Implementation Note: Independent Commission

Commitment:

Launch an independent commission of inquiry whose mandate is to assess the deficit and to propose timely solutions to solving the deficit problem. As part of this effort, call in an outside audit of the previous government's management of Ontario's finances and make the final results of the audit public.

Source: For the People: A Plan for Ontario, May 2018

Context:

- The 2018 Budget projected deficits over the medium term, beginning with $6.7B in 2018-19, and a recovery plan that projected balance in 2024-25.
- The forecast assumed moderating revenue growth, primarily due to slower economic growth as well as decreases from time-limited non-tax revenues.
- Program spending was projected to increase significantly due to a number of new investments as well as demand pressures from existing programs.
  - The starting point for 2018-19 may be different than for the out-years as the fiscal year has already begun and funds have been committed, which impacts decisions about what programs can be initiated/suspended.
- The Auditor General's recommended accounting adjustments for the electricity refinancing and two public sector pension plans were not reflected in the outlook.

Implementation Requirements:

- The review could be done in number of ways:
  - Appointment of an Advisory Body/Special Advisor. Appointments would be well suited for assessing the fundamental framework and/or providing guidance to a more detailed review.
  - Procurement of consulting services. Consultants would be well suited for conducting a detailed review of all government spending and revenue, or investigating specific efficiency options that have been identified elsewhere.
  - Public Inquiry. Inquiry would be well suited if a formal court-like process is desired and for the ability to compel production of information.
- In addition, the review could combine these mechanisms. For example, an advisory panel (established in consultation with the Auditor General) to review the specific issue of accounting adjustments raised by the Auditor General could operate concurrently with an independent reviewer (for example, a Special Advisor or Commissioner) focusing on a broader issue such as proposing timely solutions to solve the deficit problem.

- **Advisory panels** required for less than three years can be authorized under a statute and may be established through instruments such as an Order in Council or Minister's Order approved by Treasury Board/Management Board of Cabinet.
    - The mandate of an Advisory Body or Special Advisor is to provide advice or make recommendations to, and act on behalf of, the appointing authority (a Minister or the Premier).
    - Appointments of Advisory Bodies or Special Advisors are usually communicated publicly.
- **External consultants** could be procured through the Management Consulting Vendor of Record. This multi-stage process involves seeking approval to issue a Request for Services from the appropriate delegated authority (for example, based on the potential contract value), issuing the Request for Services, inviting qualified vendors to submit a proposal, evaluating responses and awarding work.
    - External consultants are contracted by the public service. They report to the appropriate representative based on the governance model and act on behalf of the contracting authority.
    - The process from issuing the Request for Services to the vendor beginning work takes at a minimum 12 weeks.
    - Procured consulting services are not usually communicated publicly, but are subject to *Freedom of Information and Protection of Privacy Act* requirements.
- A variety of existing reports, data inventories and financial and program performance information is available to support any type of review.
- OPS staff could support an advisor or consultant in the collection, analysis and reporting of results, and by providing a central coordinating function to ensure recommendations are implemented.
    - This would minimize additional costs associated with the review and enable a faster and/or more thorough review.
- A **public inquiry** may be ordered when the government determines that an issue of significant public interest and concern warrants public investigation by an independent entity. Public inquiries are usually established when there is no other effective mechanism to examine an issue.
    - Public inquiries must be established by Order in Council issued by the Lieutenant Governor in Council. Once established, inquiries operate independently of government.
    - Public inquiries are typically led by a sitting or retired judge. Their proceedings resemble court-like public hearings of an adversarial nature (for example, there are rules of procedure, disclosure requirements, cross-examination of witnesses). However, they do have the ability to hold other sorts of public consultations or public/ private meetings.
    - The *Public Inquiries Act* allows for broad powers to compel information (for example, by issuing summonses for witnesses). The *Public Inquiries Act*

provides that an inquiry may receive any information that it considers relevant, whether or not it would be admissible in court. However, the Act qualifies a Commission's access to information by providing that no information may be received that would be inadmissible in court by reason of privilege under the law of evidence. This would include information subject to claims of public interest immunity, solicitor-client privilege or litigation privilege.

  - Public inquiries can be expensive and lengthy. Ontario inquiries have ranged from $10M to over $50M and take two to three years to complete (shortest is 18 months, longest is over five years).

Implementation Plan for Advisory Panel or External Consultant:

- Within 1 Month:
  - Confirm the immediate priorities of the review:
    - Evaluate baseline scenarios to validate the starting point for the government's fiscal plan;
    - Conduct an early review of accounting practices, including pensions and electricity refinancing to inform public accounts; and/or
    - Assess programs to determine alignment with government priorities and identify opportunities for immediate savings.
- Within 2 Months:
  - Develop the baseline scenario and undertake an initial review of programs spending and revenues, starting with the newest ones first, to determine their alignment with government priorities.
- Within 4 months:
  - Identify opportunities where efficiencies exist to inform budget development for the next fiscal year, and consider the government's longer-term strategy for increasing fiscal accountability and ensuring value-for-money.
- Within 8 months:
  - As necessary, undertake more in-depth reviews of specific programs, in the context of the government's longer-term strategy.