



# News Release

For Immediate Release

December 7, 2009

## **SOME GOVERNMENT USER FEES MAY BE IN JEOPARDY: AUDITOR GENERAL**

(TORONTO) Ontario collects more than \$500 million a year in user fees that could be judged to be unlawful by a court on the basis of a decade-old Supreme Court of Canada decision, Auditor General Jim McCarter says in his *2009 Annual Report*, released today.

“We’re concerned that a significant chunk of government revenues may be at risk because the province hasn’t taken action to address the issue by passing the necessary legislation,” McCarter says. “This is a pressing issue that the government should move quickly to clear up.”

The Supreme Court ruled in 1998 that user fees could be considered unlawful and therefore have to be repaid to users if a court determined that:

- they were a tax not established by enacted legislation; or
- the fee amounts were excessive and did not reasonably reflect the cost of providing the services.

The Auditor General found that while the Ontario government has taken some action over the past decade to address the situation, provincial fee revenues from fees for alcohol, gaming, and registration services worth more than \$500 million annually could still be in jeopardy.

McCarter also noted that the government’s user-fee directive requires that, when it is reasonable to do so, the cost of providing services to the public should be borne by those who benefit from the service rather than by the public at large. Also, fees should be set high enough to recoup the cost of the related service. However, in 2008/09, total user fees were estimated to recoup less than 75% of total related service costs—for a more-than-\$500-million shortfall.

Among the Report’s other findings:

- There were generally no recurring processes in place to keep fee rates up to date, as required by the directive. We noted examples of fees that recovered only between 23% and 45% of the full cost of providing the services, yet had undergone no rate increase for 10 to 20 years.
- Ministry of Finance guidelines require ministries to offer discounts for services provided electronically—over the Internet, for example, or at automated kiosks in shopping malls—to encourage increased use and reflect their lower cost. However, the Ministry of Transportation offered no such discounts for driver and vehicle registrations and, on the contrary, levied a so-called “convenience” surcharge at electronic kiosks for each transaction.

-30-

For more information, please contact:

Jim McCarter  
Auditor General  
(416) 327-1326

Andréa Vanasse/Joel Ruimy  
Communications  
(416) 327-2336