

OFFICE OF THE
PARLIAMENTARY BUDGET OFFICER



BUREAU DU
DIRECTEUR PARLEMENTAIRE DU BUDGET

**Fiscal Transparency:
Parliament and the Expenditure Management System
Analysis of Government Information Tabled at the Procedure
and House Affairs Committee on March 16, 2011**

Ottawa, Canada

March 17, 2011

www.parl.gc.ca/pbo-dpb

The *Parliament of Canada Act* mandates the Parliamentary Budget Officer (PBO) to provide independent analysis to the Senate and House of Commons on the state of the nation's finances, government estimates and trends in the national economy.

On February 25, 2011, the Parliamentary Budget Officer (PBO) submitted a [response](#) to the House of Commons Standing Committee on Finance (FINA) with respect to the documents provided by the Government of Canada (GC) to FINA and tabled on February 17, 2011 in the House of Commons. This update to the report to FINA has been undertaken using the information tabled at the Standing Committee on Procedures and House Affairs (PROC), which was provided to the PBO by the Clerk of the Committee. The PBO's assessment makes specific reference to the information requirements in the Question of Privilege arising from the [10th Report of the House of Commons Finance Committee \(FINA\)](#):

“That the committee also orders that the Government of Canada provide the committee with electronic copies of the following documents as they relate to each justice bill listed in Mr. Brison's motion of October 6 as well as the following bills: S-2, An Act to amend the Criminal Code and other Acts, S-6, An Act to amend the Criminal Code and another Act, S-7, An Act to deter terrorism and to amend the State Immunity Act, S-9, An Act to amend the Criminal Code (auto theft and trafficking in property obtained by crime), S-10, An Act to amend the Controlled Drugs and Substances Act and to make related and consequential amendments to other Acts, C-48: An Act to amend the Criminal Code and to make consequential amendments to the National Defence Act (Protecting Canadians by Ending Sentence Discounts for Multiple Murder Acts), C-50: An Act to amend the Criminal Code (interception of private communications and related warrants and orders) (Improving Access to Investigative Tools for Serious Crimes Act), C-51: An Act to amend the Criminal Code, the Competition Act and the Mutual Legal Assistance in Criminal Matters Act (Investigative Powers for the 21st Century Act), C-52: An Act regulating telecommunications facilities to support investigations :

- the incremental cost estimates broken down by Capital, Operations & Maintenance and Other categories*
- the baseline departmental funding requirement excluding the impacts of the bills and Acts, broken down by Capital, Operations and Maintenance and Other categories;*
- the total departmental Annual Reference Level (ARL), including all quasi-statutory and non-quasi-statutory items, including Capital, Operations and Maintenance and Other categories, including the incremental cost estimates;*
- detailed cost accounting, analysis and projections, including assumptions, for each of the bills and Acts, conducted in accordance with the Treasury Board Guide to Costing;”*

Prepared by: Ashutosh Rajekar

* The author would like to thank Mostafa Askari and Sahir Khan for their helpful comments. Any errors or omissions are the responsibility of the authors.

On February 25, 2011, the Parliamentary Budget Officer (PBO) submitted a [response](#) to the House of Commons Standing Committee on Finance (FINA) with respect to the documents provided by the Government of Canada (GC) to FINA and tabled on February 17, 2011 in the House of Commons. The PBO report covered responses related to: corporate profit forecasts, crime legislation and the F-35 Joint Strike Fighter aircraft. On March 16, 2011 members of the Standing Committee on Procedure and House Affairs (PROC) requested that PBO consider the additional information provided by the GC to PROC on March 16, 2011 and to provide an update of its response to FINA. This response will focus solely on the requests for information relating to crime legislation.

In order to examine the information provided to Parliament by the GC, the PBO considered three principle questions:

1. Is the information requested by FINA relevant and necessary to parliamentary decision-making?

A Yes. It is required for parliamentarians to fulfill fiduciary obligations under the Constitution.

2. Is it collected regularly by the GC?

A Yes. The information is collected, analyzed and challenged as part of the GC's expenditure management system (EMS).

3. Does Parliament have a right to the information?

A Yes. The Parliament of Canada is under a constitutional obligation to review any information gathered during the EMS process that it views as necessary for the discharge of its fiduciary duty to the Canadian people to properly control public monies.

In order to test the data and documentation provided by the GC, in an objective manner, the PBO has prepared an updated table to indicate whether or not the data and documentation provided by the GC meets the requirements of parliamentarians as outlined in the Question of Privilege¹.

There are a number of important caveats to the work undertaken by the PBO:

¹<http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4927173&Language=E&Mode=1&Parl=40&Ses=3>

- The timeframe for assessment of the information has been short. As a result, PBO does not test the reasonableness of the cost estimates provided.
- PBO has not had the opportunity to undertake external consultations on the information provided.
- PBO has accepted the GC's view at face value as to whether a proposed bill is procedural in nature and without a financial impact.

As observed from the updated table, PBO wishes to advise members of PROC that:

- Additional information has indeed been provided to parliamentarians when compared to the GC's tabling of documents on February 17, 2011;
- Based on the GC's assessment, four of the proposed bills are not expected to have a fiscal impact owing to their procedural nature;
- The FINA committee request and the Question of Privilege contained multiple references to breakdowns of costs by capital, operating and maintenance and other costs. The information provided includes virtually no reference to capital expenditures (e.g. new cell construction, refurbishment, recapitalization, capital asset replacement).
- There remain significant gaps between the information requested by parliamentarians and the documentation that was provided by the GC which will limit the ability of parliamentarians to fulfill their fiduciary obligations.

We trust that the analysis meets with the expectations of PROC. We would be pleased to undertake additional analysis for PROC as information becomes available.

FISCAL TRANSPARENCY

Bills	Incremental Cost Estimates				Cost Analysis			Fiscal Impact ²	
	Bills (from 40th Parliament, 3 rd Session)	5-Year "Projected Cost Estimates" Summation	Whether cash or accrual basis	Identification of whether costs include O&M and capital or otherwise	Breakdown of operating, capital or other costs	Whether consistent with Treasury Board Guide to Costing	Key assumptions identified	Detailed analysis and projections	Baseline departmental funding excluding the impact of Bills and Acts
C-4	Y	N	Y	N	N	N ⁱ	Partial ⁱⁱ	N	N
C-5	N	N	N	N	N	N	N	N	N
C-16 ⁱⁱⁱ	N	N	N	N	N	N	N	N	N
C-17 ^{iv}	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
C-21	N	N	N	N	N	N	N	N	N
C-22	N	N	N	N	N	N	N	N	N
C-23A	Y	N	Y	N	N	Y	Y	Not applicable ^v	Not applicable
C-23B ^{vi}	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
C-39 ^{vii}	Y	N	Y	Y	N	Partial	Partial	N	N
C-48	N	N	N	N	N	N	N	N	N
C-50 ^{viii}	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
C-51	Y	N	Y	Y	N	N	Partial	N	N
C-52	Y	N	Y	Y	N	Partial	Y	Y	Y
S-2 ^{ix}	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
S-6	N	N	N	N	N	N	N	N	N
S-7 ^x	N	N	N	N	N	N	N	N	N
S-9	Y	N	N	Y	N	Partial	Y	N	N
S-10	Y	N	Y	Y	N	Y	Y	N	N

² Fiscal impact can be measured as the difference between planned departmental baseline spending including and excluding the impact of Bills and Acts.

ⁱ No assumptions have been identified. A 33% inflator over the over the FY2010-11 base year is used to project provincial costs over a 5-year period, but no detail is provided about the assumptions made in this regard.

ⁱⁱ 5-year projections provided; but analysis missing.

ⁱⁱⁱ Bill C-16 impacts only provinces and territories since the maximum sentence for a conditional sentence order is 2 years less a day, implying no cost implication to the federal CSC. However there is cost to provinces and territories that is not provided.

^{iv} The documents provided indicate that Bill C-17 is likely to have no impact whatsoever. It seeks to reinstate certain provisions to the Anti-Terrorism Act, S.C. 2001 c.4, under which the provision was invoked only once until 2007, but never actually took place.

^v Program based on full cost recovery, hence not applicable.

^{vi} As identified, this Bill has no material impact whatsoever since it relates to technical amendments to the pardons process. Consequently, no further details can be furnished under the respective headings.

^{vii} C-39 was recently split and C-59 was created for Accelerated Parole Review (APR). The information provided covers both Bills.

^{viii} As identified, Bill C-50 proposes changes that are procedural and hence have no cost implications.

^{ix} As identified, Bill S-2 proposes changes that are procedural and hence have no cost implications.

^x Bill S-7 has costs that are being funded via internal reallocations. Consequently there are opportunity losses and costs involved that are not revealed.

N.B. The definition of "Projected Cost Estimates" is not available. It is unknown whether the term being used refers to incremental cost estimates, cash costs, accrual costs, or simply planned expenditure