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Thursday 6 December 2001

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Jeudi 6 décembre 2001

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2001 annual report,
Provincial Auditor

**Comité permanent des
comptes publics**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON PUBLIC ACCOUNTS

COMITÉ PERMANENT DES COMPTES PUBLICS

Thursday 6 December 2001

Jeudi 6 décembre 2001

The committee met at 1011 in committee room 1.

2001 ANNUAL REPORT, PROVINCIAL AUDITOR

The Chair (Mr John Gerretsen): Let's call the meeting to order. We will deal with the subcommittee report once we have a full complement of members.

We will deal with item number 2, which is an overview by the Provincial Auditor, Erik Peters, on the 2001 annual report.

Mr Erik Peters: Do you want to do that first?

The Chair: Yes.

Mr Peters: The handout that was given to everybody is the handout of my remarks to the media that I made just briefly prior to the tabling. Some of you probably have it because, as you know, one member from each party of the committee can attend the hearing, but I know that many of you have not seen it. I just wanted to quickly highlight for you the items that are mentioned and make some brief explanatory further comment, if I may, and then open it for questions, if that is agreeable to you, Chair.

The Chair: Sure.

Mr Peters: The items that we highlighted are, firstly, the instances where performance and results achieved were in significant need of improvement. The first one was in the area of the Ministry of Agriculture, Food and Rural Affairs, where we found that food safety deficiencies in slaughterhouses, which were defined as critical by the ministry and which could pose risks to human health, were often not corrected in a timely manner.

A brief comment on that, in addition to what you find here, would be that the program spends about \$10 million a year on inspections. We found that from a purely straightforward administrative point of view, they are administering that money quite well. Our concerns were more with the outcomes; in other words, in this particular case, where critical deficiencies were found to be deficient still on follow-up by the inspectors. In other words, the items are not being corrected, so the outcomes are of concern. The second one that we didn't mention here was, for example, on the fruit and vegetable side, where they had done an inspection and found 80 times the permitted level of pesticides, but by the time we completed the audit, which was at the end of March, no retailer or grower had been notified of this problem. So it is out-

come, but they are doing relatively well with the resources that they have.

At the Ministry of Transportation we found that road user safety was impaired because 30,000 drivers who were reported to have medical conditions that could have made it dangerous for them to operate vehicles were still allowed to drive. Some of these medical reports were as old as 1997.

Certain drivers' licences that had been suspended for impaired driving were revalidated solely as a result of administrative deficiencies. The situation here is that the police will stop a driver, identify the person as impaired and make an entry in the record that is entered by the ministry into the record. But then the administrative procedures require that the police confirm within seven days what action they are going to take, whether they are in fact going after the driver for being impaired or whether there are mitigating circumstances that they won't, or whatever. But if the police miss the seven days' deadline, then the process is that the licence is immediately reinstated or the suspension is lifted, whichever way you want to put it. That was the concern, that we found a number of drivers who had been stopped and were simply reinstated because the police did not provide the information in seven days.

Some drivers' road tests had been shortened below the minimum time prescribed by the ministry. We actually in this case stop-watched drivers, cars going out and coming back. In the tests that we conducted, they were not out for the required 20 minutes. We took into account, of course, the possibility that the driver made three major mistakes that would make them fail the licence test within five minutes, or something like that. That was taken into consideration. There were, of course, some of those, but there were also a number who passed. And there were other issues in there.

We also found that the Ministry of Transportation had mismanaged millions of dollars worth of consulting contracts, and we have quite a list in our report about some of the detail that we found in that case.

At the Ministry of Community and Social Services we found that there were well over 1,000 cases where women and children were turned away from shelters operated under the violence against women prevention program. As well, in many instances women and children were redirected to inappropriate accommodation in shelters for the homeless.

Also at that ministry, we found that funding for the needs of vulnerable individuals was provided without critical assessment of the quality and level of service provided. As well, we found cases of duplicate payments, overpayments and poorly timed payments. What we mean by "poorly timed" is that payments were made very late in the year, not allowing managers to adjust the program for the additional funds.

At the Ministry of the Attorney General we found that with approximately the same amount of funding received in 1991-92, Legal Aid Ontario is now providing only half the legal aid certificates it provided nine years ago; in fact, they were down to about a third in one of the last three years.

At the Ministry of Education we found that neither the ministry nor the school boards were able to determine if current programs and services delivered to many students with special needs actually met the needs of the students, were cost-effective and were of good quality.

At the Ministry of Health we found in many cases there was not sufficiently aggressive action taken to ensure that it was paying competitive prices for drugs under the Ontario drug benefit program, for assistive devices and home oxygen. We estimate that this cost taxpayers well over \$100 million. Some of the processes were competitive tendering. In some cases we were paying higher prices than Saskatchewan and Quebec, although we are a higher-volume consumer.

In our follow-up of the Family Responsibility Office, we found that the administration of that office continues to be hampered by poor information technology systems. For example, in 1994 we recommended that information technology support be improved. In 1996 the office agreed this was a "must do"; in fact, we have that in writing. However, information technology systems are still woefully inadequate for proper case management. A feasibility study for improvements to the management system and for better information technology support is only now underway.

In our follow-up of the highway maintenance program we found that the expected savings from the outsourcing of highway maintenance could not be demonstrated by a consulting firm that was hired for that purpose. In fact, the new management of the Ministry of Transportation agrees with us that it is now more important to move on and monitor and control performance of the contractors to make this outsourcing work.

In addition to instances where performance and results achieved needed improvement, my office also encountered instances where ministries lacked the information they needed for good decision-making. As I have emphasized in previous annual reports, good administration of public funds depends on good decisions that are based on good information. Let me highlight some of the instances where we reported on insufficient information in this report.

In our audit of the community reinvestment fund we found that the Ministry of Finance did not have empirical or analytical support for the savings targets imposed by

the province on municipalities in the local services realignment initiative. These savings targets were applied in a funding formula that was intended to ensure that the initiative was revenue-neutral. However, the use of the savings targets in the funding formula resulted in some municipalities enjoying windfall gains and other municipalities not receiving the funding required to achieve revenue neutrality.

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Although a total of \$1.8 billion has been paid by the Ministry of Finance out of the community reinvestment fund since 1998, these funds have not ensured the ongoing revenue neutrality of the local services realignment initiative for many municipalities; in fact, for all municipalities one way or the other. Some made gains and some had losses.

This is a growing problem, especially in those cases where program costs were frozen at the time the program was transferred to the municipalities and where services were subsequently improved by the municipalities. This committee, for example, dealt with one of these in the past, the ambulance services, which at the time of realignment did not necessarily meet the standard set and now, being transferred to the municipalities, it appears to be the municipalities' responsibility and cost if they want to improve the response times of the ambulance services. That's just one example that I know the committee dealt with at one stage at great length.

At the time of our audit, the Ministry of Transportation had opted to outsource driver testing without a completed business case. The ministry had also planned to spend \$101 million on computer systems without a sufficient strategic plan and without a proper business case. During our audit of the gasoline, fuel and tobacco taxes, we noted that the Ministry of Finance lacked the information and the supporting information technology systems necessary to ensure that all gasoline, fuel, and tobacco taxes owing were in fact declared and paid.

For instance, based on our limited testing of fuel and gasoline tax returns, we found 345 million litres, which represented approximately \$51 million in potential taxes, were not properly accounted for. What I mean by that is that it is imperative that on commodity taxes there is a reconciliation on a periodic basis of all the production, and then a determination of what of that production was actually sold and legitimately sold tax-exempt and what should have attracted taxes. These reconciliations were not prepared on a regular basis because, simply, the information technology was not there and the information was not there. So we found items simply where product was accounted for as produced and was not accounted for as to whether it was taxable or non-taxable.

The integrated justice project, a joint information technology initiative of the ministries of the Attorney General, correctional services, and the Solicitor General, was instituted in 1996 to improve the information flow in the justice system. We found that the project's original business case was based on an aggressive schedule and a best-case scenario. We found that the cost estimate for

this project has risen from \$180 million estimated in 1998 to \$359 million—in other words, doubled—by 2001. Over the same period, the benefits estimate has fallen from \$326 million to \$238 million, and a substantial amount of that \$238 million in benefits estimate is in question. We found that \$57 million of it, for example, is probably not achievable and that there continues to be disagreement over \$170 million of the \$238 million between the senior managers of the project and the senior management of the courts administration, because that \$170 million is supposed to be realized out of the courts administration.

In this year, we made 109 recommendations. Each of the ministries involved has made commitments to take corrective action based on our findings.

In addition, as required by the Audit Act—that's section 12(2)(a), I believe—I must bring to your attention a very serious matter regarding my office's access to information. For the first time since being appointed Provincial Auditor, I have to report an instance where a ministry hindered the audit process. Contrary to section 10 of the Audit Act, the then senior management of the Ministry of Transportation did not give my staff full access to pertinent files, deleted parts of documents provided to my staff and inhibited ministry staff from speaking freely with my staff. Subsequent to the completion of our audit, a new Minister of Transportation and a new Deputy Minister of Transportation were appointed, and I am pleased to note that they took immediate steps to ensure that this problem would not occur again in future.

Actually, let me expand on that a little bit. There were three major objectives; one is not completed yet. But the first item—and I think it was referred to by Minister Flaherty, the Deputy Premier, in the House—a protocol was established. This protocol covers the confidentiality of cabinet documents. What it did is, we used this case to work together with the secretary of cabinet to establish a protocol that put clear boundaries around the confidentiality of cabinet information. So I consider that a positive. That has now been achieved. The secretary of cabinet and the secretaries of subcommittees of cabinet, such as the Management Board of Cabinet, as well as the cabinet committee on privatization and SuperBuild, are aware of what information we have access to and what information can be severed out of the documents.

In a nutshell, what it is is that we have access to all submissions made to these committees and all decisions made by these committees. But we do not have access, and in fact did not want to have access, to the recommendations of the ministry or the recommendations of the minister as to what course of action should be followed, nor are we interested in taking a look at detailed cabinet decisions that took place on that. It would not be our role to do that, and that is fully acknowledged and accepted.

The second objective was achieved in co-operation with the work of the Ministry of Transportation itself, with the new minister and the new deputy minister, inasmuch as they have established—as the minister men-

tioned in his letter, which I've reprinted in the report—a code of conduct, and that clearly permits my office access to all information that we need to conduct our audits that is not covered by cabinet confidentiality. In other words, that protocol is now getting added, and just to update, I was informed earlier this week by the Deputy Minister of Transportation that this code of conduct has now been accepted government-wide. So I'm very pleased with these two developments.

The third development is still outstanding, and that is the Speaker's ruling and I don't want to presume on what the ruling is going to be. I should put on record that I'm encouraged by the Speaker's initial comments about re-establishing the right of access to information that officers of the Legislature, such as my office, should have. I think he stated that when the motion was made. He expressed a concern to the House, and I'm very encouraged by that.

That is the preliminary outcome of this particular concern. As I said, there were two kinds of documents in question: there were documents that were covered by cabinet confidentiality and there were also documents where we had problems of access and, most important in all of these cases, we had problems with timely access. In many cases we asked for information as far back as October and we still hadn't received the information by February, and that is not conducive to the efficient conduct of audit examinations by my office. This was actually one of the key reasons that I also made this public in spite of the corrective action that was taken, because the other issue is timeliness of information. If we let this go, if my office had let it go, it would be possible, for example, for a ministry to say to us, "We want to do an audit this year of a certain program, but, well, you can have the information about two years from now," or something like that. That would be an extreme case that has not happened, but it is of concern when we have to wait for four months for information that we know is available; you know, it's there but it's just not provided. So that was the issue.

I would like to conclude by stating that we were encouraged when amendments to the Audit Act, which my office has sought for over a decade, were promised in the April 2001 speech from the throne. These amendments were recently unanimously endorsed for the second time by the standing committee on public accounts—that is this committee—and I'm very happy and grateful for that. However, we are still waiting for legislative action on these amendments, which are essential for my office to serve the Legislature and, through it, the people of Ontario more effectively.

That concludes my statement today.

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The Chair: OK, I'll throw it open for comments and questions. We can either go in rotation or whatever.

Mr Raminder Gill (Bramalea-Gore-Malton-Springdale): A couple of questions. Similar difficulties go on every year, with a lot of repetition of the frustration you might be going through. Have things improved any, or

are they the same as or worse than? What is your opinion?

Mr Peters: In a sense you're quite right that these things are going on all the time, and most of the time, in virtually all cases but this one, we were able to resolve the issues. The final instance is normally when the matter is brought to my personal attention, and then the deputy minister of the particular ministry and I meet and resolve the issue, and that has happened. This year it happened in two other audits and it was resolved and we got the information on time.

In the MTO case it just was not resolved. The deputy minister was adamant that they were following the right course of action by not providing us with access to this information. To what extent she knew what was going on at the ground level—because my staff was dealing with up to the ADM level, but certainly the assistant deputy ministers were fully aware of every detail because we raised it to that level. When I met with the deputy, we just highlighted what was there. But this is the first case where a deputy minister was just adamant that we would not get it and that's why I had to raise it.

Mr Gill: I just want to get some more clarification on your concerns about timeliness. I know in some cases you said that you asked for something in October and it took until February, and maybe you still didn't get it. Is this procrastination? Is it something they don't have and they're trying to get information? Do they keep you updated, that, "We don't have it but it's coming"?

Mr Peters: There are two things. One is, at certain levels in the government there's a mistaken belief that you can somehow orchestrate the audit or manage the audit process in some way. That certainly seems to be behind it at times.

The second approach—and that's why we are particularly concerned and have focused also on cabinet confidentiality. There was a great amount of uncertainty as to what was cabinet-confidential and what was not. It has always been the approach of my office, for example, that if you make a business decision and you support that business decision with a business case, that business case is accessible by my office for assessment: how it was done, whether they considered all alternatives and this sort of matter. But what happens to that business case if it is attached to the cabinet submission? Does it now become a cabinet document? That was where very often there was a grey area, and this was the area most often—not in all cases, but it often happened—that the deputy minister and I resolved in discussion. In this case, that was not resolved. So that is the other reason why it is not there.

The third part that can happen, and has happened, is that it is done as a cover-up. What I mean by that, for example, is that we expected the business case, and management knew they hadn't prepared a business case of sufficient quality to stand up to scrutiny. Therefore, we may simply be told, "You can't have it," because we know we are not dealing with a document that would

stand the scrutiny of an audit. So that would be the other reason it can occur that it's not given to us.

Sometimes it gets massively confusing. We can be told by lower-level staff that they have seen a business case and senior staff says, "No, there isn't one," or vice versa. Then we have to proceed to the highest level. I hope that answers your question.

Mr Bruce Crozier (Essex): I just wanted to make a further comment on this. I would hope, through the efforts of the Provincial Auditor in this case, that the message gets through to ministers. You say there is now a protocol in place, and I'm pleased to hear that. Not being a lawyer, I've been told, though, that ignorance of the law is no defence. In this case we have seen that the defence seems to be, "Well, I didn't know and nobody told me." We go back to the old Truman thing, "The buck stops here." I hope through this effort that other ministers in this government or any other government that may follow understand that they are responsible and that in those cases perhaps it's incumbent upon assistant deputy ministers and deputy ministers to keep their ministers briefed on these kinds of day-to-day issues. So I hope through your efforts, Auditor, something like this won't happen in the future.

Ms Shelley Martel (Nickel Belt): I wanted to pursue the line of questioning on the documents. I'm looking at page 249 in the MTO section. This is under "Alternative Service Delivery," where you say, "Although we requested that the ministry provide us with a copy of the parts of the business case that were completed, the submission made to the cabinet committee on privatization and SuperBuild, and the committee's decision on the ministry's recommended option, the ministry only provided us with partial information and did so only after our audit was completed." Does this come under the area of the category you just described as a grey area in determining what is confidential and what is not?

Mr Peters: That was in fact part of the reason advanced as to why it was done. This is actually a very good case of what I'm referring to with timely documentation. We have so much time to do an audit. If we don't complete our audit work, the field work, by March 31, we will not be able to report to the Legislature on a timely basis. So we must insist that information is provided to meet the deadline, which is actually imposed by the Audit Act. The Audit Act says that we must report prior to December 31. After we complete the field work, there is of course quite a bit of work we have to do, such as file review; reviewing the audit evidence to report the findings that we have; the drafting of the report. As you know also, since I've become Provincial Auditor, we have instituted a methodology where the ministries have a chance to respond. So this information would be available. It would be known to the ministry that we were going to say that, in good time, as we proceed in clearing the report. This would be mostly a case of timeliness but, also, this one particularly had some concern about cabinet documents.

What in fact happened in this case is that there were two cabinet committees involved with this particular situation. The first submission was made to the Management Board of Cabinet, and the Management Board of Cabinet referred the matter to the cabinet committee on privatization and SuperBuild, and there was a certain amount of discrepancy between the information demands of those two committees. So there was a certain lack of clarity within the ministry itself, the Management Board of Cabinet committee asking for more information but then concluding that the matter should be dealt with by another cabinet committee.

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When the ministry met with that other cabinet committee, their list for information was not as extensive. So there was a certain amount of confusion, I think, as to what information should be proceeded with and should not be proceeded with. As we point out in the report, the ministry paid a consultant over \$1 million to prepare a business case for alternative service delivery. But we were informed by the consultant that although the business case had been started and they had incurred quite a bit of money, the ministry then requested that it not be completed. That's what we were told by the partner in charge of that particular consulting assignment. We couldn't get an answer as to why this decision not to complete the business case was taken. The best we could come up with was that there may have been confusion because of the information requests by two cabinet committees.

Ms Martel: Just to follow up so that I'm clear, was this the delay you reference from October to February? And was the information ever received or still not received by February, at the time that you had to complete the audit?

Mr Peters: There are certain pieces of information, and I don't have in my head which ones they were specifically—but because we had to conclude the audit and we had sufficient evidence to make the observations and recommendations that we did make, we simply stopped asking for the information. We just said, "Look, enough is enough. We have the information that is required to report to the Legislature on this particular situation." We did not then pursue information that we did not have in good time for the audit.

Ms Martel: OK. Can I ask a second question on this next set of documents?

The Chair: Sure.

Ms Martel: This is on page 251, with respect to information technology. At the top of the page you said, "For audit purposes, we requested access to the ministry's strategic plans and business case for renewing the legacy system," which is their computer system, "but the ministry would not provide us with that information. In fact, even after repeated requests on our part, the ministry only provided us with incomplete documents that were missing pages and attachments." My question is, does this come under your category of cover-up?

Mr Peters: We have had assurance that the missing pages and attachments were the ones that were covered by the verbal assurance, and later on by a letter in writing, briefly outlining that these were deletions in accordance with a new protocol. In other words, we were told they were deletions because they contained recommendations by the minister, or by the ministry in this particular case, and that's why the deletion occurred. It fell into both categories.

Ms Martel: Can I back up? I thought the protocol was established after the audit was complete.

Mr Peters: It was after the audit was complete.

Ms Martel: So at the time that you went with this audit, you still didn't have this information? So what you're telling us—

Mr Peters: That's right.

Ms Martel: —is that subsequently, after the protocol was established with the new deputy and the new minister, you were told that the information that had been deleted was information that included the previous minister's recommendation?

Mr Peters: That's right. In other words, we don't know exactly what the recommendations were or who approved them or whatever, but you're absolutely right: the protocol was established in June 2001 and then, retroactively, the new deputy minister applied the protocol to this information but it was just too late for us.

Ms Martel: How convenient. Can I ask one other question on this?

The Chair: OK.

Ms Martel: Are there any other areas in MTO with respect to documents that were missing or altered, outside of those two?

Mr Peters: I cannot answer that question because there were documents—outside of those two? Yes, there were two that I can—sorry. There's at least one that I can recall.

Ms Martel: One more?

Mr Peters: Yes.

Ms Martel: Can you give us the information on that one too, please?

Mr Peters: Well, I'm a little bit in the corner because it's not in my report. Here it goes. We still are not sure whether the ministry actually maintains a master list of consulting contracts. We had asked for a master list because for audit purposes we normally do our selection of auditing consultant contracts from a master list that ministries maintain of which consulting contracts they let go and for how much. We had trouble obtaining a complete list. We were given a list, but in our audit we found out that it was incomplete. We found consulting contracts that were not on the list. So that was one area where we had concern.

The other area, the second one, and I want to answer your question as factually as I can: in certain cases, parts of the terms of reference of consulting contracts were deleted, so we could not assess fully what the entire terms of reference of some of these consulting contracts were.

Ms Martel: Are those the contracts you refer to on the next page?

Mr Peters: That's right. On the same page, actually. We go into it under "Consulting Services."

The Chair: OK. Let's go on and we'll get back to that if you want to.

Can I just ask one very quick question? You made a comment in your opening presentation that sometimes double payments were made. After you found that out, was the second payment in effect received back by the ministry?

Mr Toby Barrett (Haldimand-Norfolk-Brant): You're the Chair.

The Chair: I just wanted to make sure that I understood what he was saying.

Interjection.

Mr Peters: No, I'll answer the question. In this particular case, recovery was not possible from one of the two parties.

The Chair: All right.

Mrs Julia Munro (York North): I want to ask you about this whole business of business case, because in the comments that you make you refer to a completed business case, a proper business case, and in here you refer to an incomplete one and so forth. You also made reference to the problem you have in terms of the grey area of, is a business case part of a cabinet submission and so forth? I really want to ask you about what constitutes a business case and who determines what it is and whether it's complete or it's appropriate or determines those standards?

Mr Peters: The standards are determined by Management Board of Cabinet directives. They are established in directives that are given to the ministries. In this particular case they are contained in the Management Board of Cabinet directive on alternate service delivery. They are fairly extensive, and there's also guidance provided to the ministry as to what constitutes a business case, what should be looked for. In our audit we actually use that as the fundamental criteria to evaluate the quality of a business case that has been provided. That standard is available.

Mrs Munro: Actually, I remember when as a committee we dealt with that issue. I guess what I really wanted to know was whether or not that was entirely the reference you're making when you make these assessments on whether they're proper or completed or whatever. It would always be within the context of that Management Board directive?

Mr Peters: Yes, and there would be one step beyond it. For example, in the case at the Ministry of Transportation, where they engaged a consultant to develop the business case, we certainly had discussions with that consultant as to the quality of the business case, and it was actually the consultant, as I mentioned, the partner, who informed us that he considered the case incomplete at that stage.

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Mrs Munro: Would there always be agreement, then, on the interpretation of those Management Board directives?

Mr Peters: Certainly in all directives they cannot cover 100% of all cases. There's a certain amount of leeway, but there are minimum standards that we do insist on. For example, proper costing of alternate service delivery would be one. A second standard that we don't want to waver from is where there are legislative objectives established to ensure that the alternate service delivery that is done safeguards the objectives that were spelled out in the legislation for that particular program. Even there, there may be some discussion as to how well it is done. Do you always shoot for 100% or do you think 80% at one stage is OK? There's a certain amount of judgment involved, but where the case does fall short of even the 80% or lower, then we have concerns and we act, within the confines of the Audit Act.

Mrs Munro: Because this is a relatively new process in terms of the Management Board directive, and I recall when we were waiting for it, I just wonder whether or not in the work you have done so far, have you seen a trend in terms of a greater understanding of what those directives are asking individual ministries to do? The whole idea of them, as I recall from our discussions about a year ago, was in fact to be able to make crystal clear to both the ministry and you in your role the transparency of having a business case that would stand this kind of scrutiny. Do you see some really good examples? Do you see some areas where there's a better understanding of what those requirements are within that directive?

Mr Peters: There are a number of areas. There are really two forces at work, and I would like to explain that. We find the directives very good. Even previous to alternate service delivery, there were directives out on how to contract, how to sign any normal supply contracts. As when we discussed the Andersen contract before, we mentioned there was an initial set of common purpose procurement directives that was issued, and as a result of the Andersen work, one of the positive sides was that it caused a significant revision of these directives. The directives themselves are actually living documents and are improved as people are going along, and our audit work can also result in them being improved.

The second point is the enforcement of these directives, and that really takes two parties to be involved; one is what we would call the central agencies. For example, what steps does Management Board Secretariat, which is responsible for the directives, take to ensure that the ministries are adhering to them? The concern there is that that should be virtually an ongoing process internally, and hopefully the more solid establishment that has now been made of the internal audit function will take up that role, as well as management. But over the last few years, at least since I've become Provincial Auditor, the Management Board Secretariat has advised us very often that they rely really on our work to see how well the directives are being followed at the ministries.

To my mind, that is not a satisfactory management process. I would expect a management process to be in place so that the directives that are issued by cabinet are actually followed in the ministries on all transactions and that they don't rely on the 11 programs that we audit which involve them. The point is that in the audits we have had, we have found problems in adherence to these directives. Clearly, MTO is a case in point. In contracting for consulting services, they were not followed. They were there, they're good; they were not being followed. In making business case strategic plans, there are directives on information technology acquisition. They were not being followed. Because we're using this as criteria, it comes out worse than it should be, but the only preventive steps that can be taken are by actually instructing and putting a mechanism in place that ensures that if Management Board of Cabinet issues a directive, it is followed throughout the piece.

Mrs Munro: One more quick question?

The Chair: One more.

Mrs Munro: This raises for me the issue that you referenced earlier about the grey area and the establishment of the protocol that has come about. With regard to a business case being part of a cabinet submission—and I guess my question is one related more to timing than anything else—when you are going along to look at the work of a particular ministry, what would normally be the timing? When you come along, isn't that afterwards and therefore that business case plan would have already gone through the process? Would you not be looking at things afterwards as opposed to their being part of a submission, ie, beforehand?

Mr Peters: Yes. Normally we look after what has happened. We would not ask a ministry or in fact criticize a ministry—I hate to use that word—or comment on a ministry's action with regard to a business case that is currently being developed. In fact, that would be counterproductive to our independence, because it would involve us in the management process. In this case, there were business cases that were developed.

For example, to come back for a moment to the MTO business case, here we had the situation where in fact they had gone forward with what we were told was a business case to Management Board of Cabinet. They had gone to one committee. What do you do if that committee says, "We don't want to deal with that particular case. We want you to go to the cabinet committee on privatization and SuperBuild"? We did our assessment essentially on the information that was prepared for Management Board of Cabinet to make that decision.

Mrs Tina R. Molinari (Thornhill): On that very point, you made reference to the situation with the strategic plan and the business plan and your recommendation that they should stand alone, but since they are submitted as part of a cabinet submission, would they not, then, fall under the protocol that was established?

Mr Peters: Yes, and under the protocol we would have full access to them, because they would be part of the submission to cabinet. The only part that would be

severed out under the protocol, can be severed out, but only by the office of the secretary of cabinet, is those parts of the documents that contain the one or two lines where the minister says, "I favour this particular option in the business case" or where the ministry itself or the deputy minister says, "The favoured option is this one." We don't want to second-guess that part. That can be severed out, but otherwise we expect the business case to stand on its own.

Mrs Molinari: You also expressed concern about information not being forthcoming. At the end of your audit, did you receive all the information you requested at that point?

Mr Peters: Not by the end of the audit. What I mean by that is that the field work was completed by the end of March. The protocol was put in place about three months later, after all the discussion had taken place and the toing and froing. At that point, yes, we received additional information. As far as cabinet submission documents were concerned, yes, we received them, although there were other documents we didn't ask for any more; it was just too late in the process.

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Mrs Molinari: Certainly the Premier and the government appreciate the work you do, and the recommendations you make in your report are helpful in determining that value-for-dollar process.

You indicated some of the information that was given to you on a matter from October to February, and I'm hearing that there were isolated situations like that; it wasn't all of the information that you were requesting that was delayed for that process. It's my understanding as well that the reason for that was because of the determination of whether or not it's information that was protected under the protocol or information they were able to freely give you access to. So I think that, given those situations, I see that in the future things like that would be corrected with the protocol that's now been put in place.

The other question I have is around the whole process of the provincial audit and what the audit is to determine, whether or not the government is in fact spending taxpayers' money efficiently, effectively and the value for dollar. But it's also my understanding that that audit would not touch on policy decisions that the government would make and the direction of policy; it's more of a value-for-dollar audit. Am I correct in that understanding?

Mr Peters: Yes. If I may comment on that, as far as minutes of cabinet, for example, we would not audit what we call big-P government policy. For example, the cabinet decision as to how to handle the communication strategy for a certain program that they come forward with or anything like that would certainly not be of interest to us.

In our audit, we are limiting ourselves strictly to business decisions and administrative decisions. We certainly obey totally and have, I think, a very good record of not commenting on legislative policies. But, for example, a

policy decision to outsource something is an administrative decision, because it is a decision as to how to deliver a particular legislated service, and therefore we will be able to question the administrative or business decision to outsource.

In fact, that goes hand in hand with a comment that I have made in my reports now for the last nine years. I've encouraged the government to create a process whereby every program is evaluated: whether it can continue as it is delivered at the moment, where it can be modified or should be modified to create better service delivery, where the better service delivery can be achieved through outsourcing, or where a government program should be discontinued simply because it's inefficient or uneconomical. That is the extent to which I can comment on it: whether it's inefficient or uneconomical the way it is being delivered. I cannot comment on the program itself.

If I may, I use a little narrative example that I've used all the time. If the government of the day decided to pay every Ontarian who owns a house \$100 for digging a five-foot hole in their backyard, that would be a policy decision. I would be entitled to audit, though, whether the \$100 is being paid to Ontarians who don't dig the five-foot hole, who only dig a three-foot hole or who don't dig a hole at all or collect double money for digging two holes. That's sort of where we make that distinction. It's the government's own decision, but how service is delivered is certainly something we can audit.

Mrs Molinari: I'm pleased to hear that, because you started off your comments by saying that the communication strategies were things you didn't comment on, but then you went on to say that in fact policy direction and policy decisions are not areas where the auditor would give an opinion; only if it's implemented in a way that it's value-for-dollar and implemented in the way it was intended.

Mr Peters: That's right, or it's not being achieved; economy and efficiency are not achieved or measures to report on the effectiveness are not sufficiently in place. That's in accordance with section 12 of the Audit Act.

Mr Barrett: I hear what you're saying on the problems getting this information. You mentioned the Ministry of Transportation. I as an MPP have difficulty getting information as well, and my staff have difficulty getting information. It's very important that all these dollar figures and what have you are provided to you.

My question is, did you never get the information, and does that mean you've presented a report without the objective facts that you needed, or did you get the information? I don't have the details on this.

Mr Peters: It's a fair question and a very legitimate one; a good question. My answer to that is, what we have in chapter 3.11 of our annual report is based on the information that we did receive, and we have sufficient audit evidence to make the observations that we made and to make the recommendations we made. In that regard, we are satisfied. I can give that degree of assurance to you, the Legislature and to this committee,

that what we have said is based on evidence that we did receive.

Mr Barrett: So ultimately you did receive the necessary information?

Mr Peters: We did receive the information that we based our conclusions on. For example, on page 251 we are saying in the third paragraph from the top, "Because the ministry did not provide the necessary information on a timely enough basis for this annual report, we cannot provide assurance that the proposed legacy system renewal"—that's the \$101-million one—"was based on a properly completed business case and strategic plan. We will follow up on the ministry's efforts to develop and implement the proposed legacy system renewal at an appropriate time."

In other words, where we did not receive the information, we indicated this. In audit language, that is called "a scope limitation." We indicated that scope limitation in our report. Where we don't have this kind of comment, we ultimately received the information; where we did not, we made the comment.

Mr Barrett: So are you satisfied now that you have all the information you need? Secondly, next year when you're looking at dollar figures, do you feel this is not going to happen again? Has this been fixed? I heard mention of the code of conduct. Is that going to prevent this from happening again?

Mr Peters: I am very encouraged by the code of conduct, and its implementation, I trust, will remedy the situation.

Mr Barrett: Just a last point: I was intrigued with digging holes in the backyard at five feet or six feet. I understand some government grants go to people who are deceased. I'm not sure if you're referring to that. I suppose they'll need a subsidy to dig the grave.

Mr Peters: I was totally hypothetical.

The Chair: Some of the people who received \$200 were dead, weren't they, a couple of years ago?

Mr Barrett: They had to bury them.

Mr Richard Patten (Ottawa Centre): I have actually a specific question, on page 31, the animal disposal industry. It's a question related to your function somewhat. I notice that the European Common Market banned any use of animal carcass in any additives for other animals or for consumption; the standard is zero. What is the case here in Ontario, where you can add dead meat, literally, to animal feed or pet food? The reason I ask the question is that if the audit is to ensure that the production of food is safe for us—the New England Journal of Medicine about two months ago, and it's kind of scary, suggested that the use of antibiotics and hormonal growth additives in meat etc is a pass-through, that we are eating this and it's affecting human beings in terms of lowering their resistance to antibodies for us. It's kind of a deeper question. As auditors, when you look at some of these things, you're auditing those things, but you haven't made any comment related to the use of dead meat. In other words, cows may be eating other dead cows. Is that not correct?

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Mr Peters: That could happen.

Mr Patten: That could happen. So that wouldn't concern the auditors? Would you consider that to be a policy statement and this is the thing we should be asking the ministry, then?

Mr Peters: Yes, it would be a good question for the ministry. As we point out on that page, the Dead Animal Disposal Act is designed to ensure that only meat from healthy livestock enters the food chain. The broad interpretation would certainly be that that's all entry points into the food chain.

Mr Patten: My understanding is that there's a 25% admissible factor in dead cows that have not been part of being sold retail to humans, but it can show up again by virtue of part of that being fed to other cows that in turn are approved and considered to be safe. So there's a loop in that chain that, to me, is disturbing, based on some of the evidence I've researched. But I have to ask that of the ministry, then.

Mr Peters: We comment on this on page 32, for example, where we say, "Ministry policy allows producers to transport deadstock without a collector's licence or a vehicle permit in certain areas of the province. We were informed that such transportation was being permitted because depressed prices for animal disposal products made it no longer profitable for collectors in this region to do free pickups. Nevertheless," and that's the conclusion of my office, "such practices are contrary to current legislation."

Mr Patten: OK. Even if that is done well, this is still re-entering the food chain.

Mr Peters: That's right. The ministry responded, if you look at page 33. It said, "The current legislation and regulations pertaining to transportation and licensing conditions for livestock disposal, including vehicle inspection, are being examined as part of a broader review of all the food safety legislation in Ontario." So that's one positive step that they were—

Mr Patten: But they could do that without addressing the actual use of dead cows showing up again in animal meal for other cows.

Mr Peters: It would be speculation. That would be a good question for the ministry to respond to.

Mr Patten: OK. It's worrisome.

Mr Crozier: Auditor, I'd like to refer to the statement on the audit, on page 348, where you make reference to Canadian generally accepted auditing standards in the way you conduct your audit. Then you give your opinion that the results—I think you say "in all material respects"—are in accordance with accounting principles recommended for governments by the Canadian Institute of Chartered Accountants. Then you go on to report on page 349 about the government's accounting for supplemental federal health care transfers. You have a heading that says "Need for Greater Consistency and Transparency in Ontario's Accounting." You make some comments on accounting for tangible assets. My question is, do you feel the government has accepted the recom-

mendations for governments by the Canadian Institute of Chartered Accountants or does the government have a ways to go?

Mr Peters: In most cases, I think the performance of Ontario since 1994 in accepting these standards has been quite good. But there are areas where the standards with regard to the recognition of tangible capital assets, which came out in 1997 and have been adopted now by a significant majority of governments, still have to be worked on by the province of Ontario. That is not in place.

That recommendation was made also by the Ontario Financial Review Commission, which was established by the previous Minister of Finance and tabled by the current Minister of Finance, who stated that the government should take all the steps necessary not only to implement the existing standard with regard to tangible capital assets, but also to immediately implement any revisions to that standard as they come out.

Largely, maybe by way of a little bit of background, the public sector accounting board is currently working on a revised model of financial reporting for governments. The difficulty that has arisen is that some governments record on an expense basis. In other words, they will capitalize, if you will, or defer, the cost acquisition of tangible capital costs, and amortize this cost in a year, while other governments—Ontario is one of them—expense all capital acquisitions when they're made. There are differences across the board. Ontario and the federal government are certainly the two major governments that still have to work on that. I think the federal government is going to come out in the current year. I'm not aware of the timetable of the provincial government.

Mr Crozier: Just one supplementary on the tangible capital assets, and we'll use school boards as an example, where the government used to provide direct funding for the building of a school and now school boards arrange the funding. My question is, does the provincial government then guarantee the payment for those schools and, if so, do you audit and report on that anywhere?

Mr Peters: If it takes the form of—

Mr Crozier: Off-book financing, I guess.

Mr Peters: I know what you're saying—as they say in German, "Nightingale, I hear your footsteps"—on this one. Where it is a formal guarantee, then of course it would be reflected in the contingency section of the public accounts. Where it is just a commitment, there are shades of commitments and we do a careful assessment as to how they would work. One of the problems we have with the school board accounting and have had virtually all along, and it links to your first question, is that as long as the government does not recognize tangible capital assets—if we were to include, for example, the school board debt in the books of the province—we get only one side of the picture because we would set up a big liability, but there's no way for the government to recognize the assets, namely, the schools.

I am of the view that what we are currently presenting is fair inasmuch as it shows the grants that have been

paid by the government to organizations outside the reporting entity, because we don't include the school boards. I still think that is something that deserves a watching brief, because once we recognize tangible capital assets, the landscape in that regard may change.

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Ms Martel: I have a couple of more questions with respect to MTO. By my read, you've given us four examples this morning of where the ministry either didn't provide you with information, didn't provide it in a timely manner or altered it. I'm looking at the privatization of driver's exams; the information with respect to the business plan for the computer system; the third example, if the ministry had a master list of consulting contracts; and fourth, details for RFPs missing.

I would find it particularly useful if you could provide this committee with a memo or a letter from yourself to us outlining those examples and any other that may be involved with MTO and give us some more specific details with respect to what was requested, whether or not you ever received the information that was requested, those cases where that information is still outstanding, and any details with respect to information that may have been altered, so that we clearly understand what information you asked for that you finally did get and what you haven't got, what appeared to be altered and what you were never given because it then came under this protocol. I would find it particularly useful if you could provide that to members of this committee.

The Chair: Do you have any comments, Erik?

Mr Peters: Yes. Unfortunately I'm prevented from doing that by the Audit Act, section 19. I have—

Ms Martel: You gave most of us that information on the record this morning.

Mr Peters: Oh, I gave you it, but not lists of details or whatever. I talked generically about the kind of information, and I also referred specifically to areas where we mentioned the information in the report. I don't think I can go beyond that. I would have to carefully analyze what I'm allowed to do under section 19 of the Audit Act, which deals with presentation of working papers to the committee.

Ms Martel: OK. That would be useful, so that—

The Chair: So what exactly are you asking for, and what can you deliver? I just want to have it clear in my own mind.

Mr Peters: What I'm actually saying is I can't deliver beyond what I did today.

Ms Martel: You gave us four examples. Are there others or did you give all of them today?

Mr Peters: Offhand, I can't answer that question. I would have to look into the record.

Ms Martel: If you can check that. I would want to be clear, with each of the examples you've provided, what it was in a general sense that you asked for, whether it was a business case—I think in example 3 it was the master list of consulting contracts—in the four cases you've outlined, if in fact you actually did get the information and when, and whether or not in some of these cases, you

never have. For example, we didn't finish asking about the master list of consulting contracts. You said you had certainly asked for it and you found out you obviously didn't have all the information, because when you looked at contracts awarded to people, you found they were not on the list. So you had to assume that something else existed. I don't know whether or not, even under this new minister, you now have a master list that you feel confident is the master list.

The Chair: Do you have a master list?

Mr Peters: Maybe my answer lacked clarity. What I said was that one of the criteria we audited against was the existence of a master list. We were not given one, but it is also very possible that there isn't one. There's a possibility that a master list as such does not exist, so I would have trouble categorizing that as information we did not get. What we did get was a list of consulting contracts and we found the list incomplete.

The Chair: Because you found other contracts that weren't referred to on the list.

Mr Peters: We found other contracts when we did the audit work, so when we then raised the question of the master list, we were told—I would have to paraphrase what my people were told, but it led to the conclusion on our part that we were left in doubt whether one actually existed or whether we were denied access. We were not sure in the end.

The Chair: Do you have any doubts now? Do you have a master list or not?

Mr Peters: We don't have a master list.

The Chair: OK.

Ms Martel: You have some list.

Mr Peters: We have some list, but we don't have a master list. That's where there is difficulty in answering your question. But not having a master list may be just an administrative failing. Whether that is a reportable item to this committee is then a judgment that we would have to make as auditors, whether that, in light of other findings, really—it's the threshold that it should be raised with the committee.

Ms Martel: I think I understand you. I have some difficulty understanding that you have a list, and you're not sure it's a complete list, though you know it's not because there are other names on it that you subsequently found, so MTO obviously gave you something and it was not complete.

Mr Peters: When we pointed out that we had another one, they added it to the list.

Ms Martel: So if you found some more names, they'd add them too. Is that what you're saying?

Mr Peters: I presume that would be the case if we found more.

Ms Martel: That's ridiculous.

The Chair: Isn't this required according to their business plan? Does each ministry have a master list of consultants that it deals with according to their business plans?

Mr Peters: It is a standard that we would like to have followed, but some ministries do and some ministries don't.

The Chair: I understand that. Go ahead.

Ms Martel: If you could provide to us what you think you can with respect to this issue about information, that would be useful.

Mr Peters: I'll take it under advisement, but it's a very careful line I have to tread in terms of providing you with working papers. It was just one additional example that I thought I would put forward.

Ms Martel: I just have a couple of questions on the consultants from MTO. On page 251, you said, "We examined a sample of assignments for consulting services and found that the ministry often disregarded Management Board of Cabinet directives and ministry policies and procedures for the acquisition of consulting services." You did a sample from 1998-99 fiscal year, \$27 million for consulting services. Can you give the committee an idea of what your sample included—numbers?

Mr Peters: The sample size?

Ms Martel: Yes.

Mr Peters: Normally we don't provide that information. I can give you assurance that what you find in our report is supported by audit evidence that we found.

Ms Martel: Of the sample that you looked at, can you tell us if the majority were in compliance with Management Board directives or not?

Mr Peters: We are saying they "often disregarded." I would say that our sample led us to the conclusion that the majority were not.

Ms Martel: The first point: \$4.5 million worth of contracts "where the ministry hired consultants either with no justification on file of the need for the assignment or with justification that was prepared after the contracts were signed." Do you have some idea of how long after the contracts were signed that justification for them was actually provided?

Mr Peters: There is, later on, one case where I believe we say the period was eight months. Let me just look for a moment where that is—at the moment I can't lay my hands on where that is, but I thought one was as much as—

Ms Martel: The eight-month time lag, was that the exception or the norm?

Mr Peters: That would have been an exception, I would think.

Ms Martel: For the balance, was it several weeks, several months or did it vary?

Mr Peters: We didn't measure it. The standard we followed was that you should have justification for engaging a consultant on file before you sign a contract. So how much later they did it became almost a moot point. It was just not done at the time the contract was signed or, in some cases—oh, I just found it, "Without a written contract in place, the ministry engaged consultants for over \$1 million. For one of these engagements,

work began eight months prior to the date the contract was signed."

Ms Martel: For the \$4.5 million worth of contracts, are you permitted to tell us how many contracts that included?

Mr Peters: How many individual contracts?

Ms Martel: Yes.

Mr Peters: I cannot. We didn't put it in. It's the total amount.

Ms Martel: On the next page, the second-last bullet point says, "We could not determine the propriety of ministry payments to consultants. For instance, the ministry had altered a consultant's invoice totalling \$234,000 by recording the amount as paid against another contract with the same consultant and indicating that the work was done during a different time period." Was that an exception, or how many cases did you find that the ministry had altered invoices?

Mr Peters: I think I would prefer that these questions were asked of the ministry.

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Ms Martel: You haven't had much luck getting information from them. I don't know that we're going to.

Mr Peters: It will probably work. It is a similar case, for example, to where we reported on quality of water deficiency where we couldn't name the municipalities that were in default. It was the ministry that had the responsibility of doing that. The ministry would know, because all our reports are provided to the ministry for factual clearance, and so they agreed with it. I would really prefer, in that particular case, if you wouldn't mind raising that with the ministry.

Ms Martel: One final question, a general one. I think you said, in response to an earlier question, that the directives for consulting contracts are clear and complete.

Mr Peters: Yes.

Ms Martel: There are a number of examples here, frankly, that are just outrageous. What was going on at the MTO with respect to consulting services? If the directives are clear, complete and in place, why do we see a consistent pattern of abuse of the guidelines and the ministry doing whatever it wanted with respect to consulting services?

Mr Peters: I have to stick to what we said. We found that the ministry often disregarded the directives. The motivation is a question they may have to answer. What I can also say is what the ministry responded to us, on page 253:

"The ministry is taking steps (beginning in July 2001) to improve its procurement and consultant evaluation processes in accordance with the Provincial Auditor's recommendations. These steps include:

"requiring staff to attend training on the improvements to the consultant procurement and evaluation processes;

"monitoring consultant acquisition processes to ensure Management Board of Cabinet directives and guidelines are strictly adhered to prior to the actual acquisition of consulting services;

“monitoring consultant performance/evaluations during the contract period and maintaining this information in a central repository for future reference.”

That may be your master list.

Ms Martel: But these requirements were in place before July 2001. The ministry is not following them. Isn't that the point?

Mr Peters: They weren't at the time. That's why we reported it here.

The Chair: Could I just ask a very general question that we sometimes get from the public? I understand there are 25 ministries and about 130 or 140 different programs. How do you select annually the 11 or 12 programs that you actually audit? How is that done?

Mr Peters: We maintain something that we call an audit universe, which is essentially a listing of all government programs that are being delivered. It's a brief list.

The Chair: Would you agree that it's about 140—in that neighbourhood?

Mr Peters: I don't have the number in my head. I suspect it's actually higher than that, because there are programs and activities etc.

We maintain that list, and we go through that list annually to determine, based on a series of risk factors, whether this particular program should receive a high, a medium or a low audit priority. In other words, a high would be five years or less audit attention.

The Chair: Since you last audited it?

Mr Peters: That's right.

The Chair: I see. OK.

Mr Peters: A medium would be around five years, and a low would allow a little latitude. It could be more than five years that we go into it.

We describe the risk factors in our report. Some of them are the amount of money that is being spent by the program, the previous audit reports as to what was found either by us or others or consultants, management changes, changes in legislation, changes in objectives of the program that were brought in by the Legislature—factors like that. In total there are 18; I won't bore you by listing them all. We go against these, and from these the portfolio teams—as you know, we are organized into portfolios—make recommendations to the assistant Provincial Auditor and me as to where they stand and what has fallen out of the process as audit candidates in the upcoming year. That's fundamentally how we make our selection. Then that is weighed off against resource constraints. Incidentally, public safety is one of the risk factors that I should mention as well.

The Chair: OK, but just so I'm clear, you do about 11 a year. That's what you've done in the last three or four years.

Mr Peters: That's what we're down to now.

The Chair: If there are 130 programs out there, obviously some programs never get audited, because you wouldn't be able to get to them. Even if you did them all sequentially, you'd only get to them about once every 10 or 11 years.

Mr Peters: That is right, but that is in all cases based on the risk assessment. We used to be able to do a lot more, but with the current resources we are restricted to about that number. So we have to deal with that, balancing the resources. I think we had a lengthy discussion before this committee about the resources and that I'm funded at about one third the level of other legislative auditors.

The Chair: OK. Mr Barrett?

Mr Barrett: Mr Peters, I'm very pleased that you have yet again taken a look at special education in the school system. If I'm not mistaken, I think it was maybe in 1994 that you took a look at special education.

Mr Peters: That's right—in 1993; you're in the right range.

Mr Barrett: I do remember that report. This was before I was elected. But when I was elected, I had an opportunity, in part from information I had from your report, to talk to at least one school board in my area. At that time the concern seemed to be that the money directed to school boards for special education seemed to be going into a general pool. The one board I spoke with seemed to be unclear whether that money from the provincial government was actually being spent on special education or whether it was going to buy football equipment, for example—my memory fails me.

But I guess my question is, in your opinion—this is at least your second review of special education—has that kind of confusion, if that was the case back in 1993, been resolved? The reason I'm also concerned about this is, first of all, it's very important for those of us, the big people in this room, to be looking after these young people who have special needs and certain disabilities. Secondly, the budget for special education has increased by 17% since the 1998-99 budget year. We spend about \$1.37 billion on special education. I'm assuming it's not being directed into other purposes; I have that confidence, but I would like to ask that question. Maybe I was off base a number of years ago with my concerns. I don't know whether it was your concern that some of the money maybe was going into a never-never land and being used for other purposes back then. My concern is, what is our progress since then?

Mr Peters: There are two points I would like to make in response. Firstly, we have taken a very unusual step in this year's report on special education, inasmuch as we reproduced for the committee the recommendations they made in 1994 and their current status, where these recommendations stand. One of them was that this committee, based on our report, made the recommendation that the Ministry of Education and Training should establish procedures that enable it to monitor the costs and effectiveness of special education programs and services delivered—that is, the cost of delivering these programs by school boards—and facilitate the sharing of best practices among school boards. That was the recommendation of this committee. The current status we report is “not implemented.” We are reporting further. The cost-effectiveness of these programs—the information is just

not there. It's neither available to the ministry nor is it available to the school boards.

But on the second part, we do report on the use of the funds. For example, we found a number of school boards, and we list them on page 147, where the so-called incremental expenditures—special education really deals, or is supposed to deal, with incremental expenditures incurred by school boards over and above the funding they receive for their regular student stream. How much is special-ed costing us in terms of incremental? What we did find in that is that all the school boards, overall in the province, were saying that they were spending more money on special education than they were receiving by way of incremental grants. So that is the other answer. But the real concern we have is that they still are not in a position, neither the ministry nor the school boards, to determine whether they are spending that money cost-effectively.

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Mr Barrett: We know the allocation from the provincial government is now up to \$1.37 billion and in effect, in one sense, this is not a bad thing. There's much more money than that being spent because the school boards are also topping it up.

Mr Peters: That's right.

Mr Barrett: I guess the concern is, as you've indicated, is it being spent efficiently and effectively? I know, as an individual MPP, sometimes it is difficult for me, maybe being on the government side, to communicate with school boards or to get a hearing, and as a parent, for that matter. I guess I'm concerned if there are some boards or perhaps some schools where young people are falling through the cracks. With respect to young people with special needs, many of them are in other schools. I think of the Robarts School for the deaf, the school for the deaf in Milton, W. Ross Macdonald School for the blind in Brantford. I think I know the answer: did you cover that group, as well? What about those students?

Mr Peters: I don't have the list with me as to which school boards we covered.

Mr Barrett: I think those facilities are actually under the ministry.

Mr Peters: Yes.

Mr Barrett: There may be a process of transferring them to a local school board.

Mr Peters: I don't think they were covered in this audit. I think we covered the regular school boards and the regular programs.

Mr Barrett: Maybe I just raise that as a comment. In this area, oftentimes people do get forgotten and perhaps because they are under a ministry rather than a school board, I'm suggesting that maybe they have been overlooked inadvertently with the structure of your investigations.

Mr Peters: Not deliberately.

Mr Barrett: No.

Mr Peters: We were looking at this particular program, but we made our selection from the existing—

actually where we started out was the special education grants that were granted by the ministry and what school boards did they cover and we followed it through from there. We didn't follow the separate stream of monies given to these special schools for the blind or the deaf. This was a particular grant line, if you will, in the ministry's own estimates.

Mr Barrett: Exactly. I understand why that would be done. I guess I suggest we cannot overlook anybody.

Mr Peters: We will include them; thank you for the question. Definitely they are considered in our risk assessment.

Mr Patten: A general question, just back on the Ministry of Transportation. Let's assume I have a business and that I'm filing my income tax and I decide to alter some invoices and alter the information that's required of me. Can I not be charged criminally, and at what point do you raise a flag and say—I mean, if people are literally changing invoices and changing information and backtracking and backdating consulting contracts and filling in the blanks afterwards, is there not some kind of a basis for a special investigation by the OPP or something?

Mr Peters: The standards that we use on the criteria against which we audit are the standards that are promulgated in the Management Board of Cabinet directives. These are administrative failures. We have no evidence of criminal failures.

Mr Patten: Altering invoices is not administrative incompetence; it contravenes the law, as far as I'm concerned.

Mr Peters: It was charged against other contracts that they had. They were just shifted between existing contracts. I'm certain that my staff has considered whether there was something along those lines and they concluded there was not.

The Chair: Do you regard it as part of your role to lay this before the police or should the ministry do that, if you uncover something like this, or should somebody else do that? Did you view it as part of your role?

Mr Peters: Yes. It's definitely outlined in section 27 of the Audit Act that we can use or should use information for two purposes. One is to further the administration of the Audit Act and the second one is if there is a matter that has to be followed up under the Criminal Code.

The Chair: I think at this point in time we should deal with the subcommittee report or else we might lose the time.

SUBCOMMITTEE REPORT

The Chair: Would somebody move the report? It has to be read into the record, please.

Mr Crozier: The subcommittee on committee business met on Wednesday, December 5, 2001, and I would move the following recommendations that came from that committee:

1. That the committee review the cancer care value-for-money audit report of the Provincial Auditor and review its committee report on section 3.03 of the (2000) Special Report of the Provincial Auditor (POLARIS) at its next meeting Thursday, December 13, 2001.

2. That the selection for the public accounts committee in its review of the 2001 Annual Report of the Provincial Auditor be as follows:

3.01: Food industry program—Agriculture, Food and Rural Affairs;

3.03: Integrated justice project—Attorney General, Correctional Services, and Solicitor General;

3.05: Violence against women program—Community and Social Services;

3.07: Community reinvestment fund—Finance;

3.1 I: Road user safety program—Transportation;

Chapter 1—Ontario Innovation Trust (p. 3) or chapter 4-4.01: Family Responsibility Office—Attorney General;

Chapter 4-4.06: Financial control review—Economic Development and Trade;

Chapter 4-4.07: Provincial personal income tax revenue and related credits and reductions; and

Chapter 5: Public accounts of Ontario—Finance;

Chapter 4-4.10: Ontario Substance Abuse Bureau—Health and Long-Term Care.

3. That the committee will begin each section with a closed-session briefing by the Provincial Auditor and research officer. That the deputy minister and other appropriate staff of each ministry will be asked to attend the committee following the closed session briefing to provide a response to the auditor's report.

4. That the committee request of the House leaders to sit for up to 12 days during the winter recess or intersession to conduct its review of the 2001 Annual Report of the Provincial Auditor.

5. That the committee meet February 18-21, 2002, February 25-28, 2002, and March 4-7, 2002, if given permission by the House to sit during the winter recess or intersession.

6. That the committee will complete its committee report on section 3.06 of the (2000) Special Report of the Provincial Auditor (Operations Division) during the winter recess.

7. That Bill 95, Ethics and Transparency in Public Matters Act, 2001, and Bill 53, Public Sector Employees' Severance Pay Disclosure Act, 2001, be considered by the committee in the new session if carried over by motion of the House.

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The Chair: Could I just add one bit of information. I understand that in the motion that was passed last night, the private members' bills, in effect, will be saved but will only go on the order paper on the second day of whenever the new session starts. Basically, this committee will not have 95 and 93 before it until the new session starts. What that means is we may not need 12 days; we may only need 10 days, because we would set aside a day for each one of those bills. I would suggest that we amend the motion, taking 7 off in light of what

happened with the motion that was passed by the House yesterday and limiting the request to 10 days rather than 12 days.

Mr Crozier: I think that is a friendly amendment.

The Chair: The clerk can work out which two days can be dropped within that 12-day period.

Mrs Munro: I just have a couple of things that I wanted to ask about this before we agree. The question, since you left off at number 5—I haven't had an opportunity to give those dates to anyone else. It was my understanding in the subcommittee that we were just offering them internally as suggestions. Is that how this still remains?

The Chair: That's correct. They could be changed. It may be later; it may be earlier. For the purposes of this committee, all we are going to ask the House leaders in the letter is up to 10 days, and then we will work out internally what those days are. But I think we agreed yesterday that basically we are aiming for days within that time period.

Mrs Munro: I certainly agree. I just wonder if our note should reflect the fact that those are the ones being considered, or something like that, so people understand that we are looking at those dates. We should find consensus on the appropriateness of those dates.

Clerk of the Committee (Ms Tonia Grannum): "Proposed dates"—

Mrs Munro: Yes, proposed or under consideration.

Mr Crozier: Perhaps we could amend that by saying, "The committee recommends that we meet" those dates.

Mrs Munro: Yes, just something so that people understand that there is conversation that can take place.

The Chair: That's another friendly amendment then, that the committee meets on these proposed dates. There could be others.

Mrs Munro: My second question relates to part 2 of this. It is bullet point 6—if I counted correctly—with regard to chapter 1, the Ontario Innovation Trust, or chapter 4. I just wondered how that would be determined. When we say that it is either this or this, I thought we need to understand the process.

The Chair: I agree with you. There should be a clarification there.

Mr Patten: There was a discussion yesterday. It was based on communicating with the fund to see whether they would appear. If they didn't, then we would switch to the other issue.

Mrs Munro: What I'm suggesting here is, do we need to add some kind of direction to the clerk to reflect what we discussed on that? I certainly recall that as being what we were concerned about. Should there be a reflection of that in this motion?

The Chair: There should be wording to the effect that the invitation will go out to the Ontario Innovation Trust people, and we understand that the Ministry of Energy, Science and Technology is responsible for that. But in the event that they refuse to attend, then we go to the Family Responsibility Office.

Mrs Munro: I would suggest that “refuse to attend” would not be the appropriate wording; perhaps “unable to attend.” But I do think we have to give some instruction to the clerk that we’ve established a priority, that we would ask them to come.

The Chair: OK—if they’re “unable to attend.”

Mrs Munro: That’s right.

The Chair: Is that OK? I think that’s a friendly amendment as well, because that’s certainly the understanding.

Mrs Munro: It achieves the same objective.

Mr Crozier: I’m not going to read this again?

The Chair: No, I think that the Hansard has already got the amendments anyway.

Clerk of the Committee: You can just vote on the subcommittee report, as amended.

Mrs Munro: I have one final thing. On the second last one, where we have chapter 4-4.07 and chapter 5, I recognize that chapter 5 was on the suggestion of the auditor. Chapter 5 does cover a number of areas. It would seem to me appropriate that we give a more specific instruction with regard to chapter 5. I believe the auditor informally did suggest where specifically—

The Chair: Yes. What was it again in chapter 5 that we specifically wanted the auditor to—

Mrs Munro: It is the Ministry of Finance. That was why we rolled it into chapter 4.

Clerk of the Committee: I’ve got public accounts of Ontario only under chapter 5. Should it be more specific? *Interjection.*

Clerk of the Committee: I thought it was page 348.

Mr Peters: The items I brought out were on page 349, “Better Accounting and Accountability Required for Multi-Year Funding.” That was what I mentioned. I don’t know whether you want to take it further into page 352 based on the questioning today, “Accounting for Tangible Capital Assets.” I’m not sure whether that is the wish of the committee.

Clerk of the Committee: But to review that under the public accounts of Ontario.

Mr Peters: That’s right, chapter 5 and specifically those items.

The Chair: So it’s chapter 5 and specifically the items referred to from pages 349 up to and including 352.

Mr Patten: It is only these that have one page, so why not just say—

The Chair: Oh, 353, right?

Mr Patten: Does that mean we can’t talk about anything else?

Mrs Munro: Are you suggesting that that ever happens?

The Chair: We can talk about whatever we want. It is that we give direction to the Ministry of Finance as to why we want them before the committee.

Mrs Munro: That’s my concern.

Mr Patten: I had a question for the auditor on this.

Mr Peters: Can you do that, if you will, by regulation, where that’s covered off in the letter from the clerk? The motion says chapter 5, but the letter from the clerk to the ministry says with attention to pages—

The Chair: Pages 349 to 353: are we agreed on that?

Mr Patten: This is to help finance focus.

The Chair: That’s right. Is that agreeable?

Mrs Munro: Yes. I just wanted it to be clear to them in any correspondence that this is what we were specifically looking for.

Clerk of the Committee: When I send out the letter to the ministries, because I’ve been given even further direction, it will be specific. It will state from these pages, and I’ll give them the subheadings etc under the public accounts of Ontario.

The Chair: One other amendment that Mr Peters brings to my attention: when we refer to page 3 in the Ontario Innovation Trust, it is not just page 3—that is the summary—but in the actual report it is pages 15 and 16 where the Ontario Innovation Trust is referred to—pages 15 and 16 as it relates to Ontario Innovation Trust.

Anything else? Are we all clear on everything?

All in favour of the subcommittee report, as amended?
Carried.

Is there anything else for the good of the committee?
Is that it? Thank you very much. We are adjourned.

The committee adjourned at 1200.

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Mr Richard Patten (Ottawa Centre / -Centre L)

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Mr Toby Barrett (Haldimand-Norfolk-Brant PC)

Mr Doug Galt (Northumberland PC)

Mrs Tina R. Molinari (Thornhill PC)

Also taking part / Autres participants et participantes

Mr Erik Peters, Provincial Auditor

Clerk / Greffière

Ms Tonia Grannum

Staff / Personnel

Mr Ray McLellan, research officer,
Research and Information Services