corporation of government does business. Right now they're talking all the time about the biggest headline news coming out of Ottawa. It has to do with some issues that bring into question how money was spent. The public expects the government, those who are entrusted with the people's money, to invest in their priorities—in health care, in education—but they go one step further. My constituents tell me it's not enough just to say, “We put more money into a service.” They also want to be able to trust that that money is being well spent and that there is some oversight, that there are checks and balances, because there are billions and billions of dollars that are expended by our transfer agencies. Some 80% of the dollars that are taken in by the provincial government go to transfer agencies. It is being able to have that

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2305

oversight, it is those checks and balances, that have been missing for too many years.

Again I say this is part of this new era of truly transforming how the government of Ontario is going to do business, its business of providing needed services in this province. The Audit Statute Law Amendment Act, 2004, Bill 18, is one of the largest steps. It is a single step, but I believe it's one of the biggest steps we are taking to ensure that there is true accountability to the public, to ensure that we have a more transparent and responsible government for Ontarians.

The Acting Speaker: Questions and comments?

Mr Marchese: To the member for Sarnia-Lambton, I was hoping I would hear from her and the previous speaker about when the money's coming and whether the money's coming.

Ms Di Cocco: It will.

Mr Marchese: I know you say it will, but I'm a bit cautious on this side. When I don't hear people speaking about the issue, I say, "Hmm, there's a problemo here," right? Because you can't have transparency or accountability unless that individual can do the job, and to do the job, you need the bucks. You know that.

Interjection: Big bucks.

Mr Marchese: I don't know whether it's big bucks or small, but whatever is adequate for the person to do the job, because otherwise it can't be done. You can't expect accountability because you simply say so. Transparency will not happen because you wish it so. If you've got the extra money for the person to be able to send people to do the job, then you get the transparency and accountability you're looking for.

I am convinced that some of you understand this and believe that. I'm also convinced that some of you are lobbying within your own caucus for that to happen. If you all lobby, it will happen, but if it's only one or two or three raising your hand, saying, "We really should do this, otherwise it's a problem; we'll be attacked if we don't do it because the person won't be able to do the job," if it's just a couple of people, it just won't work. The speakers need to convince me that you are on board with pressing the minister and cabinet to release a couple of bucks, whatever that is.

I know you're nodding in agreement, meaning that it might happen, it could happen, you agree, but you have to say it. OK. Then we'll hope that the money will be coming, because, as I hear you in agreement, I'm sure you will be lobbying for it.

Mr Mario Sergio (York West): I wish to comment on the previous speakers, the member from Ottawa-Orléans and the member from Sarnia-Lambton, for bringing to the attention of the House the most important and salient point of this bill.

Let me say quickly that back in December when the minister introduced this particular bill, it was introduced with the full intention of changing some of the ways we do business in this House and throughout Ontario from past usage, if you will. The bill doesn't just change the name for the sake of changing the name from Provincial

Auditor to Auditor General. One of most important aspects—and this is why we believe it has to be done—was a commitment our Premier made during the last campaign. It's so important, and we believe this will indeed indicate the seriousness with which our government intends to present to the people of Ontario how we are doing business, not only ourselves in this House but those people in the various agencies that receive taxpayers' money.

In the past, we have seen that the actions and duties and responsibilities of the Provincial Auditor were hindered by members of the government and the government itself. One important aspect of the proposed new act, under section 11.2, is that the Auditor General will exercise his powers and perform his duties without obstruction from anyone, from any member of the government, from the government or from any member of the staff. This is right in the bill, and I believe it's one of the important points of this bill.

1700

Mr Dunlop: I was out in the back room and I heard the speeches from the two Liberal caucus members on Bill 18. It's a pleasure to respond to them. I'm back to calling this the Sheila Fraser act. Obviously, as far as Liberals are concerned, Sheila Fraser is probably not someone they care an awful lot about. It's very interesting that with all the turmoil going on in Ottawa these days, as we look toward a federal election, the name of Sheila Fraser continually comes forward. Of course, right now, we're going to create the position of Auditor General here in the province of Ontario.

I have another concern that I don't think has been raised during the debate yet, and maybe in your final you can respond to this a little bit. Have you done any kind of analysis yet on what the costing would be to implement what would be the higher roles of the Auditor General? Obviously, he's going to need a lot more staff—he or she, because there will be new Auditor General appointed. But it will be interesting to note the kind of cost it will actually be.

Why I'm concerned about that is that almost all the transfer agencies we refer to, people who receive a lot of money—school boards, hospitals etc—have auditors working for them. They give you an audited statement at the end of each year. I know that the program is for how you spend your money, whether it's being spent properly or not. Most of the organizations I talk to, particularly school boards, insist they're spending their money to the best of their ability. After all I heard about schools and how efficient they were over the last four years, I don't know why you'd even want to tackle a school board, because obviously, the way you were talking to our government, they were spending their money very, very wisely.

I guess my time's up. I appreciate the comments.

Mrs Liz Sandals (Guelph-Wellington): I'm pleased to respond to the speeches by my colleagues from Ottawa-Orléans and Sarnia-Lambton. I am very pleased to support this bill that will expand the powers of the

Provincial Auditor. When people think about provincial spending, they tend to think of it in terms of money the provincial government spends directly. In fact, the provincial government spends relatively little of the money directly that it collects from the taxpayers of Ontario. After you discount the money we pay on debts run up by various governments, mortgages and that sort of thing, when you look at the actual operating funds we spend to run this province, 80% of it goes to other agencies.

Some of those are quite large organizations, like school boards or hospitals. Some of them are organizations that seem to be completely out of control, like Hydro One and Ontario Power Generation. Some of them are very small, little local agencies that may provide a few mental health services or a few social services—very small services. So we're looking at agencies that the government transfers billions of dollars to, that range from organizations with a half-billion-dollar budget on their own to maybe just \$50,000.

But the problem with all these agencies is that we have no ability as taxpayers, as the provincial government, to look at whether we are getting value for money. This isn't about, do the books balance? It's about, are the taxpayers of Ontario getting value for money? What we are doing is making sure that the Provincial Auditor will be able to look at each of these institutions and make sure our money is well spent.

The Acting Speaker: One of the government members has two minutes to reply.

Ms Di Cocco: I'm pleased to respond to the members from Guelph-Wellington and Simcoe North. One of the issues that probably has not received a great deal of attention is the fact that we've actually had to put in this bill, under section 11.2, which re-enacts the current prohibition, that it's an act against obstructing the Auditor General and members of his or her office in exercising powers and performing duties under the act when conducting an examination. In other words, this new section also prohibits obstruction with respect to a special audit. We've had to put this in because the Provincial Auditor spoke of the number of times that he was obstructed from doing his job.

In response to the member for Trinity-Spadina, the resources will be enhanced because of course the Auditor General will need more resources. But that money is money well spent because it is going to be able to, on behalf of the people of Ontario, make sure that the money is being used well, wisely and that it is effective, and not that we have a number of the boondoggles, things like the fact that previously—and this comes from the auditor's report. The Tory government at the time had failed to address a serious backlog in the court system, so that the services that were being provided were not better. In other words, we were not getting value for money.

This is a progressive piece of legislation and it's another step toward this new era of transforming the corporation of government doing business.

The Acting Speaker: Further debate?

Mr Norm Miller (Parry Sound-Muskoka): It's my pleasure to join in the debate this afternoon on Bill 18. Bill 18 is an act that enlarges the powers of the Provincial Auditor. The Provincial Auditor under this bill would be renamed Auditor General. I would like to point out there could be some confusion with the Auditor General of Canada in that renaming. So hopefully there would be an Ontario reference added into that.

The bill brings more of the public sector under the control of the Provincial Auditor. It should provide legislators and the people of Ontario with a complete view of the efficiency and effectiveness of government expenditures that occur through grants to major institutions in the broader public sector.

As I mentioned, the title of the Provincial Auditor would be changed to Auditor General. However, the reality is that the person occupying this position will be referred to as the provincial Auditor General, so hopefully that will eliminate any confusion with the federal Auditor General.

The new definitions for grant recipients and reviewable grants are wide enough to include school boards, universities, colleges and hospitals. The province at present has the authority to order special audits of these institutions. Now the Auditor General will be able to carry out such audits without a formal request. So that's an important change.

The term of office for the Auditor General is to be 10 years and it's to be non-renewable. I guess one question we'd have to ask is, does this apply to the present auditor?

There are some concerns we have. We're supporting this bill but we do have some concerns. The new section 9.1 limits the power of the Auditor General to begin work until after April 1, 2005. So certainly a question I have is, why start in 2005? Why not start as soon as the bill receives royal assent? Why wait until April 1, 2005?

The new section 10 gives the Auditor General broad access to information and specifies that disclosure to the Auditor General does not constitute a waiver of solicitor-client privilege, litigation privilege or settlement privilege. This clause will have to be explored in detail to see its effect on the use of the information given to the Auditor General.

The new section 11.2 deals with access of the Auditor General to information and punishment if access is impeded or documents destroyed. Is the punishment outlined sufficiently severe?

New section 12 outlines the content of reports of the Auditor General. I think we should be questioning whether these statements are sufficiently broad, and do they allow for special reports?

New section 27 deals with secrecy on behalf of the Auditor General's employees who receive information.

Section 27.1 deals with the issue of privileged information. How do these clauses affect the use of information given to the Auditor General?

New section 27.2 deals with the protection of personal information which may be given to the Auditor General. Are these protections sufficient?

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2307

1710

While this bill may be sufficient as far as it goes, it should be amended to give the Auditor General the power to begin to operate under it immediately. Let's not wait until June 1, 2005.

What is the balance to be achieved between the protection of privacy and the use of information by the Auditor General? This is an important question that needs to be addressed.

What resources will be dedicated to the Auditor General to ensure the ability to carry out the work under this bill? Without dollars to follow it, it isn't worth much.

We are in support of this bill. The bill expands the power of the Provincial Auditor. This bill is about transparency and accountability, terms that are often referred to by the government. But in reality I think voters, or taxpayers, out there have to be able to trust their government. I think we have to look at what has happened in the last seven months. The Liberal government speaks endlessly about addressing voter cynicism, and it is in this mood that this particular bill has been introduced.

Let's look at reality. I think nothing breeds cynicism like breaking promises. There was an election on October 2. The government was elected on many promises—some 231 promises, I think—and very significant promises. We're seeing many of those promises broken—some very significant promises.

One of the most significant, and one that I think made a big difference in the election in terms of winning votes for the government, was the taxpayer protection promise. Dalton McGuinty, then campaigning, with a lot of fanfare signed the taxpayer protection promise. I've actually seen a copy of it: "I, Dalton McGuinty, leader of the Liberal Party of Ontario, promise that if my party is elected as the next government, I will not raise taxes or implement any new taxes without the explicit consent of Ontario voters and will not run deficits. I promise to abide by the Taxpayer Protection and Balanced Budget Act."

Interjection: He signed that?

Mr Miller: The Premier signed that, and there was a lot of press on that—very public, I think. I must admit I watched that in the election and thought, "Jeez, I'd consider voting for Dalton, now that he's agreed to be financially responsible." I believed it. I'm sure there were a lot of voters out there who were taken in by that.

But since the election, we've seen the government break several significant promises. They made big promises about Highway 407. They were going to roll back the fees on Highway 407. I don't believe we've seen much action on that front.

We've seen promises to do with auto insurance. I would say the public perception out there, in terms of the promises to do with auto insurance, was that the government was going to freeze auto insurance immediately upon being elected on October 2, and then we were going to see first a 10% reduction and finally a 20% reduction. I think that if you ask the average person on the street, that's what they feel was communicated to them. They

were going to see, effectively, a 20% reduction in their auto insurance. You can duck around the fine print if you want, but I think the average person on the street believed they were going to see a reduction.

Well, they're not seeing a reduction in their auto insurance. In fact, the government delayed a number of recommendations and regulation changes that were going into effect early in the fall, which were agreed to and put in place in the summer, that would have brought about a 20% reduction in auto insurance. They delayed that, and now we're seeing big increases.

I receive letters daily at my constituency office about huge increases. In one case, a 22-year-old up in Sundridge depends on a car for his employment. He was already paying roughly \$3,200 in auto insurance. He has to drive to the garage he works at, and gets paid \$10 an hour. He's facing a real problem: How can he even continue to work now that his insurance is going up to over \$7,000 with his June 6 renewal? What happened to that 20% reduction? These are the sorts of broken promises that breed cynicism amongst voters.

There are many other broken promises, a big one being the 4.3-cent price for hydro. We just saw that that promise has been broken, and hydro rates have effectively gone up some 27%, when you go from 4.3 cents to 5.5 cents. Whether that's right or wrong, the government made a promise in the campaign to hold the line on hydro prices. That's what people believed was going to happen. I think it is important that the government keep its promises.

We just had a by-election in Hamilton.

Mr Yakubuski: Buy: B-U-Y.

Mr Miller: The government went in there and was spending a lot of money on tax breaks for the area of Hamilton. A lot happened around Hamilton in that by-election—or as you say, the buy-election. I congratulate the winner, the NDP candidate, Andrea Horwath, who won that election with quite a substantial margin; I think something like 63% of the vote. I think she won because people are sending a message to the government that it's important that you keep your promises.

The government is blaming all its broken promises on the \$5.6-billion deficit. They keep repeating and repeating it in the hope that if you repeat it enough, somehow it will become the truth. Well, they took over in—

Mr Levac: On a point of order, Mr Speaker: I know the member is going to get back to the bill sometime. I just remind him that I'm looking forward to it.

The Acting Speaker: I know all members of the House are aware that they are to keep their remarks pertinent to the topic at hand. I look forward to hearing the further remarks of the member for Parry Sound-Muskoka.

Mr Miller: Thank you very much, Mr Speaker. I think my points are very much related to the auditor and Bill 18, the auditor's act. I think what I'm talking about, in terms of the government keeping its word—

Mr Yakubuski: They're certainly going to give that auditor lots of work.

Mr Miller: Absolutely. I think this government is going to probably double the workload of the auditor as he goes around and tries to keep track of all the increased money they're spending and that it's being spent fairly for the taxpayers of Ontario.

The government has been laying blame for their broken promises on the fact that they say there's a \$5.6-billion deficit. They brought in the retired Provincial Auditor of Ontario, Erik Peters, shortly after the election to look at the financial situation of the province. They hired him as a consultant. One of the things they said they weren't going to do was hire consultants, but they hired him as a consultant to look at the books, and he came up with the \$5.6-billion figure. You could question how they came to that figure, but I won't do that at this time.

Shortly after that, in November, there was a more accurate prediction of the real numbers for the financial year ending March 31, 2004, and miraculously there was a \$3-billion increase in revenue that didn't show up in the previous audit done by the past Provincial Auditor. Yet, in November, when the financial review was done here, the deficit was still \$5.6 billion, even though there was an increase in revenue of \$3 billion. The government seems bound and determined—tomorrow is budget day, and it will be very interesting to see what happens, what that deficit actually ends up being.

I'd like to point out that the year-end is March 31. So in October, there were still six months. We were halfway through the year. There were still six months to go in the financial year. The first six months of 2003 had been very challenging, with SARS affecting tourism dramatically, with mad cow, with the blackout, with many challenges facing the Ontario government which affect the monies coming in to the Ontario government.

The government was elected on October 2. They still had half the year to go about trying to manage the outflow of money from the provincial government, control spending and make an attempt, at least, to balance the budget before the end of the year. They didn't do that at all. Instead, they went about repeating and repeating "\$5.6 billion" to shift the blame to the past government, instead trying to deal with controlling spending. This past year, we had record revenues in Ontario of over \$70 billion. The problem is, we had an increase of over 10% in spending in Ontario. Hopefully the government, in its budget tomorrow, will start to try to control spending and manage the finances of the province correctly.

1720

Another point I'd like to talk about is another big point the government was making in the election, talking about democratic renewal. We just went through a by-election. Let's look at the process of that by-election. First of all, they called the by-election very quickly. The campaign was on before I even knew it was going on. I think the idea was to do it so fast that people wouldn't realize a by-election was going on.

They picked the candidate. They didn't allow the normal process to occur. They didn't allow anybody who

wanted to be a candidate for the Liberal Party to run in a nomination meeting, to fight it out fairly and try to get people to support you, to win the nomination. Instead of doing that, they picked a candidate to run and then called a by-election very quickly. The by-election date was four days before the budget, because I suspect the budget may have some bad news and a few further broken promises. So I think they tried to slide that by-election in very quickly so that people wouldn't have time to really think about things. But the people of Hamilton would not be fooled and I think they sent a message that the government should be keeping its promises, that when you say something in an election, you should be delivering on that.

Let's look at the other aspects of acting out of democratic renewal that we've seen under this government. We had the selection of a new Speaker in this place. I know that Mike Brown, the Liberal member for Algoma-Manitoulin, had been the Deputy Speaker in the last session of this Legislature—I would like to say he did an admirable job—and he was looking to get the job of Speaker. I know that because he sent me letter in the mail looking for my support, and I was planning on supporting him. So imagine my surprise when for some reason, just before the election of the Speaker was to take place, suddenly Mike Brown was not running for the office of Speaker. I think what happened was that the Premier decided who was going to be Speaker and didn't allow the normal democratic process to occur. So the member for Algoma-Manitoulin didn't get the opportunity to run in an election in this place to become the Speaker of the Legislature. That's been the real face of democratic renewal here in the last few months.

Let's look at the actions of the general government committee. The NDP member, Ms Churley, made a motion in the general government committee, and I'll read the motion: "The notice of motion to the general government committee is, 'that the standing committee on general government convene to examine the propriety of actions taken, or not taken, by Finance Minister Greg Sorbara, political staff in Mr Sorbara's office, senior ministry staff and various officials at the Ontario Securities Commission on matters related to the OSC investigation of Royal Group Technologies.'" I think Mr Sorbara was even willing to go and testify before the committee, but what happened? The committee took marching orders from someone in the Premier's office, I would suspect, and all Liberal members voted against this motion that would have shed some light on the Royal Group Technologies affair. That is the sort of light we are seeing in these Liberal days. This is the kind of democratic renewal that we're seeing in recent days.

The member sitting beside me has also raised some other issues that are of concern that we're hearing about in the ridings. One of them, of course, is regulation 170/03, the water regulations that are currently being put into place by the government. That is a regulation on which they've just announced a moratorium for six months, and that's good news. This is a regulation that's

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2309

really going to affect rural and northern Ontario. It's a regulation that could adversely affect schools, small churches, community centres, resorts, lodges, with some of these new and tougher rules. I'm glad to see the government has put a moratorium on it, but really we probably need longer than six months to deal with some of the concerns of that regulation.

I think another reason that Bill 18 needs to be brought into effect is when we look at what's happening federally. We're just going through the whole sponsorship scandal federally. Hopefully, Bill 18 will make sure that sort of thing doesn't happen here in Ontario. But with all the increased spending the government's been bringing into effect lately, I think it is important that, as he is to be called, the new Auditor General have increased powers to keep an eye on all the increased spending that the current government is doing. I hope the government tomorrow, when it brings down its budget, starts to become responsible, starts looking at balancing its budget and will now start to keep its promises to the people of Ontario as well.

The Acting Speaker: Questions and comments?

Mr Marchese: I have to say I agree with some of the observations the member from Parry Sound-Muskoka has made, particularly as they relate to the Hamilton East by-election. One of the observations he makes is the point he speaks to in terms of the democratic deficit. You will recall that McGuinty wants to correct the former Conservative government deficit by bringing back his own.

Mr Sergio: Yes.

Mr Marchese: Mario Sergio agrees with that. The observation the member from Parry Sound makes, however, member from York West, is that McGuinty has made a profound mistake in dealing with Hamilton East in an undemocratic sort of way. You see, the Premier has this power to appoint people, a power which he has, by fiat, deciding who runs. That, in my mind, is a serious problem as it relates to democracy. As McGuinty wants to correct the democratic deficit the former government left, he has his own problems to deal with, and the observation the member from Parry Sound makes is a good one. When you appoint by fiat, you create a problem, and he did. McGuinty should have allowed for the democratic process to rule in Hamilton East, where the people of the riding decide who they want. They nominate their candidate and off you go. But the problem the Liberals have both provincially and federally is that they give to themselves this divine power to choose candidates. That's a problem. It certainly is not in keeping with dealing with the democratic deficit. They're got to deal with that.

The question I have for the member for Parry Sound-Muskoka as it relates to Bill 18 is, where is the money? He's got to speak to the issue of where the money is.

Mr Kuldip Kular (Bramalea-Gore-Malton-Springdale): It's my pleasure to respond to the debate on Bill 18 initiated by the member from Parry Sound-Muskoka. Let me tell the House at the start that this bill does not deal with democratic renewal. What this bill deals with is accountability and transparency. Last year, on October 2,

the people of Ontario gave us a mandate to be accountable, to be prudent with public money. What our government did was ask the Provincial Auditor, Mr Erik Peters, to have a look at the books of the province and he told us that there is a deficit of \$5.6 billion in the books. What Bill 18 deals with is changing the name from Provincial Auditor to Auditor General.

Interjection.

Mr Kular: That's right. I want to thank the honourable member from Parry Sound-Muskoka for supporting this bill because, if passed, it will authorize the Auditor General to conduct special audits of grants, recipients and crown-controlled corporations and their subsidiaries.

1730

This bill deals with accountability and gives us a mandate to be prudent. I support this bill. I also want to thank the member for Trinity-Spadina for supporting it, because this bill will expand the powers of the Auditor General. It's going to be a good accountability bill.

Mr Yakabuski: Thank you to my colleague from Parry Sound-Muskoka for his input on Bill 18, An Act respecting the Provincial Auditor. He touched on many things. He had a very broad presentation. But he also specifically touched on the need to have control over spending. That essentially is why we have a Provincial Auditor, so that the money the government is collecting is being distributed in a fair, equitable and honest fashion. In that respect I think the bill is going to have some very strong and good points.

But where the bill won't speak is that it's not going to tell the government how to set a budget and it is not going to tell the government how to spend its money. It's going to, after the fact, decide whether it did a good job of it. That is essentially the problem we're going to face tomorrow, when budget day rolls around, because Liberals don't know how to spend money wisely. They really like to get out there and pick your pocket and then go on a shopping spree.

In 1985 to 1990, revenues in Ontario grew at unprecedented rates, the fastest in history. A great economy was flowing and growing and revenue grew. What happened during that time? Expenditures grew faster. At the end of the Liberals' term we were in worse shape than when we came in because they love to spend money. It makes them feel good. They like to go on shopping sprees and buy this and start this and start that, but at the end of the day you are responsible to those people from whom you're taking the money. That's why I'm afraid that this government tomorrow is again going to forget what its real responsibility is and go on another spending spree and take the money out of my pocket and yours.

Mr McNeely: The members for Parry Sound-Muskoka and Renfrew-Nipissing-Pembroke have forgotten something when they start saying that the problem here is the new government. In the good times—this was mentioned by the member from Trinity-Spadina, I believe—by giving back to corporations, by reducing taxes, they let the revenues of this province be reduced. That is why there is a structural deficit of \$4.6 billion in this province.

The Office of the Auditor General would in effect function as a proxy of the taxpayers of Ontario, the 12 million citizens who entrust us with their hard-earned tax dollars, so that we can pay for the services they need and deserve. I would expect that the heightened powers of oversight and review this bill would give the Provincial Auditor may go some way to addressing the serious and justified concerns taxpayers have about how their money is being used and if it is doing what it is meant to do.

It is painful to me and to all of us who come to the Legislature to ultimately serve the public good that the trust of the voters has been eroded by the shameful and flagrant misuse of funds by some politicians, their cronies and other officials. Beyond the inarguably criminal waste of public funds, these individuals are destroying the faith of the public in government.

That is why our government is taking important steps toward democratic renewal, of which this bill is a part. We understand that the public is demanding accountability. They have the right to be at the table. By the creation of the expanded role of the Provincial Auditor, we are ensuring that their concerns are answered.

I support this bill. I'm sure it will give us greater accountability in this province. Thank you.

The Acting Speaker: The member for Parry Sound-Muskoka has two minutes to reply.

Mr Miller: It's my pleasure to respond and thank those members who made comments: the member from Trinity-Spadina, who talked about the democratic deficit—indeed, I think I heard him say a few times, “Where is the money?”—the member from Bramalea-Gore-Malton-Springdale, the member for Renfrew-Nipissing-Pembroke and the member for Ottawa-Orléans. The member from Renfrew-Nipissing-Pembroke was talking about the fact that what this government really needs to do is control spending. We need an auditor to make sure that the spending is done in a fair, equitable and honest manner.

Before this government was elected, I didn't really believe the rumours when my colleagues would talk to me about tax-and-spend Liberals. I didn't really believe that, but only since this government was elected did I realize that Liberals really do like to spend money. That's why we've seen an increase of \$3 billion just in the last six months. The question is, what's going to happen tomorrow? Are we going to see even more spending without trying to live within our means?

The member from Ottawa-Orléans was talking about the question of revenue. In the last days of the past Conservative government we saw an increased revenue of some \$16 billion while at the same time there was \$16 billion in tax cuts, because the fact of the matter is that we need business to be successful, we need business to prosper and do well, and we have to take into account regulations and the various effects on especially our small businesses that are trying to survive. So we have to look at water regulations, the cost of hydro and all the tax rates and everything that goes into affecting a small business. We need those small and large businesses to be successful because it's those businesses that our govern-

ments live off; it's those businesses they tax. That's where all the revenue comes from.

I'm very pleased to join in the debate today on Bill 18, and we do support that bill.

The Acting Speaker: Further debate?

Mr Zimmer: I'm going to share my time with the member for Perth-Middlesex.

I've given a lot of thought to why I want to speak in favour of Bill 18. What we're trying to do with Bill 18 is open up government and its related organizations so we can bring the voices of Ontarians to Queen's Park and make this entire, massive public sector more transparent and responsible to the people of Ontario. We want to do that because transparency and accountability are the very best safeguards for public services.

We are attempting to expand the authority of the Provincial Auditor by allowing him to conduct value-for-money audits of organizations in the broader public sector. This legislation, if passed, will give the Provincial Auditor the power to scrutinize public organizations, hospitals, school boards, colleges, universities and other public infrastructure organizations. We're doing that so that the people of Ontario can be assured that their hard-earned, hard-paid tax dollars are being spent wisely.

As the public watchdog—and the key here is “public watchdog”—the public auditor should have the right to investigate spending not just by the Ontario government but also by its crown-controlled corporations and indeed its transfer partners. Why should we have a watchdog? Why do we need a watchdog over how the public monies are spent?

I've been privileged to serve on the standing committee on public accounts. I'm new to government, but I can tell you that exercise was an eye-opener. In answer to the question of why the auditor should have a watchdog function, you should keep in mind that the public auditor can't investigate the public sector as things stand right now. This was the most significant demand on the province's financial resources. Fully 80% of total government expenditures—that's excluding the interest on debt—are in the form of transfers to the broader public sector organizations and individuals, and those are not subject to the auditor's report. Bill 18 will make them so.

1740

The best reason to expand the scope of the auditor is contained in his very report. I carefully read over the 2003 report from cover to cover, and it revealed the following. These are some of the incidents in the 2003 report that cry out for investigation. I give them in no particular order:

—The Tory government, it was clear from the report, failed to address a backlog in the court system. The 2003 auditor's report pointed out that the Ontario Court of Justice had the highest backlog of criminal cases in 10 years.

—Some \$60 million in fines were allowed to go unpaid.

—The auditor found 150 types of security risks at Ontario courthouses, including unauthorized weapons, assault, vandalism and theft.

—The auditor revealed that deadbeat parents are \$1.3 billion behind in court-ordered child support payments.

—The Family Responsibility Office caseloads per worker are too high, about 600 to 1,700, versus 400 for Quebec and 300 per worker for Alberta.

—Ninety per cent of calls to the call centre get busy signals and require repeated phone calls.

—Some cases get no follow-up for a year, and it takes an average of three and a half years to complete a case.

The list goes on:

—Ninety-five per cent of inspection resources last year were spent on video retailers, which had a total of only eight complaints. There were only nine inspections of debt collectors, despite 4,100 consumer complaints.

This is the kind of malfeasance the auditor will be able to uncover if we proceed with Bill 18.

—The economic development ministry spent \$4.3 billion without a strategic plan.

—The Strategic Skills Initiative spent 75% of its money on construction equipment instead of skills training.

—The ministry wasted money on untendered contracts and expensive trips.

Again, the Auditor General, if Bill 18 goes through, will be able to dig into this and expose it to public scrutiny. This is a part of what democratic renewal is about.

—The Auditor General found out that the previous government doled out over \$1 billion from the Ontario Innovation Trust without ministry or legislative oversight, a plan or even cabinet approval.

—Twenty-seven percent of waterworks did not submit the minimum number of samples to test for E coli and fecal coliform; 300 non-municipal waterworks were never submitted to any tests at all.

These are the kind of transfer partners that Bill 18 contemplates the auditor's looking into.

—Water inspectors visited 54 of 357 private treatment plants, and 44 of almost 1,200 smaller plants and designated facilities.

—There are eight boards of health without a full-time medical officer of health.

—Public health departments funded 100% by the province received the same amount of funding as they did in 1991.

—The auditor found out in 2003 that none of the province's public health units conduct the necessary inspections of food preparers to avoid food-borne diseases.

—Fourteen per cent of children have not received all of their vaccinations by the age of seven.

That's just an example of what a careful reading of the 2003 auditor's report reveals. Bill 18 will allow the Provincial Auditor to conduct value-for-money audits of institutions and programs in the broader public sector, such as the ones that I have just listed where there are financial abuses, financial malfeasance and misfeasance, including, of course, the notable, famous Ontario Hydro and all its related organizations. The Provincial Auditor

would then be able to do more than just examine the books of broader public organizations. The Provincial Auditor, under this bill, would be able to conduct full-scope value-for-money audits that assess whether organizations spend money with due regard to economy and efficiency, and if they have the procedures in place to measure and report on the effectiveness of the programs they are supposed to deliver.

Let me just briefly refer to what I think are four important sections of Bill 18, because nobody has referred to these sections. I've talked about the philosophy, what we want to do, why we want Bill 18, why we want an empowered Auditor General. I've given a list of abuses that were garnered from a reading of the last report, for 2003. Let me just turn my mind to Bill 18 for a minute or two.

Section 10 is entitled "Duty to furnish information," and this is critical: "Every ministry of the public service, every agency of the Crown, every Crown controlled corporation and every grant recipient shall give the Auditor General the information regarding its powers, duties, activities, organization, financial transactions and methods of business that the Auditor General believes to be necessary to perform his or her duties under this Act." That is a powerful tool.

Subsection 10(2), "Access to records," another hand-in-hand powerful tool along with the duty to finish information: "The Auditor General is entitled to have free access to all books, accounts, financial records, electronic data processing records ... files and all other papers, things or property belonging to or used by a ministry, agency of the Crown, Crown controlled corporation or grant recipient"—that's the transfer payments—"as the case may be," and any other information "that the Auditor General believes to be necessary to perform" his duties. Another very important tool.

Section 11 is the third tool that the Auditor General has to root out this malfeasance: "The Auditor General may examine any person on oath on any matter pertinent to an audit or examination." That is a powerful tool.

The last, and the overarching authority given to the auditor under Bill 18, is the authority to give an opinion on statements: "In the annual report in respect of each fiscal year, the Auditor General shall express his or her opinion as to whether the consolidated financial statements of Ontario, as reported in the Public Accounts, present fairly information in accordance with appropriate generally accepted accounting principles and the Auditor General shall set out"—and this is important—"any reservations he or she may have."

These are powerful tools to enable the Auditor General under Bill 18 to root out financial mismanagement and to hold all of us here in this Legislature from all parties, and hold the government, accountable to the taxpayers of Ontario. That's why I am proud to support Bill 18.

Mr John Wilkinson (Perth-Middlesex): I too am proud of Bill 18. I want to follow up on the comments made by my colleague the member for Willowdale, who

actually read out a litany of problems that we found in the Provincial Auditor's report about what was happening in the previous government. I've done a little research. I looked at the second reading debate of this bill. All parties agree to this bill. Who can be against accountability and transparency? Who can be against that? So everyone is supporting the bill. I can tell you that each and every member of our government caucus has stood in his or her place and spoke to the bill and about its need, that this was an election promise we made.

I generally would like to comment that the NDP are also in favour of the bill and spoke to the bill, raising some serious concerns in their own minds—perhaps not in ours, but definitely in their minds—and we've attempted to address those concerns. One of their members, Mr Kormos, did tend to veer during his comments on Bill 18, as I reviewed them.

But I want to address my comments to the members of the official opposition who spoke to this bill in second reading and even here today. I can understand, after the member for Willowdale explained the sorry state of how things are audited and what is revealed, that we had comments made by the member for Simcoe North. Now, we're talking about Bill 18 and creating an Auditor General. What did he discuss in his comments, because he was given 10, 20 minutes? Well, he thought it was very important to talk about federal issues. Then of course he spoke to our bill to ban government-paid partisan advertising. I thought that was a good idea.

1750

Interjection.

Mr Wilkinson: Yes, he thought that was a good idea.

Then we had Mr Ouellette, the member from Oshawa. He actually spoke to the bill, and we appreciate that.

That, I think you'll find, is rare, because then we went on to the member from Durham, Mr O'Toole. He also decided to speak about federal issues. But Mr O'Toole can wax eloquent with the best of them here. Perhaps he's not always consistent, perhaps there was no clarity or purpose, but he did meander on a number of things. He wanted to talk about new nurses, which we're in favour of. He wanted to talk about a hard cap of 20 students in classrooms from JK to grade 3.

Interjection.

Mr Wilkinson: I'll get to Norm.

He wanted to talk about our university tuition freeze. He wanted to talk about tolls on the 407. He talked about numeracy and literacy in schools. But that wasn't enough. No, he had to get into that amazing issue of trailer park taxation and the Municipal Property Assessment Corp. I know something about that now, because I was just recently appointed vice-chair of that group.

But there wasn't enough to talk about on Bill 18. He didn't want to talk about their record. He then wanted to talk about Erik Peters, the former Provincial Auditor, who prepared a report for the Minister of Finance that revealed to us and the good people of Ontario the \$5.6-

billion deficit. Not wanting to speak about Bill 18, he then spoke about autism services.

Well, perhaps Mr O'Toole was going to be an exception in his caucus, and the other members would speak to Bill 18. But then his seatmate, Mr Tascona, the member from Barrie-Simcoe-Bradford, decided it was best not to talk about Bill 18 but to talk about the Ontario Municipal Board, the Assessment Review Board and, of course, the issue of birth certificates.

Then, really—and this is a stretch about Bill 18—he wanted to tell us about a multiple sclerosis walk in his riding. Now, MS is a terrible disease, and I applaud that the good people in his riding are raising money for that, but I fail to see the connection to Bill 18.

Now, one of the new lights in the opposition caucus, Ms Scott, the member for Haliburton-Victoria-Brock, spoke to the bill. I thought that was commendable. Perhaps she's new, and maybe she hadn't got the message from everybody else: "We don't want to talk about Bill 18; we're just in support of it. Let's talk about something else, because then we have to talk about our record."

Well, Mr Dunlop got back up. He wanted to talk about the Ontario Trillium program for organ donation. I don't see the connection. Then he wanted to talk about school board and hospital funding and, of course, the Hamilton by-election. I don't know if we're going to audit that or not. I think the results were convincing.

Then he decided also to get into that federal issue. We can always count on the official opposition to get into federal issues when they have nothing else to talk about. He talked about the relationship, or lack thereof, between the former Prime Minister, Mr Chrétien, and the current Prime Minister, Mr Martin—and, I might add, the future Prime Minister, Mr Martin.

Then he wanted to talk about the aging Sea Kings, banning partisan ads and Telehealth. He wanted to talk about flu shots, SARS and tourism marketing in New York, Quebec, Manitoba and Wisconsin. Well, I want to let you know that it's very important in my riding that we also do tourism advertising in Michigan. A lot of people who go to the Stratford Festival come from Michigan.

Well, he wasn't finished whatsoever. We're talking about Bill 18. Then he wanted to talk about the spring bear hunt. What does that have to do with Bill 18? I'm at a loss.

Then there was BSE, mad cow—

Interjection.

Mr Wilkinson: Oh, that's Simcoe North, Mr Dunlop. Then he wanted to talk about the Ontario Trillium Foundation.

That was April 29. If that wasn't enough about Bill 18, we came back again for second reading on May 10, just a few weeks ago. Mr Dunlop, the government whip, the member for Simcoe North—that wasn't enough for him. He had talked about a lot of other things. He wanted to talk about budget day on May 18. He wanted to go back to speaking about banning partisan government ads.

Then another new member of this House, the member for Renfrew-Nipissing-Pembroke, Mr Yakabuski—well,

17 MAI 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

2313

maybe the caucus had talked to him and said, "You know, John, Ms Scott spoke to the bill, but we're not speaking to the bill. We're in favour of it, so let's talk about other things." Mr Yakabuski, who is quite eloquent, wanted to talk about the Taxpayer Protection Act.

Then Mr Hudak, the member for Erie-Lincoln, following Mr Dunlop's lead, had a great speech about—

Mr Miller: On a point of order, Mr Speaker: I think it's customary to refer to members by riding names in this place.

The Acting Speaker: I would ask the member for Perth-Middlesex to remember that and refer to all members of the House by their riding names only.

Mr Wilkinson: Thank you, Mr Speaker. I appreciate the member from Parry Sound-Muskoka reminding me of that rule; it's very important.

Then the member for Erie-Lincoln got up and wanted to talk about the former Conservative member for Niagara Falls and about classroom funding. He wanted to talk about his high school days and about hospitals in the Niagara region. He also wanted to talk about Bill 8. That was a big thing for him that day.

Interjection.

Mr Wilkinson: There's Bill 8 and Bill 18, so maybe he was missing the "1." I think he got a little confused about that. Then he got into the university tuition freeze.

Then the member for Nepean-Carleton, always someone to raise federal issues in this House, jumped up and spoke about that and about autistic children.

Then the member for Renfrew-Nipissing-Pembroke got back up and spoke about Hamilton East—I think I'm almost done—and also wanted to talk about federal issues, and then he wanted to talk about Bill 8.

What do we have today? Every member of the government caucus got up and spoke to Bill 18 because it's important. I want to tell the people of Ontario that Bill 18 is important. It's about how your taxpayers' money is spent. We want to make sure the auditor doesn't just deal with the whether the money was spent and whether all the credits and debits add up. We want to talk about whether you're getting value for your money.

Again today, the member from Parry Sound-Muskoka spoke about regulation 170, the Taxpayer Protection Act and federal issues.

I know that on this side of the House and in our government Bill 18 is something we promised to people. We said to the good people of Ontario that this was important. It was about our effort to reform this place and about democracy. Although the former government may want to talk about everything but accountability and strengthening the position of the auditor, that didn't happen.

I'll be interested to see the day when this bill reaches third reading and we watch the members stand in their places and support this bill.

The Acting Speaker: It being very close to 6 o'clock, I'm going to adjourn the House until tomorrow at 1:30 in the afternoon.

The House adjourned at 1758.

This is Exhibit "K" referred to in the Affidavit of the Auditor General Bonnie Lysyk, sworn at the City of Toronto, in the Province of Ontario, before me on September 28, 2021 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

Heather Fisher (LSO#75006L)

Interim Protocol on Access by the Office of the Provincial Auditor of Ontario to Privileged Documents

Parties

The parties to this Protocol are the Ministry of the Attorney General ("MAG") and the Office of the Provincial Auditor of Ontario (the "OPA"). MAG is acting on behalf of all government ministries and agencies to which MAG counsel are seconded.

Purpose

The purpose of this Protocol is to enable the OPA to have access to all documents subject to solicitor-client privilege, litigation privilege or settlement privilege (the "privileged documents") required by the Provincial Auditor to perform his or her duties under the *Audit Act* and to recognize the government's interest in maintaining confidentiality and preserving the privilege in those documents. The Protocol is intended to accomplish this purpose in a consistent way across government.

Governing Principles

The parties agree that the OPA, in order to perform its statutory duties, will have access to privileged documents subject to limitations on their use. Privileged documents will be treated confidentially by the OPA and both parties acknowledge that such documents remain confidential and privileged.

Privilege

This Protocol applies to privileged documents.

Cabinet Documents

The Secretary of Cabinet and the Provincial Auditor have entered into a protocol, dated March 19, 2003, and modified on March 27, 2003 concerning the OPA's access to Cabinet documents (the "Cabinet Protocol"). The Cabinet Protocol continues to remain in force and the OPA will continue to have access to Cabinet documents as outlined in that Protocol. This Protocol will apply only to information subject to solicitor-client, litigation or settlement privilege in Cabinet documents and in all other documents.

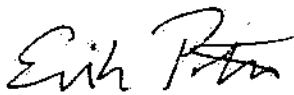
Procedures

- The OPA will have access to all privileged documents in the possession of a ministry or an agency. Access means that the OPA will be provided with a copy of the privileged document on a timely basis. However, if the document raises a special confidentiality concern, the OPA will inspect the document on the ministry's premises rather than taking a copy.
- The OPA agrees that it will not unilaterally disclose any privileged document or its contents, or make any reference to privileged information in any public report. *seems without consent*
- MAG Legal Directors are responsible for the proper identification of all privileged information in documents requested by the OPA, including those that raise a special confidentiality concern. Privilege claims will be made only on a principled basis where it is important to protect the solicitor-client relationship or the conduct of litigation.
- If the OPA has any issues or concerns related to the application of this Protocol, the Provincial Auditor will raise them with the Deputy Attorney General and with the audited ministry. This process applies, in particular, to any concerns regarding the ability of the OPA to obtain a copy of a privileged document and to any issues regarding use of privileged documents.
- MAG will distribute the Protocol to all ministries and to MAG Legal Directors to facilitate a consistent approach across government to the matters addressed in the Protocol.
- If deemed necessary the attached sample letters may be used by the parties.
- This Protocol is intended as an interim protocol until such time as a final protocol is developed.

Office of the Provincial Auditor

Ministry of the Attorney General

Per:



Erik Peters
Provincial Auditor of Ontario

Per:



Mark Freiman
Deputy Attorney General and
Deputy Minister Responsible for
Native Affairs

Dated this 25th day of July, 2003.

**OPA Letterhead
Sample Letter Concerning Privileged Documents**

Date

Ministry/Office/Agency Contact

Dear Sir or Madam:

As you are aware, we will be conducting an audit of (*activity/program) in your (*ministry/office/agency) commencing on (*date).

During the course of this audit, we may request access to, among other things, documents which may be subject to solicitor-client privilege, litigation privilege or settlement privilege. When we request access to any such documents, we do so in order to carry out our statutory duties under the *Audit Act*. Consequently, the disclosure of the said documents by your (ministry/office/agency) is in compliance with our statutory duties and would not amount to a waiver of any privilege attached to the document.

We wish to advise you that any privileged documents provided to us remain privileged. In addition, all documents disclosed to the Office of the Provincial Auditor for these purposes will be treated in strict confidence and their use is limited to the performance of the statutory duties of the Provincial Auditor under the *Audit Act*.

Should you have any questions in this regard, please do not hesitate to contact me or Jim McCarter, the Assistant Provincial Auditor.

Sincerely,

Portfolio Director

*choose as appropriate

Ministry/Office/Agency Letterhead
Sample Response Letter re Privileged Documents

Date

Portfolio Director

Dear Sir or Madam:

This is to acknowledge your letter of (*date) informing us that you will be conducting an audit of (*activity/program) commencing on (*date)

We wish to inform you that we will comply with any requests that you or your staff make for access to any privileged documents under the control of (*ministry/office agency). We also wish to underscore that any privileged documents provided by us to your Office remain privileged and confidential and agree that your Office will treat such documents in the strictest confidence. Disclosure of privileged documents to your Office is in compliance with the Provincial Auditor's duties under the *Audit Act* and will not constitute a waiver of any privilege attached to those documents.

Contact person
Ministry/Office/Agency

*choose as appropriate