AUDITOR GENERAL

1995/96 Report 5:

Issues of Public Interest

Special Warrants

Government Employee Numbers

Public Communications: Distinguishing Between Government Program and Partisan Political Communications

Canadian Cataloguing in Publication Data

British Columbia. Office of the Auditor General.
Issues of public interest: special warrants, government employee numbers, public communications: distinguishing between government program and partisan political communications

(Report ; 1995/96: 5)

ISBN 0–7726–2925–0

1. Special funds – British Columbia.
2. Civil service – British Columbia – Statistics.
3. Government publicity – British Columbia.
4. Communication in politics – British Columbia.
I. Title. II. Series: British Columbia.
Office of the Auditor General. Report. 1995/96: 5.

HJ2056.B7B74 1996 354.7110672'3 C96–960158–7

Additional copies of this report
may be obtained from:
Office of the Auditor General
8 Bastion Square
Victoria, B.C.
V8V 1X4
Telephone: (604) 387–6803
Fax: (604) 387–1230
Internet: http://www.aud.gov.bc.ca

Issues of Public Interest

Contents

Auditor General's Comments

Auditor General's Comments

This is my fifth report to the Legislative Assembly for 1995/96, and is a report on three issues of public interest.

During the months preceding the 1996 provincial election campaign, several important issues were widely discussed by the public and the media. Three of these issues were ones that my Office had some degree of prior experience in addressing. So I decided to do some updating of our data about them, and present current reports on the topics which, hopefully, will assist the new government and the other Members of the Legislative Assembly.

Special warrants is a subject that my Office has reported on in at least three previous public reports. Because of the extraordinarily large amounts of government spending authorized by special warrants in 1996, and the attendant public attention given to them, I felt it was appropriate to include in this report a repeat of our previous references to this matter, and to reiterate our outstanding recommendation concerning special warrants: that the government review the interpretation and application of the special warrants section in the *Financial Administration Act*, and present appropriate amendments to the Legislative Assembly.

Government employee numbers, the dollar cost of which we subject to audit each year as part of our government financial statement auditing, fluctuate in total, depending on the basis of the counting. We took a pragmatic approach to this issue by taking the view that all employees on the government's payroll should be included in the count of government full–time equivalent employees. Also, we considered that government employees working outside the central ministries of government (e.g. in Crown corporations) should similarly be included in government employee numbers.

Government public communications was a topic that was referred to in my 1995 public report on the NOW Communications contracts with the government. In this review, my Office obtained information from several Commonwealth countries as to the types of guidance

that were, or were not, in place to assist in determining what is government program advertising and communication versus partisan political advertising and communication. We used this information to make recommendations about what might be a workable arrangement in our own province.

All in all, these three reported issues should make for helpful and informative reading for the Members of the Legislative Assembly and the public.

The appendix at the end of this report provides a listing of the public reports issued to date by my Office in the current reporting year.

I wish to acknowledge the outstanding work of my staff in completing these reports in a very brief period of time, and to thank them for their professional dedication. I also greatly appreciate the cooperation shown to my staff by the officials and staff in the ministries and other government organizations that provided such helpful assistance in the carrying out of these reviews. And I offer a special 'thank you' to my colleagues in legislative audit offices across Canada and in the U.K., New Zealand and Australia for their cooperative responses to our requests for pertinent data from their jurisdictions.

George L. Morfitt, FCA
Auditor General

Victoria, British Columbia
June 1996

Special Warrants

Special Warrants

Background

The Westminster model of parliamentary democracy, established centuries ago, provides the elected representatives of the people with control over the expenditure of public monies. The basis for this derives from the 1689 *Bill of Rights* enacted in England and which is still in effect. The Glorious Revolution of the time saw the autocratic King James II driven from the country by William of Orange and Mary, who took the throne upon accepting the declaration of the rights of Parliament. Under this model of governance, the Sovereign and his or her Ministers request the use of publicly–raised funds for the government's programs, and the Commons or Assembly of Members considers the request and grants or denies the authority to spend.

Two of the most fundamental cornerstones of parliamentary democracy are the rule of law and the principle of parliamentary approval of government spending. In British Columbia, the Legislative Assembly passes an Act each year to assert its right to give precedence to matters other than those expressed by the Sovereign. This Act is called *An Act to Ensure the Supremacy of Parliament.*

The common parliamentary means of providing spending authority to government is through the annual passing of Supply Acts or Appropriation Acts. This involves having the Members of the Assembly meet, discuss, debate, and vote on the government's funding requests. Approval by a majority of the Members is needed to pass an Act. Also used in our province and elsewhere in Canada are statutory appropriations, being Acts passed by the Members to provide continuing spending authority for certain specified purposes.

Across Canada, at both the federal and provincial levels, we also have a distinctively unique Canadian convention for authorizing the government to spend. Through a "special warrant" the government can authorize itself to spend public monies without obtaining the prior approval of the Members of the elected Assembly. Special warrants are thus a statutory exception to the basic principle of democracy that requires parliamentary approval before the government spends public money. The common requirement in all jurisdictions for the use of special warrants is that the Assembly must not be in session at the time the warrants are issued.

Provision for the use of special warrants has existed in Government of Canada statutes since the early years of Confederation. Even before, in 1864, the united Provinces of Canada enacted legislation to permit special warrant spending. Back then, this form of spending authorization was used for urgent

and specific needs, such as funding repairs to a public work or building because of a fire or a leaky roof.

The circumstances of those earlier times made an instrument like special warrants necessary. Nineteenth century conditions—great distances, slow transportation, difficult communications, and parliamentarians meeting for only a small portion of the year—justified the need to have some form of special spending authority available for fast–arising crises. Such is no longer the case in our modern society, where Members of the Assembly can be called together in a matter of hours.

Special Warrants in British Columbia

The province's *Financial Administration Act,* passed in 1981, provides for the use of special warrants. The predecessor *Financial Control Act* had a similar provision; and prior to that Act, the province's *Audit Act,* which dated back to the early part of this century, also allowed for the use of special warrant spending authorizations.

Special warrants in British Columbia are approved by the Lieutenant Governor in Council only when the Legislative Assembly is not in session. The Lieutenant Governor signs an order–in–council to authorize the special warrant spending, upon receiving the advice of the provincial Cabinet to do so. The order–in–council becomes a public document. Expenditures authorized in this manner are supposed to be those that were not foreseen or provided for or insufficiently provided for and were urgently and immediately required for the public good. The legislative authority for special warrants comes from section 21 of the *Financial Administration Act*.

In recent years there has been considerable public discussion and debate about the government's practice of using special warrants to authorize its spending. Our Office has provided comments and recommendations on the subject in at least three of our public reports over the past 10 years—in March 1989, June 1992, and February 1996. Our political leaders, and some government studies, have also provided official commentary on the subject over the years. The consensus generally is that reform of the practice of using special warrants is needed, particularly to ensure that the rights of Members of the Assembly are respected before the government spends public money.

Our purpose in this report is to:

- set forth a number of the formal public comments made about the use of special warrants;
- present a summary of special warrant spending authorities used in our province, and in other Canadian government jurisdictions; and
- reiterate the need for government to amend the statutory authority that provides for special warrant spending.

Public Commentary About Special Warrants

Before the *Financial Administration Act* was passed in 1981, the government established a Task Force in 1980 to receive and consider public submissions on a discussion paper and new financial legislation drafted for the province, and to recommend appropriate action. The Task Force was chaired by the then Deputy Minister of Finance and included senior officials from government, business and the financial community. In its report issued in February 1981, the Task Force recommendations regarding the use of special warrants were as follows:

Report of the Task Force on the *Financial Administration Act*
February 1981

It is recommended that special warrants be issued only in situations where the expenditure is truly required urgently and immediately, because these authorizations circumvent the normal process of prior legislative approval of expenditures. Therefore the provision should be amended to restore the requirement contained in the existing legislation, and in that of most other jurisdictions, that special warrants may be issued only when the Legislature is not in session. The requirement of subsequent confirmation by the Legislature, proposed in the Discussion Paper draft, should be retained to ensure that the Legislative Assembly has an opportunity to debate these items. The Task Force recommends that the government initiate the practice of using supplementary estimates for introduction of new programs, provision for unforeseen items and supplementation of existing appropriations. This would eliminate the present routine use of special warrants for expenditures which cannot truly be described as "urgently and immediately required for the public good," and would thus reserve this instrument for unforeseen emergencies.

When the Act was passed later that year, it made provision for the ongoing use of special warrants in its section 21:

Financial Administration Act

Special Warrant

21. (1) If, while the Legislature is not in session, a matter arises for which an expenditure not foreseen or provided for or insufficiently provided for is urgently and immediately required for the public good, the Lieutenant Governor in Council,

(a) on the report of the appropriate minister that there is no appropriation for the expenditure or that the appropriation is exhausted or insufficient, and that the expenditure is urgently and immediately required for the public good, and

(b) on the recommendation of the Treasury Board,

may order a special warrant to be prepared for the signature of the Lieutenant Governor authorizing the payment of an amount the Lieutenant Governor in Council considers necessary out of the consolidated revenue fund.

(2) For the purpose of subsection (1), the Legislature is not in session where it is prorogued or dissolved, or is adjourned following a resolution to adjourn for an indefinite period or for a period that exceeds 7 days.

(3) Where a special warrant is issued under this section in respect of an expenditure for which there is no appropriation, the special warrant shall be deemed to be an appropriation for the fiscal year in which the warrant is issued.

(4) Where a special warrant is issued under this section in respect of an expenditure where an appropriation for that expenditure is exhausted or insufficient, the special warrant shall be added to and deemed part of the appropriation for the fiscal year in which the warrant is issued.

(5) The amount appropriated by a special warrant shall be submitted to the Legislature as part of the next ensuing Supply Bill.

(6) In this section

"appropriate minister" means, in relation to

(a) an Act or a ministry, the minister charged with its administration,

(b) an appropriation, the minister having charge of the appropriation, or

(c) any other matter

(i) the minister in whose portfolio the matter falls in the usual course of government business, or

(ii) in any case where there is doubt, the minister specified by the Lieutenant Governor in Council,

and "appropriate minister" includes a minister acting in the place of the appropriate minister, but does not include a deputy minister.

1981–15–21.

The government then developed guidance for its public servants as to how to use the new financial policies in administering the government's programs and services. This guidance has been provided mainly in the Financial Administration Operating Policy manual. The first principle which appears on the very first page of this policy manual pertains to the supremacy of Parliament in the expenditure of public monies:

> The Government's Financial Management Operating Policy Manual
>
> Principles Underlying Control by the Legislative Assembly
>
> The Legislative Assembly has the traditional right to control public funds. By controlling the supply of funds to the government, the Legislative Assembly determines the purpose for which the government spends public funds and ensures that the government accounts for its actions to the Legislative Assembly.

In the years since the Act was passed, our Office has studied various parts and sections of the Act, and in three public reports we have made particular reference to the special warrants section. In 1989, we reported on a study of the government's Estimates process. In that report titled "Control of the Public Purse by the Legislative Assembly" we referred to comments we had received from MLAs about the need for, and concern with, an instrument such as a special warrant, by making the following assessment:

> Auditor General Annual Report March 1989
>
> In 1981, a provincial Task Force on the proposed *Financial Administration Act* recommended "the government initiate the practice of using supplementary estimates for introduction of new programs, provision for unforeseen items and supplementation of existing appropriations." We agree with this recommendation because supplementary supply [voted pursuant to the supplementary estimates] is consistent with the principle that parliamentary debate should occur before an expenditure is made.
>
> In supplementary supply, additional Estimates are presented to the Legislative Assembly for approval. It therefore requires the expenditure to be deferred until the House is recalled.

In 1992, we reported our "considerable concern regarding the control of, and accountability for, government expenditures" because of the manner in which the government had interpreted and applied the special warrants section of the Act. We concluded that report with a summary statement and recommendation that the Assembly critically review Section 21 of the Act:

Auditor General Annual Report
June 1992

Another special stipulation of Section 21 of the Act is that the expenditures for which a special warrant is issued were not foreseen or provided for, or were insufficiently provided for. The phrase "not foreseen or provided for" in this section of the Act could, in our opinion, be taken to mean that the expenditures were neither foreseen nor provided for (i.e., not included in the Estimates).

In the interest of ensuring proper administration of the financial affairs of the government, and to clarify the intended use of special warrants for the future, we believe that it would be useful if Members of the Legislative Assembly were to review, and to make changes as considered appropriate to, Section 21 of the *Financial Administration Act.*

The government issued an official public response to our 1992 report, which recognized the need for clarification of the special warrants section of the Act, and suggested that the Act might be amended:

Response of the Ministry of Finance and Corporate Relations
(to the Auditor General's June 1992 Annual Report)

Special Warrants

The government is currently reviewing the *Financial Administration Act* and the Auditor General's comments regarding Special Warrants will be considered.

In view of the fact that the Auditor General has questioned the interpretation traditionally given to Section 21 of the Act, clarification of its intent would be helpful. This would resolve the first of the two concerns raised in this Report, namely, the legal intent for the use of Warrants to fund government operations when the House is not sitting.

The second concern, how funds appropriated by Special Warrant should be managed and reported, can also be addressed by the possible inclusion of new wording in the Section.

In 1993, the Select Standing Committee on Public Accounts discussed the Auditor General's concerns. It recommended that Section 21 of the Act be amended:

> Select Standing Committee on Public Accounts Report to the Legislative Assembly
>
> July 1993
>
> Your Committee recommends:
>
> that the Minister of Finance and Corporate Relations conduct a review of the interpretation and application of Section 21 of the *Financial Administration Act* and present amendments to the Legislative Assembly that will address the concerns expressed by the Auditor General in his June 1992 Annual Report.

Finally, in early 1996, we once again reported on the subject of special warrants. We stated simply:

> Auditor General 1995/96: Report 3
> Compliance–with–Authorities Audits
>
> February 1996
>
> Since our 1992 report on this subject and the Public Accounts Committee's endorsement in 1993 of the need for a review and revision of section 21 of the Act, there has been no initiative or progress made by the government to deal with this specific issue of special warrants.
>
> We recommend that the government develop and implement an action plan to address the issues raised in our 1992 Annual Report and the 1993 recommendation of the Select Standing Committee on Public Accounts regarding section 21 (special warrants) of the *Financial Administration Act.*

We have not been alone in expressing concern about this matter. Within months of the October 1991 provincial general election, the newly elected government contracted with the firm Peat Marwick Stevenson & Kellogg to carry out and report on a series of financial reviews. The subject of special warrants was included in one of these commissioned reports, issued in February 1992:

B.C. Financial Review: The Issue of Financial Legislation
by Peat Marwick Stevenson & Kellogg

February 1992

Special warrants

Findings:

Special warrants, as provided in Section 21 of the FAA, have been utilized to obtain funds from the General Fund in situations that might not be considered as urgently and immediately required for the public good. There is a risk that special warrants may be used to initially circumvent the Legislative Assembly's authority and control over public funds, although the appropriation must eventually be part of the next *Supply Act*.

In certain instances, special warrants have been used to fund regular government operations because the Legislative Assembly is not in session.

Conclusions:

There is a need for special warrant provisions because unforeseen funding requirements can arise when the Legislative Assembly is not in session. However, the intent that they only be used in exceptional circumstances should be emphasized and encouraged. To this end, we recommend that the FAA be amended to require that the Lieutenant Governor–in–Council state the reasons, in writing, why a special warrant is urgently and immediately required for the public good. Furthermore, we recommend that an annual statement of all special warrants and an explanation of their urgency be included with the Public Accounts, as well as in the next Supply Bill.

Although we do not often report the public comments of Members of the Legislative Assembly, our province's political leaders have in recent years provided pertinent comments about the use of special warrants, as recorded in the Legislative Assembly's official record of debates (Hansard):

British Columbia Debates Page 12309 May 30, 1991
Mr. Glen Clark

Mr. Speaker, our system is founded on some very basic principles, the most basic of which is that the government has to justify its spending and taxing decisions to the representatives of the people before they embark on either. The government has flouted that basic parliamentary principle. It's a misuse of the special warrants. It's the foundation of parliamentary government because we are elected representatives—all of us. We have to scrutinize the government's and executive council's decisions to tax people and to spend people's money, and the government has to be held accountable. When the executive council spends some $3 billion without public debate, it undermines the very democracy that we are here to uphold. The reason we are here is democracy and to scrutinize the spending and taxing decisions of government. And when the government and the executive council acts unilaterally, it undermines the very foundation of our democracy.

British Columbia Debates Pages 223 and 224 March 30, 1992
Mr. Gordon Wilson

I would suggest that the only thing we've witnessed in tedious repetition is special–warrant spending by this government. It's exactly what the previous one did. That is tedious repetition.

Many of those programs received funding through special warrants—received this expenditure of taxpayers' money.

I come back once again to the notion that it is inherently dishonest. It is inherently arrogant. I suggest that this Finance minister go back and review his comments in *Hansard*, where he says: "But when the government attempts to rule by decree, when the government attempts to rule without public debate, it undermines the very democracy we are held here to uphold. It's unacceptable and it's disgraceful."

Hon. Speaker, in closing, let me say this. We in the opposition want to see a change in the way government is done in British Columbia. We hold ourselves committed to the removal of special–warrant spending.

British Columbia Debates Pages 9694 and 9695 March 29, 1994
Mr. Jack Weisgerber

If there is one practice that could be and should be reformed, it's special warrants as practiced by this and former governments.

I believe there is a better way to deal with this issue. I would like to suggest that this House look at the practice of supplementary supply rather than special warrants, which would essentially say to ministers and the government that if during the course of the year you determine that there are going to be legitimate and genuine needs for additional expenditures, reconvene the House—perhaps for a short period of time—and bring in warrants or supply bills that would deal with those additional expenditures. Give members an opportunity to talk about the need for them. Give ministers an opportunity to justify and rationalize these additional expenditures. I think that would be useful for a couple of reasons.

First of all, I believe that ministers and governments might think just a little bit harder about whether it was critical to overspend the allotted and approved budget. It may force those people at the ministry level to decide if they really want to bring these issues forward midyear to cover unanticipated expenditures. Secondly, it might bring more discipline to the budgetary process itself. Ministries, their staff and the Minister of Finance may well look just a little bit harder at the expenditures they are going to forecast, if over–expenditures would have to be brought back to the Legislature for approval before they were expended.

Mr. Gordon Campbell took his seat in the Legislative Assembly for the first time on March 14, 1994, and we could find no formal comment attributed to him about special warrants. Instead, we have excerpted from Hansard the comments of Mr. Gary Farrell-Collins:

British Columbia Debates Page 13133 March 30, 1995
Mr. Gary Farrell–Collins

Special warrants are an item nobody is proud of. I don't think governments are proud of them, and I know members of this House don't like to see them take place, because they are a backdoor way of funding government's expenditures.

These comments by our political leaders would indicate that it is their belief that the Legislative Assembly should sit and approve government spending before it occurs.

However, despite all this public commentary dating back more than 15 years, the legislative provisions for special warrants have remained unchanged. Not only that, but the use of special warrants to authorize government spending has increased.

The Extent of Special Warrant Spending

This section of our report provides information about the extent of special warrants authorized by the Lieutenant Governor in Council. Also reported is information about special warrants authorized for use in other Canadian government jurisdictions.

Exhibit 1.1 is a summary of the special warrants authorized to cover government spending in British Columbia during the past 16 years (from when the *Financial Administration Act* came into effect in 1981, to May 15, 1996). The years of greatest use have been provincial election years. Not counting these years, the average annual special warrant spending authorization has been $289 million. Including the amounts for election years, the yearly average soars to more than $1.1 billion.

Exhibit 1.1

British Columbia Special Warrants 1981/82 to 1996/97

Fiscal Year	Authorized $	Election dates
1996/97	5,615,706,000	May 28/96
1995/96	179,500,000	
1994/95	199,558,000	
1993/94	107,582,000	
1992/93	103,558,000	
1991/92	5,853,581,000	Oct 17/91
1990/91	1,569,467,000	
1989/90	69,169,000	
1988/89	159,982,000	
1987/88	80,257,000	
1986/87	130,090,000	Oct 22/86
1985/86	149,197,000	
1984/85	428,885,000	
1983/84	3,194,823,000	May 5/83
1982/83	289,201,000	
1981/82*	134,789,000	
TOTAL	**18,265,345,000**	
Average	**1,141,584,000**	
Average excluding election years	**289,262,000**	

* enactment of the *Financial Administration Act* in 1981

All special warrant spending is included in the next ensuing *Supply Act*, which may be presented to the Legislative Assembly in the same fiscal year that the special warrants were authorized, or presented for discussion and approval in the next fiscal year. The full amount of special warrant authorizations may not be spent by the government, and for those authorized early in a fiscal year which are, within a few weeks or months, covered by a *Supply Act*, it is difficult to ascertain how much spending occurred while the special warrant authorization was in effect.

Special warrant spending authority has evolved over the years into being used for three categories of situations:

1. unanticipated requirements, necessitating urgently and immediately provided funding;
2. insufficiently provided–for government budget appropriations needing additional funding (usually in the last few months of the fiscal year); and
3. the routine funding of the day–to–day running of the government (e.g. in election years).

The first category represents the original intent for special warrants, but is now the least used of the three. Examples of this category of use in recent years were the 1991/92 funding, in the amount of $12 million, to assist the residents of Cassiar, affected by the closure of their mine and townsite, and the unanticipated expenditure to remove asbestos from the Royal British Columbia Museum.

The second category has become an annual, almost routine use for special warrants, particularly for supplementing the annual budgets of certain ministries such as Health, Social Services, and Attorney General.

The third category—which has been the subject of the greatest amount of public discussion and debate—has become the one in which there is the largest amount of dollar use from special warrant spending authorizations.

The provincial government's use of special warrants by the three categories during the past seven fiscal years (April 1, 1990 to May 15, 1996) is shown in Exhibit 1.2.

We also obtained information about the extent of special warrant spending authorizations in the other Canadian government jurisdictions from the 1990/91 fiscal year to May 15, 1996. Comparisons of those amounts with British Columbia's for the same period appear in Exhibits 1.3 and 1.4.

As may be seen, only Ontario has been a greater user of special warrants than British Columbia. The federal government has not used such warrants since the late 1980s. Election years are generally the times when special warrants are used the most.

Exhibit 1.2

Spending Authorized by Special Warrants 1990/91 to 1996/97

Fiscal Year	CATEGORY: Unanticipated Requirements	CATEGORY: Insufficient Budgets	CATEGORY: Routine Funding	Election Dates
	$	$*	$	
1996/97			5,615,706,000	May 28/96
1995/96		179,500,000		
1994/95	250,000	199,308,000		
1993/94	250,000	107,332,000		
1992/93	325,000	103,233,000		
1991/92	12,602,000	232,677,000	5,608,302,000	Oct 17/91
1990/91		232,600,000	1,336,867,000	
Total	**13,427,000**	**1,054,650,000**	**12,560,875,000**	

* Ministries using this extra spending authority:

Attorney General	114,268,000
Health	519,760,000
Social Services	316,500,000
Others	104,122,000
Total	**1,054,650,000**

Source: The Public Accounts

Exhibit 1.3

Special Warrants Authorized 1990/91 to 1996/97

($ Millions)

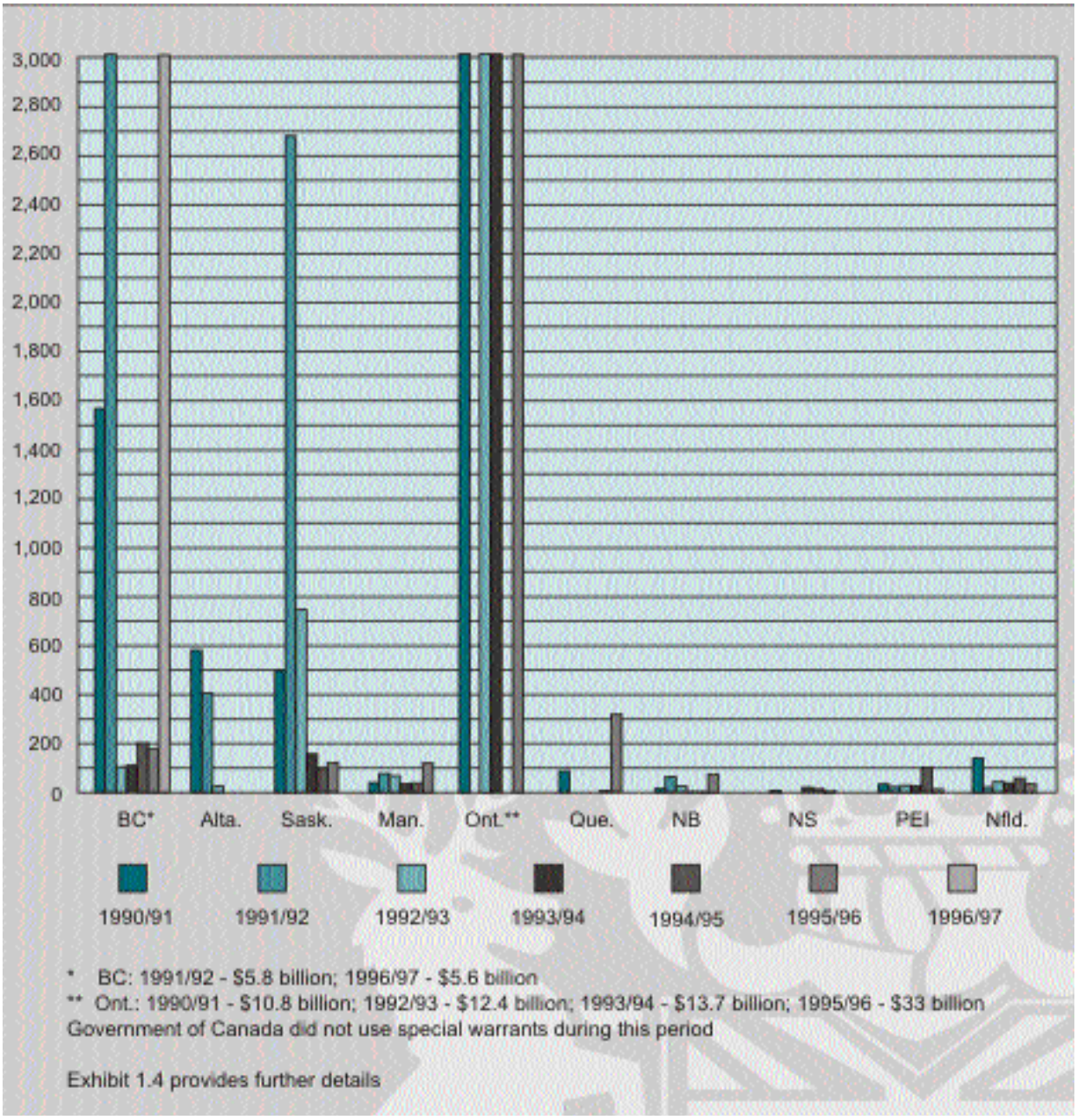

Exhibit 1.4

Special Warrants Authorized, in Canadian Government Jurisdictions 1990/91 to 1996/97

($ Millions)

	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96	1996/97
B.C. elections	$1,569	$5,854 Oct 17/91	$104	$108	$200	$180	$ 5,616 May 28/96
Alta. elections	$582	$406	$26	nil June 15/93	nil	nil	
Sask. elections	$496	$2,683 Oct 21/91	$747	$156	$95	$119 June 21/95	
Man. elections	$40 Sept 11/90	$76	$68	$35	$39	$119 Apr 25/95	
Ont. elections	$10,886 Sept 6/90	nil	$12,436	$13,689	nil	$33,035 June 8/95	
Que. elections	$86	nil	nil	nil	$2 Sept 12/94	$315	
N.B. elections	$15	$62 Sept 23/91	$25	$1	$1	$74 Sept 11/95	
N.S. elections	$5	nil	nil	$18 May 1993	$11	$3	
P.E.I. elections	$32	$22	$29	$26 May 29/93	$99	$13	
Nfld. elections	$140	$19	$42	$37 May 3/93	$58	$33 Feb 22/96	
Canada elections	nil	nil	nil	nil Oct 25/93	nil	nil	

The Need to Study and Amend the Authority for Special Warrants

We are particularly concerned about the use of special warrants to authorize the funding of routine government operations without the Legislative Assembly first being given an opportunity to discuss and debate the spending.

In the current 1996/97 fiscal year, until the Legislative Assembly is called together, the funding of all government spending—both routine and urgent—is being authorized by special warrants. So far, $5.6 billion worth of special warrant spending has been authorized. The current rate of government spending is approximately $1.7 billion a month, without the approval of the Legislative Assembly.

Public commentary from special studies, political leaders, and our Office about special warrants have all been virtually unanimous about the need for reform in the use of special warrants. The only way that this will occur, however, is if the statutory authority for the provision of special warrants is amended, if not deleted.

The Auditor General has previously recommended that reform of the special warrants authority take place. Amendment of the statutory authority for special warrants should give full recognition to the rights of Members of the Legislative Assembly in granting government the authority to spend public money.

Government Employee Numbers

Government Employee Numbers

Introduction

In this study, we set out to answer a question that has in recent months been publicly discussed: "How many people work for the provincial government?" The answer, we found, is—it depends on what you mean by that question. For example:

- Should the number of employees be based on a count made at a point in time; should it be an average number over the year; or should it be a calculation of actual full–time equivalents utilized, also known as FTEs, a measure of the number of full–time positions filled throughout the year? (And should this include contractors?)
- Does "government" mean just the central ministries of government, or does it include the whole of government, comprised of ministries, Crown corporations and related agencies?

The legislation requiring disclosure of staff numbers is the *Financial Administration Act*, which calls for the Estimates of revenue and expenditure for a fiscal year (the "budget") to include a schedule showing authorized staff utilization for that fiscal year and actual staff utilization for the immediately preceding fiscal year. Utilization is calculated in FTEs, and staff are deemed to be those appointed pursuant to the *Public Service Act*.

The term "full–time equivalent" is defined as the employment of one person for one full year, or the equivalent of that. The FTEs of an organization are calculated by dividing the total hours of permanent, auxiliary, temporary, seasonal and overtime employment paid for the fiscal year, by the standard paid hours for one full–time employee working for one year. One authorized FTE represents one full–time position authorized in the budget. One actual FTE represents one full–time position that has been filled throughout the year—either one person employed throughout the year or, for example, two people, one for eight months, and the other for four months.

Currently, the main source of published information on FTEs is the annual Estimates of revenue and expenditure. The Estimates show the number of authorized FTEs for staff appointed pursuant to the *Public Service Act*, by ministry. Comparative numbers for the authorized FTEs of the prior year are also shown, on a basis consistent with the current year by restating them for any transfers of programs between ministries. Because the Estimates are usually prepared before the end of a fiscal year, they also show a forecast total for FTEs used in the prior fiscal year, but not by ministry.

The Public Accounts only disclose the amounts paid to employees, and do not include any

information on FTEs. The annual reports of some individual Crown corporations and agencies do provide information on the numbers of employees, but this is sometimes presented as the total number on the payroll at a point in time, rather than as actual FTEs used.

Purpose and Scope

In our study, we looked at the government employee numbers currently published to determine if they are in accordance with the *Financial Administration Act*. We also compared "persons employed pursuant to the *Public Service Act*" (the basis for the numbers that are published) with the numbers of people employed in the ministries and other agencies that compose or make up central government, to see if they are the same.

In addition, we prepared a table showing employee numbers for both central government and the Crown corporations and agencies that, together with central government, make up the whole of government—the organizations which comprised the government's financial reporting entity at March 31, 1995. We wanted to prepare this table on a consistent basis to give a complete picture of the numbers of FTEs in the whole of government over the past seven years.

We concentrated on the actual FTEs used, rather than just on the authorized numbers, but many of our comments can apply to the authorized numbers as well.

This was not an audit. We collected the numbers presented in this report directly from the various government organizations. Where information on FTEs was not available (especially for the earlier years), we made estimates to fill in the gaps. Our estimates were made using published information on payroll costs, information on the total number of employees, where available, making assumptions on likely salary increases, and comparing it to and working back from known FTE data from later years. The proportion of information in the exhibits that has been estimated by us ranges from 18% in 1989/90 to 9% in 1992/93, but from 1993/94 onwards the proportion is less than 1%. Some of the information provided to us was also estimated. Some organizations have fiscal years ending December 31, and we took that information and used it unchanged for the fiscal year ending on the following March 31. In addition, the numbers provided to us by different organizations are sometimes calculated on a different basis, as explained further in this report. As a result, although the numbers in this report are not definitive, the information on which they are based has been obtained from the most reliable sources—the organizations themselves—and we are confident that the numbers presented are quite consistent from one year to the next.

We have reviewed FTEs from the point of view of wanting to help establish what should be disclosed. We have not attempted to determine whether FTEs ought to be used as a basis for controlling government payroll costs and staffing levels, or whether the current method of calculating FTEs is the most appropriate. These issues have been addressed in

more detail in other reports, notably by the *British Columbia Financial Review* (Peat Marwick Stevenson & Kellogg, February 1992) and by the *Commission of Inquiry into the Public Service and Public Sector* (Korbin, June 1993). Also, we have not reviewed the issue of whether a contractor may be in reality an employee (as discussed in the two reports noted above), except to the extent necessary to produce comparative FTE numbers.

Overall Findings

- The authorized FTE numbers are properly published in the Estimates, in accordance with the *Financial Administration Act*. The Estimates also show the forecast total FTEs used in the prior year, but, because of timing problems, cannot show in most years the actual total FTEs used, as required by the Act.
- The requirement to report FTEs based on the *Public Service Act* results in FTE numbers in the Estimates which are not on the same basis as the salary dollars shown in the Estimates, and which thus do not reflect the true numbers of FTEs in central government.
- The government is not keeping track of employee numbers for the whole of government.

Detailed Findings

The Financial Administration Act

Concerning FTEs, Section 20 of the *Financial Administration Act:*

- requires the Estimates of revenue and expenditure to include a schedule showing the authorized staff utilization for the fiscal year, and the actual staff utilization for the preceding year;
- requires that total actual staff utilization not exceed the authorized staff utilization, except with the approval of the Lieutenant Governor in Council; and
- defines "staff" as those individuals appointed pursuant to the *Public Service Act*.

We found that the Estimates of revenue and expenditure do include the authorized staff FTEs for the year, and officials responsible for calculating these numbers informed us that the definition of staff as being "those employed pursuant to the *Public Service Act*" was the basis for the numbers.

Exhibit 2.1

Employee Numbers for the Whole of Government

1995/96 fiscal year	Full–time equivalent employee numbers	Payroll costs (millions) $
Central Government	37,533	2,078
Crown Corporations and Agencies	30,291	1,731
	67,824	3,809

We also found that the actual FTEs used at the year end did not exceed the authorized number without the increase being approved by the Lieutenant Governor in Council.

The Estimates also include a forecast figure for only the total FTEs used in the prior year. A forecast figure is used because the Estimates are usually prepared for publication before the actual number of FTEs used in the prior year is known. However, the forecast total number of FTEs is not reported by ministry and office, whereas the authorized FTEs are so reported. Therefore the forecast numbers cannot be compared on a "budget/actual" basis with the authorized FTEs to make meaningful analyses of the numbers provided. We believe that the final actual numbers of FTEs used, as called for by the Act, should be made public as soon as they are available.

We recommend that the government report the actual FTEs used as soon as possible after the year end, and also in the Public Accounts for each year.

We further recommend that the reporting of actual FTEs used be at the same level of detail as the reporting of the FTEs authorized.

Numbers in the Estimates Are Not Those for Central Government

The authorized FTE numbers are disclosed in the Estimates as required by the *Financial Administration Act.* Since 1994, following an amendment to the Act, this has meant the FTEs of persons appointed pursuant to the *Public Service Act.* Before the 1994 amendment, the FTEs were required to be for "staff in a ministry." However, for various reasons explained below, neither of these requirements in the Act has resulted in a number which corresponds to staff employed in central government.

By central government, we mean all those organizations whose employees' salaries are paid directly by government, and thus make up the number reported as salaries in the Estimates, and in the Consolidated Revenue Fund Financial Statements of the Public Accounts. These organizations include the legislature, ministries, special offices and other boards, agencies, and commissions, but exclude Crown corporations.

Before 1994, even though all staff in a ministry were required to be included as FTEs in the Estimates, various groups were exempted (for example, Provincial Treasury, Office of the Public Trustee, and Purchasing Commission). In fact, each year between 1986 and 1991, at least one additional group was excluded, including four groups in 1989 alone. Generally, the reason given for exempting them was that these groups needed to be able to increase their staff in response to workload, and their payroll costs were usually recovered from other organizations. Because of these exemptions, the numbers of FTEs disclosed in the Estimates were not a true picture of the numbers of FTEs in central government.

The change in 1994 (when the FTEs reported in the Estimates

became those of persons appointed pursuant to the *Public Service Act)* resulted in a more complete and precise definition of who should be counted but, even so, the numbers of FTEs reported in the Estimates still did not correspond to the true number of FTEs in central government. Some people who are employed in central government are employed under separate legislation or have separate union agreements, such that they are not considered to be employed pursuant to the *Public Service Act.* Consequently, employees of the legislature, some Officers of the legislature, such as the Ombudsman and Auditor General (but not their employees), the Judiciary, employees at Queen's Printer, employees of the Ambulance Service, and some others are not included in the number of FTEs reported.

Conversely, there are some employees who, for historical reasons, are employed under the *Public Service Act,* but who are not employed in what is regarded as central government. This group comprises staff of the British Columbia Mental Health Society (operating Riverview Hospital), Oak Bay Lodge Society, and the British Columbia Liquor Distribution Branch, among others.

In Exhibit 2.2 we have reconciled the FTEs in the Estimates with the true figure for those in central government over the last seven years. We believe that the FTEs in the Estimates should include all of central government, as those FTEs will then be for the

Exhibit 2.2

Reconciliation of FTEs authorized in the Estimates to FTEs utilized in Central Government

Fiscal year	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
FTEs authorized in the Estimates	27,335	27,635	27,993	29,541	30,256	39,419	38,996
Additional FTEs authorized (by order–in–council or regulation)		75		205	8,795		1,200
Authorized FTEs not used	(568)	(629)	(521)	(653)	(602)	(26)	(220)
FTE utilization, corresponding to FTEs authorized in the Estimates (being FTE utilization of staff employed under the *Public Service Act*)	26,767	27,081	27,472	29,093	38,449	39,393	39,976
ADD: FTEs of central government employees not employed under the *Public Service Act* (see next page)	4,494	4,597	5,435	4,988	2,102	2,056	2,172
DEDUCT: FTEs of *Public Service Act* employees not part of central government (see next page)	0	0	0	0	(4,794)	(4,729)	(4,615)
FTEs utilized in Central Government	31,261	31,678	32,907	34,081	35,757	36,720	37,533

Notes: Where information was not available, figures have been estimated by the Office of the Auditor General.

Exhibit 2.2 (continued)

Fiscal year	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
FTEs of central government employees not employed under the *Public Service Act* (for 1993 and prior, employees exempted)							
Members of the Legislative Assembly	69	69	72	75	75	75	75
Staff of the legislature who are not *Public Service Act* employees	198	203	199	252	161	161	161
Judiciary	118	131	147	155	154	156	160
Coroners					20	20	20
Office of the Public Trustee	101	105	119	130	107		
Elections Branch	12	12	150	12			
Coordinated Law Enforcement Unit					35	35	35
B.C. Utilities Commission	30	30	24	24	25	26	26
B.C. Securities Commission	97	100	103	112			
Financial Institutions Commission	115	100	86	76			
Provincial Treasury		145	145	174			
Superannuation Commission			169	169			
Purchasing Commission			385	386			
Queen's Printer			77	77	77	76	77
Industrial Relations Council/ Labour Relations Board	73	73	70	70	79	79	79
Employers' Advisory Board	16	18	17	17	15	17	18
Workers' Advisory Board	20	21	24	27	33	40	40
Ambulance service	1,268	1,272	1,275	1,285	1,281	1,330	1,349
Workers' Compensation Review Board	65	68	70	72			90
Other organizations with fewer than 10 excluded FTEs each	19	26	25	29	40	41	42
Students and other work placements	425	425	425	425			
Employees paid manually	543	474	528	500			
Contractors considered to be employees	1,325	1,325	1,325	921			
	4,494	4,597	5,435	4,988	2,102	2,056	2,172
***FTEs of Public Service Act* employees not part of central government**							
Glendale Lodge Society					(248)	(227)	(118)
Oak Bay Lodge Society					(221)	(212)	(215)
Tillicum and Veterans' Care Society					(115)	(116)	(226)
B.C. Mental Health Society					(1,669)	(1,607)	(1,543)
Islands Trust					(24)	(25)	
Provincial Capital Commission (see note)					(18)	(18)	
British Columbia Liquor Distribution Branch (see note)					(2,499)	(2,524)	(2,513)
	0	0	0	0	(4,794)	(4,729)	(4,615)

Notes: Where information was not available, figures have been estimated by the Office of the Auditor General.
Provincial Capital Commission and British Columbia Liquor Distribution Branch are included as Crown corporations in Exhibit 2.3.
A blank in this exhibit indicates that no adjustment is required to add or deduct the FTEs in that fiscal year, because the FTEs are already included or excluded in the actual FTE utilization.

Source: Public Service Employee Relations Commission, individual ministries and agencies

employees whose salaries are shown in the Estimates and the Consolidated Revenue Fund (CRF) Financial Statements of the government. The exhibit shows the inconsistency between the FTEs in the Estimates and those in central government, and also the effect of continually changing the inclusions and exclusions, although there have been fewer changes since 1994 than there were before.

As we emphasized earlier, we have not considered the issue of whether FTEs should be used as a mechanism of control. We believe that the exempted groups noted above should be included in a count of employee numbers for disclosure purposes, but we have not considered whether they should be part of an FTE control system.

We have included in our numbers for central government the employees of boards, agencies and commissions whose salaries are included as salaries in the Estimates and the CRF financial statements. Among these are full–time salaried board members, but not board members who receive per diem payments. Not included are employees and board members of any boards, agencies and commissions that are funded by government grants, since the salaries are therefore not included in the amounts shown as salaries in the Estimates and the CRF financial statements. We have also adjusted Exhibit 2.2, before 1994, by adding in contractors who have since been considered to be employees. Contractors are further discussed below.

We recommend that the FTEs reported in the Estimates correspond to the employees whose salaries are reported in the Estimates.

Government Employee Numbers

The difficulties in obtaining a clear picture of the numbers employed in central government—the fact that the numbers published in the Estimates do not reflect the true numbers employed in central government, and that various groups are excluded from time to time—also make it difficult to obtain a clear picture of the numbers employed in the whole of government. In addition, employees may be transferred from a ministry to a Crown corporation or vice versa, which affects the numbers of the central government, although not the numbers of the whole of government.

We found that the government does not collect information on employee numbers of Crown corporations and agencies on a regular basis, and so does not have current information on the numbers employed in the whole of government.

Accordingly, we prepared a comparative table (Exhibit 2.3) showing the number of actual FTEs used in the whole of government for the fiscal years from 1989/90 to 1995/96.

Exhibit 2.3

Actual FTEs Used in the Whole of Government, Fiscal Years 1989/90 – 1995/96

Fiscal year	1989/90	1990/91	1991/92	1992/93	1993/94	1994/95	1995/96
Central government	31,261	31,678	32,907	34,081	35,757	36,720	37,533
Crown corporations and agencies (Exhibit 2.4)	26,243	27,410	28,182	29,225	29,891	30,415	30,291
Whole of government	57,504	59,088	61,089	63,306	65,648	67,135	67,824

Note: Where information was not available, figures have been estimated by the Office of the Auditor General

Source: Public Service Employee Relations Commission, individual ministries, Crown corporations and agencies

Some issues affecting the accuracy of these numbers are discussed later in this report.

Exhibit 2.3 includes all organizations that are included in the government's 1995 summary financial statements. Exhibit 2.4 lists all of the Crown corporations and agencies whose FTEs are included in Exhibit 2.3.

Some Crown corporations and agencies do not receive grants from government ministries to help finance their operations, so their employees are paid out of operating revenues rather than from tax revenues. This is also true of some organizations in central government, such as the Superannuation Commission. Exhibit 2.3 makes no distinction in regard to these organizations. Our concern was to record all FTEs employed in the whole of government.

A number of Crown corporations and agencies told us that their staff functions are carried out, as necessary, by contract staff. We have not included these contract staff in our counts. In addition, some of the Crown corporations and agencies have their staff functions carried out by ministry staff (or staff in another Crown corporation) as shown in Exhibit 2.4. Because these staff are already included in the FTEs of the ministry (and thus in the central government), we did not count them a second time as staff of the corporation or agency.

In 1992, following recommendations from our Office, the government started publishing the Summary Financial Statements as its main statements. The Summary Financial Statements comprise the results of the whole of government, not just central government. We have also recommended in previous reports that the government prepare its Estimates on a summary basis, to be comparable to the Summary Financial Statements. We believe that the FTE numbers should be shown on the same basis.

We recommend that the government account for and publish authorized and utilized FTE numbers for the whole of government, not just for central government.

Issues Affecting the Accuracy of the Numbers

Why We Used FTEs

We considered that FTEs represented a reasonable measure of people working for the government, although we have not done a review of alternative measures that could be used.

A head count of employees would only indicate the number of people working at a point in time, and that number would obviously change depending on the point chosen, owing to the use of seasonal employees in some organizations. However, if the same point in time was used from year to year, it would be consistent and thus comparable. In addition, a head count would inflate the numbers since a part–time person would count as an employee just the same as a full–time person. (To provide a comparison, the FTEs used in central government for the fiscal year ended March 31, 1996 totalled 37,533, but the number of people on the payroll at March 31, 1996 was 41,648.)

We have counted actual FTEs used, rather than authorized FTEs, since the authorized FTEs represent only the potential number, which may or may not be used.

FTEs are Based on Hours Paid

The FTE numbers presented throughout this report are based on hours paid. As a result, paid overtime hours serve to increase the FTE count, while unpaid overtime hours (which is expected of employees classified as management) do not. We were unable to estimate the number of unpaid overtime hours worked, nor the number of FTEs that this work represents.

Although FTEs include overtime paid, an adjustment has been made so that only the hours of overtime worked are counted. In other words, even though someone may be paid at double time, only the hours worked count towards the FTE calculation.

Basing FTEs on hours paid also means that paid leave is included in the calculation of FTEs. Thus an employee off sick is still counted as an FTE.

This results in an FTE count that is more a reflection of the cost of the payroll, rather than the actual number of people required by government to carry out its duties. However, the cost of government is important, and it is appropriate that the FTEs relate to the dollars paid rather than the hours worked.

Inconsistencies in the FTE Numbers Presented

As far as possible, we have tried to eliminate inconsistencies in the numbers. The main starting point for our numbers was the FTE data compiled by the Public Service Employee Relations Commission (formerly the Government Personnel Services Division). Much of the time on this review was spent determining what organizations have been included or excluded from these numbers, and for which years, and then determining what adjustments should be made for comparability and consistency.

Exhibit 2.4

Crown Corporations and Agencies Outside Central Government

Note: Some of these Crown corporations and agencies were not active or did not exist during the whole of the period covered by the report. Their FTEs have been included in Exhibit 2.3 only for the period that they were active.

Crown corporations and agencies included

B.C. Community Financial Services Corporation
B.C. Festival of The Arts Society
B.C. Games Society
B.C. Pavilion Corporation
B.C. Transportation Financing Authority
British Columbia Assessment Authority
British Columbia Buildings Corporation
British Columbia Enterprise Corporation
British Columbia Ferry Corporation
British Columbia Hazardous Waste Management Corporation
British Columbia Health Research Foundation
British Columbia Housing Management Commission
British Columbia Hydro and Power Authority
British Columbia Liquor Distribution Branch
British Columbia Lottery Corporation
British Columbia Petroleum Corporation
British Columbia Railway Company
British Columbia Rapid Transit Company Ltd.
British Columbia Securities Commission
British Columbia Systems Corporation
British Columbia Trade Development Corporation
British Columbia Transit
British Columbia Year of Music Society
Cloverdale Historic Transportation Society of B.C.
Creston Valley Wildlife Management Authority Trust Fund
Discovery Enterprises Inc.
First Peoples' Heritage, Language and Culture Council
Forest Renewal B.C.
Insurance Corporation of British Columbia
Okanagan Valley Tree Fruit Authority
Pacific National Exhibition
Pacific Racing Association
Plain Language Institute of British Columbia Society
Provincial Capital Commission
Science Council of British Columbia
The Education Technology Centre of British Columbia
Victoria Line Ltd.
Workers' Compensation Board

Exhibit 2.4 (continued)

Crown corporations and agencies whose staff functions are carried out as needed by ministry or other Crown corporation FTEs or contractors

B.C. Health Care Risk Management Society
British Columbia Educational Institutions Capital Financing Authority
British Columbia Heritage Trust
British Columbia Regional Hospital Districts Financing Authority
British Columbia School Districts Capital Financing Authority
Columbia Power Corporation
Downtown Revitalization Program Society of B.C.
Duke Point Development Limited
Health Facilities Association of British Columbia
Provincial Rental Housing Corporation
W.L.C. Developments Ltd.

We believe that we have been successful in adjusting the numbers to include all parts of central government and Crown corporations and agencies. However, there are still some inconsistencies in the numbers we used.

Although an FTE by definition represents one person working full–time for one year, the number of hours that make up one full–time year varies between central government and Crown corporations. A year of work is 1,827 hours in a ministry; 1,957 at B.C. Hydro; and 2,080 for a unionized employee of B.C. Rail.

However, we were informed by the officials in the Crown corporations that their standard hours have not changed during the period of our review, so fluctuations in the number of FTEs from one year to another are due mainly to changes in employee numbers and not to changes in the method of calculating FTEs.

A few organizations were not able to provide us with numbers expressed as FTEs, especially in the earlier years, and instead gave us average employee numbers.

Contractors

Ministries sometimes found themselves with available budget funds to hire staff, but they were unable to do so because that would cause them to exceed their authorized FTE complement. As a result, they used to hire contractors to do work that might otherwise be done by employees, since contractors do not count as FTEs.

In many cases, these contractors were employees in all but name. This was pointed out in both the *British Columbia Financial Review* (Peat Marwick Stevenson & Kellogg, February 1992) and the *Commission of Inquiry into the Public Service and Public Sector* (Korbin, June 1993).

During the 1992/93 and 1993/94 fiscal years, government changed the situation, converting certain contractor positions into government employee positions.

This resulted in some 1,325 FTEs being added to ministry rolls. (404 contractor FTEs were converted during 1992/93, and a further 921 were converted during 1993/94.)

Both the Peat Marwick Stevenson & Kellogg report and the Commission of Inquiry went to considerable lengths to estimate the number of contractors who might be considered equivalent to employees at the time of their respective studies. We have not attempted to similarly estimate the number of contractor FTEs that may be considered employees currently, or in other years.

Since the time of these earlier studies, the government's policy has been changed. Contractors are not to be used if doing so would establish an employer/employee relationship. Given the new policy, and the publicity surrounding these changes, we have assumed that any remaining contractors who should properly be employees are insignificant in number. The fact that government spending on service contracts has declined from a high of almost $542 million in 1991/92 to $433 million in 1995/96 also suggests this is the case.

Historical information is not available to enable us to estimate the number of FTEs represented by contractors before the fiscal years when the conversions to employees occurred. In order that the numbers presented in our report will have consistency, and thus comparability, we have added an assumed number for contractor FTEs for the fiscal years from 1989/90 to 1992/93. For fiscal 1989/90 to 1991/92, we have added 1,325, being the total contractor FTEs converted. For 1992/93, we have added 921, since the government had already converted, and thus was already counting, the other 404.

Summary of Recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled Government Employee Numbers are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

We recommend that:

- *the government report the actual FTEs used as soon as possible after the year end, and also in the Public Accounts for each year;*
- *the reporting of actual FTEs used be at the same level of detail as the reporting of FTEs authorized;*
- *the FTEs reported in the Estimates correspond to the employees whose salaries are reported in the Estimates; and*
- *the government account for and publish authorized and utilized FTE numbers for the whole of government, not just for central government.*

Public Communications: Distinguishing Between Government Program and Partisan Political Communications

Public Communications: Distinguishing Between Government Program and Partisan Political Communications

Introduction

In recent years, government ministries in British Columbia have spent, on average, over $25 million annually on public communications, which includes statutory notices, publications, annual reports and advertising.

In meeting their responsibility to keep the public informed about government program and policy initiatives, ministries regularly need to notify the public about a range of matters, such as: their existing rights or responsibilities under various government programs; the introduction of new programs or policies, or recent and coming changes to existing programs; the launching of public awareness campaigns aimed at modifying public behaviour for the good of everyone (safe driving, for example); or issues significantly affecting a major policy initiative being taken by government.

To do this, ministries develop public communications plans that involve many different types of media, including television, radio and newspaper advertising, audio–visual productions, promotional materials, press releases, signage, and publications of various kinds including discussion papers, pamphlets and posters.

At the same time, Members of the Legislative Assembly stay in touch with their constituents by regularly sending household mailers and newsletters, taking out advertisements in newspapers, or through other means. The expenses that they incur for these items normally come out of their legislative allowance for communications.

It is a generally–held view that, while it is acceptable for governments to incur expenditures for communicating about government programs, the taxpayers of British Columbia should not have to pay for communications that are of a partisan political nature. The term "partisan" is defined in Safire's New Political Dictionary as "placing party advantage above the public interest." There are other similar definitions in other authoritative reference sources,

and the Speaker of the Legislative Assembly has periodically provided interpretations of the term in his rulings about Private Members' Statements in the House.

That said, it is also recognized that the distinction between the two types of communication is often blurred. Nevertheless, questions periodically arise as to whether certain public communications, being paid for by government, are within the realm of government program information or whether they have strayed into the area of partisan political commentary. At those times there is debate as to whether certain public communications and advertising expenditures of government are to inform the public or, rather, are for the benefit of the political party in control of the government of the day or for one of its members.

In order to fairly hold government accountable to the taxpayer for making these distinctions, we must be sure that politicians and bureaucrats alike have satisfactory and sufficient guidance to enable them to distinguish between these two circumstances.

In May 1995 the Auditor General issued a report entitled "A Review of Contracts Between NOW Communications Group Inc. and the Government of British Columbia." In that report we commented that there is sometimes public debate about whether certain public communications and advertising expenditures of government are meant primarily to inform the public or, alternatively, to promote the political interests of either the government of the day or members of that government. The difficulty we found was that guidance on distinguishing between the two situations is lacking, not only in British Columbia, but across the country.

In this review, we revisit and update that matter, albeit on a wider scale, by considering what principles and guidelines are currently in use, in this and other jurisdictions, for distinguishing between government program and partisan political public communications.

Scope

We carried out this review to determine if there were any existing government guidelines that distinguish between government program communications and partisan political public communications. We also endeavoured to learn if other government jurisdictions had any guidance in place.

We reviewed government policy manuals and instructions regarding government advertising, and conducted interviews with officials responsible for overseeing such matters. We obtained information on this subject from a number of other government jurisdictions, including the Canadian federal government, the other nine Canadian provinces, the United Kingdom, New Zealand, and Australia, including most of its eight states.

In addition, we reviewed copies of guidelines for communication allowances

provided to Members of Parliament and Provincial Assemblies across Canada.

It is important to note that this was not an audit. We did not examine the support for actual communication expenditures in this review. These examinations are carried out, on a sample basis, by our Office when we are auditing the government's financial statements.

Overall Findings and Conclusions

We found that:

- the British Columbia government lacks established principles and guidelines for distinguishing between government program and partisan political advertising and communications; although we did find that for the province's elected officials, their Legislative Assembly Members' Handbook states that "Members may not print or mail, at the expense of the Legislative Assembly, any material of a partisan, political nature."
- other governments in Canada have no more thorough or detailed guidance on this matter.
- some Commonwealth jurisdictions do have guidance, in the form of stated principles; a few of them also have additional detailed guidance, applying to particular situations or types of information; and others are still studying the matter. Conventions on government advertising and publicity have been used by the United Kingdom since 1985, by New Zealand since 1989, and by New South Wales (Australia) since 1991. The Queensland (Australia) Electoral and Administrative Review Commission reviewed this subject in 1994 and recommended certain guidelines, but they have not yet been adopted. The Western Australia Commission on Government is addressing the subject of regulating government advertising as part of its current review of government activities.

We concluded that the government needs to:

- establish a general principle prohibiting the use of partisan political information in public government communications; and
- provide specific guidelines which set out the criteria as to information that should or should not be included in public government communications.

(We have provided a suggested principle and several possible guidelines in the report section entitled "Conclusions From This Survey.")

In addition, we believe guidelines should be considered for the MLAs' communication allowances.

Review Findings

Communications Policies and Guidelines in British Columbia and Other Jurisdictions

British Columbia

Policies and guidelines pertaining to government information and communication management are contained in the General Management Operating Policy Manual. They describe:

- the responsibilities of central government and ministries in making and reporting communication expenditures;
- the protocol for the contracting of advertising and communication services;
- the responsibility of central government and ministries in developing and maintaining communication plans;
- procedures to promote the efficient use of advertising and promotional resources; and
- procedures to ensure the competitive procurement of advertising agencies, and adherence to other financial controls.

Other Canadian Jurisdictions

In Canada, five other provinces and the federal government have policies and guidelines that are similar to those of British Columbia. As well as providing rules to promote due regard for economy, they encourage good financial control practices, and prescribe roles and responsibilities for various central and ministry branches. A policy statement of the Government of Canada states:

- ". . . it is the policy of the government to provide information to the public about its policies, programs and services that is accurate, complete, objective, timely, relevant and understandable . . ."

However, none of these policies or guidelines provide criteria that can be used to make the distinction between government program and partisan political advertising.

Commonwealth Jurisdictions

United Kingdom

Since 1985, the United Kingdom has had several conventions for government advertising and publicity in place. The conventions apply to both paid and unpaid publicity. Paid publicity includes such work as advertising in the media or the distribution of leaflets. Unpaid publicity includes press notices, consultation documents, official briefing notes and white or green papers presented to Parliament.

The conventions are stated in general terms to provide a basis for persons to apply by exercising their judgment in individual cases. The main conventions that provide for the propriety of government publicity and advertising expenditures are:

- "It is right and proper for governments to use public funds for publicity and advertising to explain their policies and to inform the public of the government services available

to them and of their rights and liabilities. Public funds may not, however, be used to finance publicity for party political purposes; this rule governs not only decisions about what is or is not to be published but also the content, style and distribution of what is published. . . ."

- "Subject matter should be relevant to Government responsibilities. The specific matters dealt with should be ones in which government has direct and substantial responsibilities."
- "Content, tone and presentation should not be 'party political'. The treatment should be as objective as possible, should not be personalized, should avoid political slogans and should not directly attack (though it may implicitly respond to) the policies and opinions of opposition parties or groups."
- "Distribution of unsolicited material should be carefully controlled. As a general rule, publicity touching on politically controversial issues should not reach members of the public unsolicited, except where the information clearly and directly affects their interests."
- "Costs should be justifiable. The government is accountable to Parliament for the use they make of public funds for publicity, as for any other purpose."

A 1988 Cabinet Office letter further emphasizes the importance of purpose in distinguishing program from partisan political publicity:

- "It is no less crucial, if government publicity is to remain acceptable within the conventions, that it avoids any doubt as to its purpose. Government publicity should always be directed at informing the public even where it also has the objective of influencing the behaviour of individuals or particular groups. It is possible that in serving the public in this way a well–founded publicity campaign can redound to the political credit of the party in Government. By definition this is a natural consequence of political office but must not be or be believed to be either the primary purpose or a principle incidental purpose of a campaign."

The "Central Government Conventions on Publicity and Advertising" set out further, more detailed comments on some specific issues. For example:

- "Command Papers, consultative documents, official press notices and briefing material may well cover matters which are the subject of political party controversy. Such material will set out what the government is doing and what they want to achieve. But content, tone and presentation follow the conventions . . . ."
- For two specific types of publications [simplified versions of white papers and leaflets dealing with typical questions on programs], "The emphasis is on facts and explanations rather than on the political merits of the proposals. And titles are

carefully chosen to be as neutral as possible."

- ". . . when publicity deals with issues on which there is not a consensus. The presentation of arguments and counter–arguments takes account of the need to avoid criticism that public funds are being used to disseminate party political propaganda. The emphasis is on the factual basis and exposition of government policies rather than on partisan argument."

The same conventions go on to indicate that information which should be publicized includes information about rights, obligations and liabilities of the public and government services covering a broad range of subjects, including: legislation that has given the public new entitlements or obligations; services available; and explanations of changes in the law. It also includes the use of publicity to encourage behaviour that is generally considered to be in the public interest, such as road safety. The report contains a comprehensive discussion of the guidance provided by these conventions, including a section on the use of public relations consultants by government.

Responsibility for ensuring the conventions are observed rests with ministries. However, the Cabinet Office provides advice on the propriety of publicity expenses.

New Zealand

The New Zealand Audit Office on several occasions has been called upon to express opinions on the propriety of certain government–sponsored publicity and advertising. In response to this situation, the Audit Office issued a public report in April 1989 entitled "Suggested Guidelines for a Convention on Publicly–Funded Government Advertising and Publicity."

In that report, the Auditor General said that the Audit Office was faced with an absence of publicly recognized rules upon which to form an opinion and it was evident that the lack of any formal guidance ought to be remedied. The report contained the following comments related to distinguishing between government and political advertising:

- "A Government has the right, indeed probably has the duty, to ensure that all citizens have equal access to full and accurate information about governmental programs, policies, and activities which affect their benefits, rights and obligations."
- "It is improper for a Government to communicate information at public expense for the purpose of securing some advantage to itself."
- "Specifically – A Government may, for example, disseminate material that:
  - Explains its policies.
  - Informs the public of government services available to them.
  - Informs the public of their rights and responsibilities under the law."
- "A Government should not, for example, disseminate material that:

– Is designed to promote, or has the effect of promoting, its interests above those of any other parliamentary grouping.

– Is designed to secure, or has the effect of attempting to secure, popular support for the party–political persuasion of the members of the government."

- "A Government may properly communicate information at public expense which is designed to encourage social behaviour that is generally regarded as being in the public interest, such as road safety and other accident– avoidance practices or participation in the electoral process."
- "The subject–matter of any information being communicated should be relevant to the Government's responsibilities. Specific matters dealt with in the material disseminated should themselves be relevant to the subject–matter and be identifiable with issues in which the Government has a direct and substantial interest."

Other comments included in the suggested guidelines that are relevant to preventing communications from being, or appearing to be, partisan political are:

- "Material may include a response to, but should not be aimed solely at rebutting, the arguments of others."
- "Material should not attack or scorn, for its own sake, the views, policies or actions of others."
- "Material is legal and proper when . . . it avoids political slogans and expressions or language bearing political connotations."

In response to the Auditor General's report, the government of New Zealand issued a set of guidelines in November 1989, stating the following:

> "Governments may legitimately use public funds for advertising and publicity to explain their policies, and to inform the public of the government services available to them and of their rights and responsibilities. These guidelines recognize the public concern that Government advertising should not be conducted in a manner that results in public funds being used to finance publicity for party political purposes."

The guidelines go on to describe the qualities that government advertising should exhibit, stating that government advertising should be presented in a manner which is:

- "Accurate, factual, truthful. Factual information should be outlined clearly and accurately. Comment on and analysis of that information, to amplify its meaning, should be indicated as such."
- "Fair, honest, impartial. The material should be presented in unbiased and objective language, and in a manner free from partisan promotion of Government policy and political argument."

- "Lawful, proper. The material should comply with the law."

The guidelines define publicity and advertising to include the following paid or unpaid materials:

- printed matter (pamphlets, booklets, press statements, posters, etc.);
- audio–visual matter (films, video tapes, etc.); and
- press, radio, cinema and television advertisements, commercials, and sponsored features.

Although the guidelines do not require this, the Auditor General of New Zealand has been asked in a number of cases to express a view on whether the proposed advertising material conforms with the conventions outlined in the "Guidelines for Government Advertising."

New South Wales, Australia

A New South Wales Premier's memo issued in May 1991 provides the following guidelines on government advertising during election campaigns (that is, during the time between the issuance of the election writ and the closing of the polls):

- Advertising placed during election campaign periods does not give grounds for claims that they are published for party political purposes.
- There must be no advertising that could be claimed to have a party political purpose.
- Advertisements are not to include any photographs of Ministers.
- Advertising must have a clear commercial or essential community information purpose and be necessary at that particular time.

Queensland, Australia

The issue of government advertising and public communication was studied by the Queensland Electoral and Administrative Review Commission in 1993. The Commission recommended that guidelines be issued and that they include certain explicit requirements:

- "The Commission recommends that these guidelines make explicit the requirement that the purpose of government publications is the provision of relevant information and not the promotion of government or 'corporate' image."
- "The Commission recommends that guidelines contain a directive to the effect that: government agencies should not disseminate information that is designed to secure or promote support from the public for a political grouping, or advance the interests of government over any other parliamentary grouping."
- "Market research should not be undertaken by government departments or agencies if it involves research concerned with voting intentions or if it is intended to promote government."

The Commission's recommendations were reviewed by a Parliamentary Committee

for Electoral and Administrative Review. The Parliamentary Committee endorsed the adoption of the first and third of them, but the government has not yet adopted them.

Western Australia, Australia

A Commission on Government was set up in November 1994 by the Western Australia Parliament to inquire into a range of issues raised by a Royal Commission on government activities. The Commission's function was to inquire into 24 specific subject matters which included regulating government advertising during an election period and the role of the government media office. The Commission, as of May 1996, had not yet reported on these matters. However, discussion papers produced as part of the inquiry process included the following comments:

- "Government media services do more than simply release objective information. A media secretary is expected not only to present the facts accurately, but also to promote the image of the government of the day (and so, indirectly, of the party or parties in power); there is inevitably conflict, on occasion, between the two aspects of the role."
- "Rather than harbour the illusion that the partisan element of government media activities can be eliminated or neutralized, it may be preferable to acknowledge it as inevitable and concentrate on managing it better."
- "The regulation of government advertising and travel strengthens accountability. . . . The government's behaviour during an election campaign should be open and accountable to prevent the use of public monies to fund a party's election campaign."

Victoria, Australia

The Victoria Auditor General's Office tabled a special report entitled "Marketing Government Services: Are You Being Served?" in the Victoria Parliament in May 1996. The report addressed management of marketing across the public sector with a view to ensuring that resources are focused on achieving desired outcomes and establishing more cost–effective arrangements with the private sector. The report also addressed the issue of using taxpayers' funds to fund party–political advertising and promotion. Since there was no existing Victorian guidance, the audit used the principles in place in the United Kingdom and New Zealand in assessing advertising and promotional material.

The main audit findings were:

- "It was evident during the audit that the absence within Victoria of any legislation or conventions accepted by all political parties, makes assessments in relation to publicly–funded advertising and promotion subject to judgements which are themselves open to challenge."
- "Using conventions adopted in the United Kingdom and New Zealand, the audit assessed the majority of material examined as

appropriate to the objectives of the relevant organisation. However, many examples were evident, particularly at a central level, where published material contained statements which were clearly party–political in nature. In a number of other cases, the propriety of the material produced was a matter of debate."

- "It is important that consideration is given to the adoption of conventions in this area. For such conventions to be effective they need to receive the support of all political parties represented in the Parliament."

The detailed audit findings also included comments on the propriety of the expenses, as follows:

- "A number of the publications . . . were directed at communicating the achievements of the Government in positive and, at times, biased language. Examples included: . . . distribution of publications to individuals or households setting out the positive achievements of the Government since coming to office, including the distribution of a booklet to all households in October 1994 at a cost of over $300,000."
- "This type of material raises the issue of whether the use of public funds to create a positive image of the Government or particular Ministers is appropriate."

In its response to this audit, the Victorian government did not accept the need for guidelines on marketing propriety.

Conclusions From This Survey

Our review shows that there is recognition in a number of Commonwealth jurisdictions of the need for accepted conventions or principles that ensure that public funds are not used to finance government advertising for partisan political purposes. Given the inter–related nature of government and party political initiatives, distinguishing between government program advertising and partisan political advertising is clearly not an easy task. Even with guidelines provided, it often still requires the application of subjective and informed judgment by politicians and bureaucrats.

What is needed first is the acceptance of a general principle that underpins all the rest of the guidance. In British Columbia's case, we suggest such a principle might be:

> Public communications paid for by the taxpayer should not contain information or have a tone or presentation that may be considered to be of a partisan political nature.

While it is probably not possible to give absolute guidance on the matter of differentiating between government program and partisan political communications, additional, more specific policy guidance regarding content, tone and presentation should accompany the general principle. This could be developed from the policies, guidelines and conventions of the various other government

jurisdictions that already have their own guidelines in place. We consider the most useful type of guidance is that which can be applied to a wide variety of circumstances. For example:

- The content of all public communications should be accurate, factual, truthful, fair, honest, impartial, lawful and proper.
- All public communications should state clearly who paid for them: the government, as a regular government program communication; the MLAs through their communications allowance; or a political party.
- Public communications should explain government policies, inform the public of services available to them or of their rights and responsibilities under the law, or encourage social behaviour that is generally regarded as being in the public interest, but should not be aimed solely at setting out the positive achievements of the government.
- Unbiased and objective language should be used, and it should be free from political argument. Political parties and their members should not have their views, policies or actions criticized in public government communications, other than as a result of objective discussion of the arguments for and against the issues being discussed.
- The use of political slogans or phrases bearing political connotations should be avoided in public government communications.
- Titles of members mentioned in public government communications should be as neutral as possible, and not include reference to positions within a party such as party whip.

In addition, guidelines could also include standards for specific situations. For example:

- Where controversial issues are being discussed and political parties have taken different sides and it is deemed important to address objections to the policy initiative, then the situation should be stated as objectively as possible, with both sides of the argument being presented in a fair and objective manner with the emphasis being placed on the facts and not on the political merits of the proposals. Material may include a response to other opinions but should not solely be aimed at rebuttal.
- The distribution of unsolicited material, particularly politically sensitive material, should be carefully controlled. Material should be distributed only to those directly affected by, or in need of, the information.
- Advertising undertaken either shortly before or after an election writ is issued should have a clear commercial or essential community information purpose and be necessary at that particular time. It should not give grounds, through its content or timing, for the claim that it is being used for partisan political gain.

We recommend that the government consider establishing a general principle prohibiting the use of partisan political information in public government communications, and providing specific guidelines which set out the criteria as to information that should or should not be included in public government communications.

Communications Allowance Guidelines for Members of Legislative Assemblies

We reviewed communication allowance guidelines for Members of Parliament in Canada and Members of Legislative Assemblies in the 10 Canadian provinces. Several provinces have a principle stating that MLAs' communication allowances are not to be used for distributing partisan political materials. Alberta provides more explicit criteria stating that the allowances cannot be used to pay for items that bear any political party logo, solicit political party funds or memberships, or contain personal criticism of another member.

British Columbia

In British Columbia, the Legislative Assembly Management Committee has jurisdiction over all matters affecting payments or services to members for constituency offices, including communication expenses.

Members of the Legislative Assembly are provided an annual communication allowance to cover their expenses for communicating with their constituents. Each member is allowed an annual budget of $6,120. For all members together, this adds up to a possible total cost to the public of $459,000 a year.

The Members' Handbook provides guidance to Members that the contents of communications with constituents "should be restricted to outlining legislative developments in the House and in Committees and to the roles played by the Member in the legislative process. Members may not print or mail, at the expense of the Legislative Assembly, any material of a partisan, political nature." However, the introduction to the Handbook makes it clear that the Handbook is not to be considered a definitive authority, but simply a guideline, and is intended to provide information for Members of the Legislative Assembly in relation to parliamentary practice.

Alberta

Members of the Legislative Assembly in Alberta are guided by the Members' Services Committee Orders. Section 5(1) of the Orders states that the communication allowance may be used to pay expenses which relate to non–partisan communication between the Member and his or her constituents; Section 5(2) states that an item may not be paid for under subsection (1) if it bears any political party logo, promotes political party activities, solicits political party funds or membership, or contains personal criticism of another Member.

Saskatchewan

Members of the Legislative Assembly in Saskatchewan are guided by their Members'

Handbook on the matter of communication allowances. Their Handbook cautions MLAs against unacceptable items that are "blatantly partisan in nature". In addition, it notes that expenses must be in respect of a Member's duties as a member of the Legislative Assembly and not in respect of his/her role as a member of a political party.

Manitoba

Members of the Legislative Assembly in Manitoba are guided by their Guide to Members' Remuneration, Benefits and Services. Regarding communication allowances, the Handbook allows for the distribution of material of a non–partisan nature. The Guide stipulates that the constituency allowance is provided to enable an MLA to communicate with his/her constituents but is not to be used for partisan purposes. The section on mailing privileges goes on to say that the privileges are provided to an MLA in respect of his/her duties as an MLA, not in his/her role as member of a political party. They may not be used to solicit donations to, or promote membership in, a political party or to promote attendance at a party function.

Ontario

Members of the Legislative Assembly of Ontario are guided by their Members' Guide, which states that "Members may not print or mail, at the expense of the Legislative Assembly, any material of a partisan, political nature."

New Brunswick

Sections in the New Brunswick Members' Handbook dealing with constituency office allowances state that these offices are to be operated in a non–partisan fashion and may not be used to promote political party activities. Under a section entitled "Effect of a Provincial Election", the Handbook also states that the general rule governing the payment of a Members' expense allowance is based on the principle that an incumbent should not have an advantage gained from access to public funds that is not available to other candidates. The constituency office allowance is designed to encourage communication between the Member and all of his/her constituents, and must be operated on a strictly non–partisan basis.

Conclusions From This Study

We concur with the principle advocated by several of the provincial jurisdictions, including British Columbia, that the constituency allowances are public funds provided to facilitate communication between MLAs and their constituents and that they must not be used for partisan purposes. It would seem appropriate, therefore, that similar rules of propriety should apply to expenses charged to these allowances as apply to other communications expenses incurred and recorded elsewhere in government.

We recommend that the Legislative Assembly Management Committee give consideration to the general principle and specific

guidelines to be developed for public government communications for the purpose of developing guidelines for the MLAs' communication allowances.

We think that British Columbia's guidelines could include some of the same aspects that are found in some of the other jurisdictions' guidelines, such as prohibiting the use of the following in MLA non–partisan communications:

- political party logos or colours;
- solicitation of political party funds or memberships; and
- promotion of political party activities or attendance at party functions.

Summary of Recommendations

Recommendations made in the Office of the Auditor General of British Columbia report titled Public Communications: Distinguishing Between Government Program and Partisan Political Communications are listed below for ease of reference. These recommendations should be regarded in the context of the full report.

We recommend that the government consider establishing a general principle prohibiting the use of partisan political information in public government communications, and providing specific guidelines which set out the criteria as to information that should or should not be included in public government communications.

We also recommend that the Legislative Assembly Management Committee give consideration to the general principle and specific guidelines to be developed for public government communications for the purpose of developing guidelines for the MLAs' communication allowances.

Appendix

Appendix

1995/96 Public Reports Issued to Date

Report 1

Report on the 1994/95 Public Accounts Province of British Columbia

Report 2

Performance Audits

British Columbia Ferry Corporation

Fleet and Terminal Maintenance Management

Operational Safety

Report 3

Compliance–with–Authorities Audits

Home Support Services

Environmental Tire Levy

Safeguarding Moveable Physical Assets: Public Sector Survey

Consumer Protection Act — Income Tax Refund Discounts

Financial Administration Act Part 4: Follow–up

Report 4

Performance Audit

Ministry of Finance and Corporate Relations:

Revenue Verification for the Social Service Tax

Report 5

Issues of Public Interest

Special Warrants

Government Employee Numbers

Public Communications: Distinguishing Between Government Program and Partisan Political Communications

Compiled and typeset by the Office of the Auditor General of British Columbia
and published by the Queen's Printer for British Columbia
Victoria 1996