



Manitoba Legislative Assembly

**Members' Allowances
Compliance Report**

**For The Period
April 1, 2011 to March 31, 2016**

Date October 18, 2016

The Honourable Myrna Driedger
Speaker of the Legislative Assembly
Room 244, Legislative Building
Winnipeg, Manitoba R3C 0V8

Dear Madam Speaker:

We have the honour to transmit the report entitled, *Members' Allowances Compliance Report for the Period April 1, 2011 to March 31, 2016*, to be laid before the Members of the Legislative Assembly in accordance with the provisions of Sections 52.6.1(1), 52.6.1(2) and 52.6.1(3) of *The Legislative Assembly Act*.

The Legislative Assembly Act requires that the *Report*, including the Auditor's opinion, is to be tabled within 15 days on which the Assembly is sitting after the Speaker receives the *Report*. The report is also to be distributed to the Members of the Legislative Assembly and to the Commissioner appointed under Section 52.7 of *The Legislative Assembly Act* and then is also to be posted on the Assembly's website.

Respectfully submitted,

Original signed by:

Original signed by:

Clerk of the Manitoba Legislative Assembly

Director
Members' Allowances Office

Table of Contents

Overview by the Clerk and Director	4
Legislative Requirement	6
Auditor General’s Opinion	7
Amounts Paid, Totals by Allowance	8
Issues Arising of an Administrative or Interpretive Nature	9
Verification of Financial Information	16
Appendices.....	17
Appendix A – Commissioner of Salaries, Allowances and Retirement Benefits Summary of Decisions	
Appendix B – Legislative Assembly Management Commission Annual Reports – Commission Decisions Impacting MAO approval of MLA Expense claims	
Appendix C – Commissioner of Appeals Decisions Impacting MAO approval of Expense claims	
Appendix D – Members’ Allowances Regulation	
Appendix E – Payments made under Transition/Severance Allowance	

Overview

**by the Clerk of the Manitoba Legislative Assembly
and the Director of the Members' Allowances Office**

Background of the Report

This report consists of a Compliance review of the operations of the Members' Allowances Office (MAO) pertaining to approval of MLA expense claims based on decisions of the Commissioner on Salaries, Allowances and Retirement Benefits, the Appeals Commissioner and by decisions made by the Legislative Assembly Management Commission that impact on the approval of MLA expense claims.

This Compliance report covers the time period from April 1, 2011 to March 31, 2016. Issues of an interpretive nature requiring consideration by the Members' Allowances Office or an opinion from the Appeals Commissioner or requiring further legislative or regulatory changes are identified in the report.

Supporting materials are provided in several attached appendices. Appendix A consists of Decisions Made by the Commissioner of Salaries, Allowances and Retirement Benefits in 2012, while Appendix B contains Legislative Assembly Management Commission decisions for the periods covered by the Compliance Report that have an impact on MAO approval of expense claims. Appendix C lists the Commissioner of Appeals decisions that also impact MAO approval of expense claims while Appendix D contains the Members' Allowances Regulation. Finally, Appendix E contains a separate report on the Compliance with the Transition and Severance Allowance as prepared by the Human Resources Services Branch, Administration and Finance, Manitoba Legislative Assembly.

The Compliance Report identifies a number of issues arising of an administrative or interpretive nature from the periods April 1, 2011 to March 31, 2016 in the following areas: constituency advertising; event tickets; out of province travel for conferences; expenses after ceasing to be an MLA; limits on communication devices and services; travel allowance entitlements; Constituency Assistant Allowance; framing expenses; the legislative requirements of the Compliance Report and permanent residence treated as temporary residence.

Contents of the Report

The Compliance Report, for each type of allowance paid to Members for the reporting period is to consist of:

1) Auditor General's opinion

The Report has been audited by the Auditor General and his opinion is submitted together with the Report, to the Speaker for tabling in the Assembly. The Auditor General's opinion is included within this Report, beginning on page 7.

2) Amounts paid, totals by allowance

For comparison purposes with future Members' Allowances Compliance Reports and for comparison with *The Public Accounts*, the Amounts Paid section of financial information is for the five fiscal years of 2011/12, 2012/13, 2013/14, 2014/15 and 2015/16.

3) Issues arising of an administrative or interpretive nature

The *Issues Arising of an Administrative or Interpretive Nature* section, as required by the *Act*, covers the period from April 1, 2011 to March 31, 2016 starting from the end of the previous period covered under the first Compliance Report dated March 31, 2011 and tabled April 18, 2012. The purpose of this reporting requirement is to identify the administrative or interpretive issues that should be reviewed and addressed by the Commissioner appointed after the general election of April 19, 2016 to determine whether or not the current Regulations and policies are operating as intended.

In regard to this purpose, matters were considered to be an administrative or interpretive issue if:

- the matter involved stretching the meaning of a provision beyond what its ordinary meaning was intended for;
- administering a provision in accordance with its ordinary meaning would create an absurd result or would be inconsistent with the operation of the system as intended;
- the Office of the Auditor General has identified it as an issue in a previous report on allowances;
or
- the administrative process mandated by the Regulation has become problematic for the Members' Allowances Office and/or for Members and in the opinion of the Members' Allowances Office, should be reviewed by the Commissioner.

Legislative Requirement

This Report is made under Sections 52.6.1(1), 52.6.1(2) and 52.6.1(3) of *The Legislative Assembly Act*, enacted on December 10, 2009, June 17, 2010 and June 16, 2011.

The Sections read as follows:

Compliance report

[52.6.1\(1\)](#) Within six months after each general election, the manager of the Members' Allowances Office referred to in section 52.29 must

- (a) prepare a report that, for each type of allowance paid to members for the period consisting of all fiscal years that ended during the immediately preceding Legislative Assembly,
 - (i) states the total of the amounts paid for the period,
 - (ii) describes any administrative or interpretive issues that arose in the administration of the allowance, and
 - (iii) verifies whether the amounts were paid in compliance with this Part and the regulations under this Part;
- (b) arrange for the report to be audited by the Auditor General; and
- (c) submit the report, together with the auditor's opinion, to the Speaker.

Report to be tabled

[52.6.1\(2\)](#) The Speaker must table a copy of the report, together with the auditor's opinion, in the Assembly on any of the first 15 days on which the Assembly is sitting after the Speaker receives the report.

Report to be distributed and made public

[52.6.1\(3\)](#) The Speaker must also ensure that, within 15 days after receiving it, the report, together with the auditor's opinion,

- (a) is distributed to the members and to the commissioner appointed under section 52.7; and
- (b) after being distributed to the members, is posted on the Assembly's website.



AUDITOR'S REPORT ON COMPLIANCE WITH STATUTES AND REGULATIONS

To the Manitoba Legislative Assembly

We have audited the Manitoba Legislative Assembly Members' Allowances Compliance Report (Report) for the period from April 1, 2011 to March 31, 2016 for compliance with the criteria established in subsection 52.6.1(1)(a) of *The Legislative Assembly Act*, the Members' Allowances Regulation and the Members' Retirement Benefits Regulation (together "statutes and regulations"). Compliance with the criteria established by the statutes and regulations is the responsibility of management. Our responsibility is to express an opinion on this compliance based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the Report complied with the criteria established by the provisions of the statutes and regulations referred to above. Such an audit includes examining, on a test basis, evidence supporting compliance, evaluating the overall compliance with these criteria, and where applicable, assessing the accounting principles used and significant estimates made by management.

The part of the report required by subsection 52.6.1(1)(a)(ii), entitled "Issues Arising of an Administrative or Interpretive Nature", describes administrative and interpretive issues that arose in the administration of the allowances. The completeness of this list is not susceptible of satisfactory audit verification. Accordingly, our verification of these issues was limited to the records of the Manitoba Legislative Assembly; including Members' Allowances Office (MAO) and Legislative Assembly Management Commission meeting minutes, MAO policies, and MAO documentation of questions arising from training sessions. Consequently, we were unable to determine whether any additional issues might be reported in the part entitled "Issues Arising of an Administrative or Interpretive Nature".

In our opinion, except for the possible inclusion of additional issues which we may have determined to be necessary had we been able to satisfy ourselves concerning the completeness of the list of issues as described in the third paragraph, the Report is in compliance, in all significant respects, for the period from April 1, 2011 to March 31, 2016, with the criteria established by the statutes and regulations.

"Original signed by"

Office of the Auditor General
October 18, 2016
Winnipeg, Manitoba

Amounts Paid, Totals by Allowance

(Names in brackets describe the allowances as reported
in the MLA Statement in Public Accounts)

Type of Allowance	For The Fiscal Year Ending March 31, 2012	For The Fiscal Year Ending March 31, 2013	For The Fiscal Year Ending March 31, 2014	For The Fiscal Year Ending March 31, 2015	For The Fiscal Year Ending March 31, 2016	Totals
Constituency Allowance (Constituency Expenses)	\$2,728,833	\$2,477,199	\$2,458,722	\$2,670,601	\$2,526,127	\$12,861,480
Constituency Office Rent Allowance	N/A*	\$280,952	\$604,003	\$671,276	\$665,973	\$2,222,203
Constituency Assistants' Allowance (Constituency Assistant Salaries)	\$1,707,134	\$2,101,257	\$2,336,292	\$2,358,179	\$2,388,701	\$10,891,561
Travel Allowance (Travel Expenses)	\$647,387	\$654,486	\$592,563	\$ 611,552	\$617,606	\$3,123,592
Intersessional Committee Allowance (Committee Expenses)	\$32	\$214	\$888	\$396	No expenses were submitted for this fiscal year under this category	\$1,529
Living Allowance (Temporary Residence and Living Expenses)	\$365,925	\$394,327	\$408,755	\$ 402,458	\$394,904	\$1,966,366
Commuter Allowance (Commuting Expenses)	\$1,554	\$1,313	\$3,333	\$ 2,385	\$1,362	\$9,946

*Office Rent Allowance came into effect September 5, 2012; previously office rent was reported under Constituency Allowance.

Issues Arising of an Administrative or Interpretive Nature

For the five fiscal year periods April 1, 2011 to March 31, 2016

1. Constituency Advertising

With advances in technology the medium for advertising continues to evolve. Various methods were presented for consideration over the course of the five years, which required interpretation in order to consider whether a specific new type of advertising fell within the provisions of the advertising Regulations for reimbursement. Examples of some of these newer forms of advertising include:

- a) Smart tag, Facebook, Instagram, Twitter. Currently icons for these items are eligible in an ad.
- b) Movie theatres – whether placement of an ad at a movie theatre outside the Member’s constituency is allowable for reimbursement purposes.
- c) Robocalls which are used as invitations to constituents to attend a Member’s own event.
- d) Slide show/video advertisement at events.
- e) Vendor website advertising.

It is our recommendation to the next Commissioner for Allowances that the Commissioner consider what forms of media can be used for advertising under this Allowance and whether the trend for increased advertising expenses within the Constituency Allowance should be addressed.

Members’ Allowances Regulation, s.12 (1) (i), s.14.1 (1), s.14.1(2)

2. Event Tickets

The *Members’ Allowances Regulation* under section 14(g) provides for “the member’s cost of up to two tickets to attend a non-profit or charitable community event (which for the greater certainty, does not include a sporting event, a golf or other sporting tournament, a social, or a service club meeting).

To determine whether an event would be an eligible expense, the Members’ Allowances Office requests the background documentation be provided that indicates whether the event host

meets the requirement of being non-profit or charitable. There has been a significant increase in requests from small organizations for Members to attend events where this documentation is not readily available.

Event tickets are not always easily recognized as being a community event.

It is our recommendation to the next Commissioner for Allowances that the Commissioner consider providing a more precise definition of what constitutes a non-profit or charitable community event as well as what reasonable documentation is required to submit an expense claim for reimbursement under this Allowance.

Members' Allowances Regulation, s.14 (g)

3. Out of Province Travel - Conference

More than one day of travel

Members of the Legislative Assembly from time to time attend Legislative conferences under the auspices of the Parliamentary Associations budget for the Legislative Assembly where registration fees, basic hotel rates and transportation to the conference destination are paid on behalf of the Member.

MLAs do have the option of receiving what is known as the equivalent to airfare (lowest return direct economy airfare equivalent) if choosing to drive to the conference as opposed to flying. If Members take the equivalent to airfare option, the amount is deducted from any travel claim that the MLA makes through Members Allowances Office for the conference expenses that have not already been paid for on behalf of the Member. This ensures no MLA is reimbursed twice by two separate Assembly Offices.

The standard practice for the Members' Allowances Office is to deduct the equivalent to airfare from the travel being claimed at the kilometric rate and allow for one overnight stay and the meals for one day at the per diem rate. If the distance to the conference involved more than one day's worth of driving, the question arose whether the additional travel could be eligible for reimbursement from the Member's Travel Allowance.

On review, the Commissioner provided the decision that where there are two days or more of driving involved in attending a conference, the Member shall be entitled to claim the appropriate expense for mileage, overnight stays, and per diem meal costs by submitting an expense claim to MAO (less the equivalent to airfare reimbursement provided by the Parliamentary Associations budget).

Travel expense to attend from vacation spot

On occasion, a Member while on vacation departs from the vacation destination to attend a conference. The question arises of whether the starting point for the travel to the conference destination should be considered the originating point in Manitoba or from the vacation destination. The existing practice for claiming mileage is from the starting point to the destination under the travel allowance. Members' Allowances would apply the same principle for these travel expenses.

On review, the Commissioner provided the decision that the starting point would be considered to be from the vacation point to conference, rather than from the originating point of departure in Manitoba.

Members' Allowances Regulation, s.21 (3)

4. Expenses after ceasing to be a Member

After ceasing to be a Member, Members of the Legislative Assembly have claimed the expense of hiring individuals to assist in closing the constituency office. The work involves boxing of files, arranging for utility services to be terminated and so forth. The current practice has been for the Members' Allowances Office to provide the advice to former Members that the one time employment to be for a reasonable length of time and expense for completion of the work.

It is our recommendation to the next Commissioner for Allowances that the Commissioner amend the Regulation to include the hiring of persons as an authorized expense and provide more direction as to what length of time and expense is deemed reasonable for completing this work of closing a constituency office.

Members' Allowances Regulation, s.8 (2)

5. Limit on communication devices and services

The Members' Allowances Regulation states the following:

Limits on devices

Section 12(1.1)(a) (iv) provides for a limit on the communication devices and services a Member may have. Laptops, tablets and other mobile communication devices (other than a cellphone or smartphone that can be used as a telephone) are limited to one.

On review, the Commissioner provided the decision that these mobile communication services are not part of the limit set out in section 12(1.1).

Subsequently, Legislative Counsel provided the advice that both an MLA and Constituency Assistant could each have an iPad or tablet as these items are not seen as communication devices. Such devices would be considered Legislative Assembly Capital property.

When a new device is purchased under the Legislative Assembly smartphone/cellular plan the old device is returned to the Assembly. Under Capital property there is no requirement for the old device to be turned in when a new model is purchased. As a consequence, some Members have been assigned more than one device.

Limits on services

Section 12 (1.1) (a) (v) of the Members' Allowances Regulation provides for a land line at an MLA's constituency office.

Section 12(1.1) (a) (vi) provides for fax and Internet services at the constituency office.

The monthly billings from the service providers do not always separate the service provided. Billings may give the appearance of additional service lines.

It is our recommendation to the next Commissioner for Allowances that the Commissioner reviews the devices and limits on services outlined in section 12(1.1) which includes 2(1.1)(a)(iv),(v) and (vi) and provide guidance to Members Allowances for the administration of these expenses.

Members' Allowances Regulation, s.12 (1.1)

6. Travel Allowance entitlement

New constituency boundaries came into effect October 4, 2011. This resulted in changes to constituency size and location, which impacted the travel allowances for the Southern Members only. Due to the change taking place partway through the fiscal year, the applicable travel allowances were prorated. It was identified that one constituency's travel allowance was transposed incorrectly on one occasion at the full entitlement and not the prorated amount. As a result the travel allowance was overpaid by \$182 to one MLA in 2011/12.

This \$182 has been reallocated to the Constituency Allowance for the MLA according to section 12 (3) of the Members' Allowances Regulation, which provides for authorized travel expenses to be claimed under the Constituency Allowance when the maximum travel allowance for the allowance period has been claimed.

Members' Allowances Regulation, s.20 (1)

7. Constituency Assistants Allowance

Maximum allowance

The Members' Allowances Regulation provides each Member under section 16.1(2) a maximum allowance per month (bi-weekly pay periods) for salaries including benefits to pay for constituency staff.

The practice has been that if salary expenses are less than the maximum then the unused funds are rolled from the bi-weekly pay into the following pay period, which could give the appearance of the monthly amount being in excess of the maximum allowance. This practice has been applied since the institution of the Constituency Assistants Allowance in 2008.

It is our recommendation to the next Commissioner for Allowances that the Commissioner amend the Regulation to include the bi-weekly rollover as an authorized process for unexpended funds.

Members' Allowances Regulation, s.16.1 (2)

No allowance during the election period

Under the Members Allowances Regulation section 16.3, No constituency assistants allowance is payable for the period (the "election period") beginning on the day after the writs are issued for a provincial general election and ending at the end of election day. If the day the writs are issued is not the last day of a bi-weekly pay period, the limit for that period is to be prorated up to and including that day.

Bi-weekly Pay period

The writ was issued March 16, 2016, which was not the last day of the pay period and required the limit for that period to be prorated to and including March 16, 2016. The figures provided for the Constituency Assistants Allowance bi-weekly pay period were initially calculated to be for a period of nine days. It was later found that the pay period was actually eight days. As a result, the bi-weekly Constituency Assistants Allowance was overstated by \$4,994; which affected twenty-eight Members.

This overage has been reallocated to the Constituency Allowance for each affected Members as provided for under section 13 of the Members' Allowances Regulation.

This adjusted amount alters the maximum Constituency Assistants Allowance and Constituency Allowance reported on the 2015/16 Annual Reports signed by Members and tabled in June 2016.

Statutory Holiday(s)

Statutory holidays (Good Friday and Easter Monday) took place during the election writ period. As a result, Constituency Assistants that had been laid off at the time the writ was issued received the statutory holiday pay for these two days. The Statutory pay was allocated to the Constituency Assistants Allowance and Constituency Allowance when salaries were not eligible during the writ period of the Election.

This statutory pay expense resulted in one Member exceeding the maximum allowance entitlement for the Constituency Allowance by \$535.

The Member reimbursed \$535 to the Constituency Allowance.

It is our recommendation to the next Commissioner for Allowances that the Commissioner consider provisions of the Regulation with regard to Statutory pay during the writ period of an Election.

Members' Allowances Regulation, s.16.3

8. Framing expenses

The Legislative Management Commission agreed March 21, 2013 that Members be reimbursed for the framing expense of two MLA group photos per Legislature, provided one is the composite headshots and the second is the group photo of all Members seated in the Chamber. The Member's Oath of Office, constituency map, and the recent photo of the Queen have also been reimbursed per Legislature. The framing expense for these specific items only has been allowed under office supplies.

It is our recommendation to the next Commissioner for Allowances that the Commissioner amend the Regulation to include framing for these specific items as authorized expenses.

9. Compliance report

This report is prepared in accordance with the provisions for section 52.6.1(1) of the *Legislative Assembly Act*.

52.6.1(1) Within six months after each general election, the manager of the Members' Allowances Office referred to in section 52.29 must

- (a) prepare a report that, for each type of allowance paid to members for the period consisting of all fiscal years that ended during the immediately preceding Legislative Assembly,
 - (i) states the total of the amounts paid for the period,
 - (ii) describes any administrative or interpretive issues that arose in the administration of the allowance, and

- (iii) verifies whether the amounts were paid in compliance with this Part and the regulations under this Part;
- (b) arrange for the report to be audited by the Auditor General; and
- (c) submit the report, together with the auditor's opinion, to the Speaker

The current wording of the Act has the potential to create interpretative challenges for the preparation of the Compliance Report as not all allowances paid to Members are paid by the Members' Allowance Office, nor is there a clear definition of what allowances are intended to be captured and included in the compliance Report under this wording.

It is our recommendation that this section of *The Legislative Assembly Act* be reviewed for any possible legislative amendments that could improve the clarity of this section, such as this section of the Act to clarify that the Compliance Report is prepared based on the allowances paid under The Members Allowances Regulation by the Members' Allowances Office.

10. Permanent Residence treated as temporary residence

The Members Allowances' Regulation provides under section 25.1(1) A non-Winnipeg member who owns and occupies a residence in Winnipeg as well as a residence outside the designated area may designate, in a form approved by the Speaker, one of those residences as a temporary residence for the purposes of this Part.

Section 25.1(4) While as residence remains designated as a temporary residence under subsection (1) and the member continues to own and occupy the other residence referred to in that subsection.

Section 5(1) A claim for reimbursement of an authorized expense

- (b) subject to subsection (2), must be accompanied by proof of payment.

Authorized expenses for the temporary residence include property taxes, mortgage interest, and common element fees, if the residence is a condominium.

The practice had been to reimburse the Member for these particular expenditures monthly based on information the Member provided including mortgage amortization schedules, The City of Winnipeg TIPP information provided at the beginning of a calendar year, and letters from Condominium Boards for the monthly fees if applicable. Upon the fiscal year reconciliation, it was found that these forms of documentation were not sufficient on their own. Variances were identified and are in the process of addressing with the Member(s).

As result of the findings, proof of payment must now accompany the documentation for the mortgage interest, tax installment, and if applicable condominium fee in order to be an authorized expenditure for reimbursement.

Members' Allowances Regulation s 25.1(1), s 25.1(4), s.5(1)(b)

Verification of Financial Information

We advise, as at October 18, 2016, that to the best of our knowledge and belief:

1. The financial information in this report properly reflects the allowance amounts paid to the Members of The Assembly by the Members' Allowances Office for the fiscal years April 1, 2011 to March 31, 2016 in accordance with *The Legislative Assembly Act* and the regulations under that *Act*.
2. All accounting and financial records and related allowances data from files created and maintained by the Members' Allowances Office have been made available to the auditor.
3. No shortages or other irregularities have been discovered.
4. No events have occurred and no matters have been discovered since the year end that would require adjustments to or disclosures in this report.
5. This report is in compliance with all the requirements of its governing legislation, in consideration of the items noted in the section of the report titled, "*Issues Arising of an Administrative or Interpretive Nature*".

Original signed by:

Clerk of the Manitoba Legislative Assembly

Director
Members' Allowances Office

Appendices

Appendix A Commissioner of Salaries, Allowances and Retirement Benefits Summary of Decisions, September 2012
<http://www.reviewcommissioner.mb.ca/report10.pdf>

Commissioner's Report

On September 2012, Commissioner Michael Werier released the Report of the Commissioner on Salaries, Allowances and Retirement Benefits for Members of the Manitoba Legislative Assembly. As a result of the Commissioner's report, changes to the regulations and to allowable expenses and claiming procedures are in place. The report, effective September 5, 2012, contained the following decisions relating to Members' Allowances:

DECISION ON OFFICE SPACE RENTAL COSTS

I have determined that a separate allowance shall be set up for monthly rental of office space of \$1,250.00 per month for each Member. Monthly office space rental costs over this amount can be taken out of the Member's Constituency Allowance. The rent supplement program will then no longer be required. This decision will be in effect for constituency office space rents as of October 1, 2012.

DECISION ON PROFESSIONAL SERVICES

The spirit and intent of the Regulation was to allow Members to claim reimbursement for expenses for hiring professionals to perform certain tasks. There are different views as to the meaning of the word "professional". Some would define it as someone having a professional designation. Other service providers advertise themselves as professionals although they do not have a specific certification or professional designation. The Regulation shall be amended to clarify the intention of the use of the word "professional" to stipulate that professional means service by an individual or organization who has expertise in an area and normally provides such services.

DECISION ON CONFERENCE CALLS AS VIRTUAL MLA MEETING

Technology is changing at a rapid pace. Regulations need to be amended to allow for expense claims which reflect today's methods of communication and conducting business.

A virtual town hall meeting is a fair and reasonable method of reaching out to the constituents on constituency issues. A section shall be added to the Regulation to allow as an eligible expense a virtual town hall meeting via conference call. It will not be necessary to designate the locale of the conference call.

DECISION ON SURVEYS AND QUESTIONNAIRES

I believe that surveys and questionnaires should be an authorized expense under the Constituency Allowance. The purpose of the expense is legitimate and will be of assistance to Members in carrying out their functions. The content of surveys and questionnaires shall be considered a non-partisan access and service provided to constituents as defined in the Regulation.

DECISION ON CONSTITUENCY ADVERTISING AND LIMITS AND TYPES OF MEDIA

The current system has not been in place for very long. There does not appear to be evidence of excessive advertising or misuse of the types of media. In the circumstances, I have decided there should not be any change made. This issue should be reviewed by the next commissioner who can determine whether any changes are warranted.

DECISION ON CONSTITUENCY BUSINESS

The Regulation shall be amended to define service to constituents as “actively directly connected with a Member’s responsibilities in relation to the ordinary and proper representation of electors and their families and other residents in the constituency”. I appreciate that this will, in all likelihood, not eliminate entire uncertainty over the content of certain mailings or advertisements. However, I believe that the spirit and intent of the Regulation will be clear; that is the main justification for any expenditure is the service of constituents.

DECISION ON MOBILE COMMUNICATION SERVICES

These mobile communication services are not part of the limit set out in s. 12(1.1) and the Regulation shall make this clear.

DECISION ON HANDS-FREE ENABLING DEVICE SUCH AS BLUETOOTH

The intent of the Regulation was not to allow an expense claim for a Constituency Assistant’s vehicle. This should be noted in the Regulation.

DECISION ON DISPOSAL OF CAPITAL PROPERTY

There should be a value placed on such capital property based on CRA depreciation and on the condition that the item of capital property cannot be purchased for less than ten (10%) percent of the original price.

DECISION ON INCIDENTAL CONSTITUENCY MAILINGS

There should continue to be distinction between the Franking Allowance for bulk mailings and the Constituency Allowance for incidental mailings. The direction from LAMC and the current practice by MAO shall be enshrined in the Regulation that incidental mailings shall be limited to twenty (20%) percent of the households in the constituency. The content of the mailings shall comply with the non-partisan requirements outlined in the Regulation as more fully explained elsewhere in this Report.

DECISION ON COMMUNICATION SERVICE FEES

To eliminate any ambiguity, the Regulation shall be amended to insert the words “constituency office”.

DECISION ON POSTAGE EXPENSES DURING ELECTION PERIOD

It is appropriate and reasonable that certain postal expenses be eligible as those in s. 12(1)(e) of the Regulation. These include the cost of post office box rental, messenger or shipping expenses for constituency purposes, and the cost of forwarding mail. This shall include during an election period and during the two months beyond the month a Member ceases to be a Member. The Regulation shall be amended to reflect these changes.

DECISION ON PREPAYMENT OF EVENT TICKETS

The issue is whether prepayment of these types of expenses should occur and, if so, is it appropriate to allow prepayment for the second ticket. In view of the past history of how these claims have been processed, I have determined that Members' Allowances can process prepayment of a second ticket cost and, if necessary, the Regulation shall be amended to reflect this.

DECISION ON BOOK DONATIONS

In my view, this is an exception worth maintaining and s. 14(e) of the Regulation should continue in its present form.

DECISION ON OTHER SOUVENIR ITEMS

It was suggested that a reasonable alternative would be to include the following words after other souvenir items “such as those found in the Legislative Assembly Gift Shop”. While this definition would only be useful as long as the store exists, it is currently a helpful way to define a souvenir. Accordingly the Regulation shall be amended to include the above definition.

DECISION ON CONSTITUENCY ASSISTANT - STAFF SALARY COSTS

In 2007, a separate allowance was set up for Constituency Assistants. Some Members employ one assistant and others employ a number of part-time assistants. In 2007, it was determined that the total salary level of \$3,000.00 per month was appropriate in view of all the circumstances. Taking into account the salaries paid in other jurisdictions and the need to attract qualified staff and the salaries paid to other civil servants in comparable classifications, I have determined that the total salary for a Constituency Assistant(s) shall be increased from \$3,000.00 per month up to a maximum of \$3,750.00 per month, plus the cost of benefits provided to assistants under the present system. The increase shall be effective as of the date of this report. All other aspects of the present system shall remain as is.

DECISION ON CONSTITUENCY ASSISTANTS' SALARY ON DAY THE ELECTION WRIT IS ISSUED

This exception shall be specifically set out in the Regulation.

DECISION ON PRO-RATING OF CONSTITUENCY ASSISTANTS ALLOWANCE FOR RE-ELECTED MEMBERS

The above interpretation should be set out in the Regulation which confirms that there be no roll-over during the election period.

DECISION ON TRAVEL ALLOWANCE

As with certain other expense items, the system of reimbursement of expenses should be fair and not subject to Members paying for business expenses personally. Members must be provided with adequate funds to perform their public duties. I am sensitive to the wear and tear on rural Members' vehicles as a result of significant mileage in relatively short timeframes. Some adjustment is required to address the shortcomings of the current allowance, particularly for Southern Members. The travel allowance for Southern Members outside of Winnipeg is to be increased by twenty (20%) percent for this fiscal year. The mileage rate for Winnipeg and Southern Members is to be increased to 44.0¢ per kilometre and increased to 48.4¢ per kilometre for Northern Members. The mileage rate for Winnipeg and Southern Members will be adjusted yearly using changes in the Canada Revenue Agency "reasonable allowance rates" as set out in the Regulation. While I understand the concerns about travelling companions, particularly in the North, I am not prepared to make changes at this time.

DECISION ON CONFERENCE TRAVEL

The practice adopted by the MAO is a reasonable one which should be provided for in the Regulation, and the Regulation shall be amended to set this out. Furthermore, in those situations where there are two days or more of driving involved in attending a conference, the Member shall be entitled to claim the appropriate expense for mileage, overnight stays, and per diem meal costs.

DECISION ON TAXI RECEIPTS

In order to facilitate this process and to make it easier to administer, the Regulation shall reflect that a Member can provide either a credit card receipt with date and location or a taxi receipt.

DECISION ON CLEANING SERVICES

I also see no reason to differentiate between the expenses. The Regulation shall be amended to set out that residential cleaning services can be an eligible expense under the Temporary Residence Expenses category if the Member has no funds available under the Living Expenses category for that month.

DECISION ON CUT-OFF DATE FOR PRIOR FISCAL YEAR EXPENSES

I believe that the June 30th cut-off date is reasonable and provides a three month period after the fiscal year end. Any exceptional or extenuating circumstance can be dealt with by way of appeal by the Member from a decision of the MAO.

DECISION ON DIRECT PAYMENTS FOR AMOUNTS UNDER \$200.00 OR \$100.00

The wording of the Regulation and the practice of the MAO must coincide. There is no valid reason not to make direct payments at \$100.00, or under if required, and the Regulation shall be amended accordingly. The MAO shall have the discretion to make direct payment for amounts under \$100.00.

DECISION ON A MEMBER NOT RUNNING FOR RE-ELECTION AND WIND UP PERIOD ALLOWED

For expenses under these Allowances only, during an election period, payment of expenses for Members who have not resigned, but do not run for election, or do not win their nomination prior to when the writs are issued, can be incurred for two months beyond the month when the writs of election are issued.

DECISION ON TRANSPARENCY AND ACCOUNTABILITY

I see no need at present to post all bills, receipts and invoices on the website. The public interest is being met by the changes to the Regulation. No changes are therefore to be made.

DECISION ON MOVING EXPENSES

A separate allowance of \$1,000.00 each shall be established to cover moving in costs and moving out costs for non-Winnipeg Members who are eligible for the Living Allowance. This allowance will be in effect for Members elected on or after the October 4, 2011 general election.

DECISION ON APPEALS OF DECISIONS AND DETERMINATIONS BY APPEAL COMMISSIONER

The Appeal Commissioner may make appeal decisions that provide interpretations of the Regulation that constitute a precedent. Decisions that constitute a precedent should be sent to the respective caucuses for circulation amongst the Members. This will serve to educate Members as to their right and advise them of appeal decisions that constitute a precedent for future issues that arise.

**Appendix B *Legislative Assembly Management Commission – Annual Reports
Commissioner Decisions Impacting MAO approval of MLA Expense Claims***

Amendment by management commission

- 52.13(1)** The management commission may amend a regulation made under section 52.12 if
- (a) the amendment is of an administrative or technical nature; or
 - (b) the management commission considers the amendment necessary to address unforeseen circumstances arising after the last commissioner's report was submitted to the Speaker under section 52.10.

LAMC Annual Report - April 1, 2015 to March 31, 2016:

TIMING INCONSISTENCIES BETWEEN THE ELECTIONS FINANCES ACT, THE LEGISLATIVE ASSEMBLY ACT AND THE MEMBERS' ALLOWANCES REGULATION

In 2012, the Commissioner on Salaries, Allowances and Retirement Benefits for Members of the Manitoba Legislative Assembly noted timing inconsistencies between the following Acts and Regulations regarding advertising before an election:

The Elections Finances Act – which states government advertising must cease 90 days prior to a General Election;

The Legislative Assembly Act – which specifies that funds used for printing/mailing (Franking) must cease 60 days before a set election date;

Special Supplies and Assistance Allowance – according to the Allowance, any material printed or mailed or any advertising paid for under this Allowance must cease or be used 60 days before a set election date;

Members' Allowances Regulation – expenses under the Constituency Allowance which include "advertising", whether by signage or by a message broadcast, posted or published in any media, are paid up to the day the writs are issued.

In addition, caucus office budgets and the Global Mail budget are also used to cover advertising costs and advertising mailing costs.

The Commission agreed that the House Leaders compile a list of questions and concerns to the Commissioner to move onto the next step of evaluating these timing inconsistencies.

LAMC Annual Report - April 1, 2014 to March 31, 2015:

INCIDENTAL MAILINGS

The Commission was asked to consider the issue of incidental mailings sent out by MLAs to constituents and whether such communications were required to be sent out in an envelope. After consultation with the Members' Allowance Office and with the Commissioner for Salaries, Allowances and Retirement Benefits, the Commission was advised that an envelope would not be required for incidental mailings provided that the usual criteria are met. For incidental mailings, the criteria are:

- 1) the item must be non-partisan;
- 2) the item must be addressed to individuals and groups;
- 3) the volume of mail to be sent is within the 20% restriction on size;
- 4) the item is not similar in content to a series of incidental mailings; and
- 5) the cost of mailing reflects the difference in costs: the cost versus the lesser cost of mailing unaddressed ad mail.

Appendix C – Commissioner of Appeals Decisions Impacting Members’ Allowances Approval of Expense Claims

Date	Appeal	Issue	Decision
April 9, 2013	Advertising: Audio	Members’ Allowances made a recent change in practice by requesting an audio version of a broadcast ad, as opposed to only the printed copy to ensure compliance with the Regulation.	The Commissioner believed this to be reasonable and appropriate in the circumstances and the change in practice ensures that there is compliance with the Regulation.
April 16, 2013	Bookmarks	The bookmarks were imprinted with the Member’s office information on one side and an inspirational message on the other. There was no reference to the Legislative Assembly or Province of Manitoba.	The Commissioner agreed that in order to qualify as a souvenir, the bookmark would have to contain a reference to the Legislative Assembly by means of a photo, logo, emblem, flag or depiction to be considered as a souvenir.
June 18, 2013	Event Tickets	An opinion was requested from the Commissioner regarding eligible event tickets and proceeds.	The Commissioner provided an opinion that tickets should qualify as long as it is a non-profit or charitable community event open to the public. There was no need to look further at the purpose of the proceeds of the event.
September 17, 2013	Advertising: Temporary Signage	An expense for advertising was incurred for a community event. A sign was placed at the event.	The Commissioner determined that the expense was for advertising and a picture of the sign at the event should be provided to support the expenditure.
October 23, 2015	Advertising: Clothing	Crests were designed with the Member’s name, constituency & contact information and placed on the jerseys for a local sports team.	The Commissioner agreed that advertising on clothing for example hockey jerseys would be a form of sponsorship. It is not an authorized expense

Appendix D – Members' Allowances Regulation

<http://www.gov.mb.ca/legislature/members/regulations/membersallowancesregulation.pdf>

Appendix E

Verification of Financial Information

We advise, as at October 18, 2016, that to the best of our knowledge and belief:

1. The financial information in this report properly reflects the amounts paid to Members of the Assembly for the fiscal years April 1, 2011 to March 31, 2016 in accordance with section 52.21 of *The Legislative Assembly Act* and the *Members' Retirement Benefits Regulation*.
2. All accounting and financial records and related allowances data have been made available to the auditor.
3. No shortages or other irregularities have been discovered.
4. No events have occurred and no matters have been discovered since the year end that would require adjustments to or disclosures in this report.
5. This report is in compliance with all the requirements of its governing legislation and regulations, in consideration of the items noted in the section of the Appendix titled "*Issues Arising of an Administrative or Interpretive Nature*".

Original signed by:

Judy Wegner
Executive Director of Administration
Manitoba Legislative Assembly

Deanna Wilson
Director of Human Resources
Manitoba Legislative Assembly

Appendix E – Payments made under Transition/Severance Allowance

This report presents the amount paid to members of the legislature as required under section 52.21 of *The Legislative Assembly Act* and the *Members' Retirement Benefits Regulation*.

Fiscal Year	Amount Paid
2011-2012	\$648,082
2012-2013	\$116,741
2013-2014	\$85,564
2014-2015	\$38,498
2015-2016	\$143,354

TRANSITION ALLOWANCE – Effective April 1, 2010 – October 4, 2011

Newly elected Members on April 25th, 1995 and in subsequent elections, are eligible for the Transition Allowance. Members who choose to not run again in an election or who are defeated in the nomination process are eligible for this allowance to a maximum of 6 months' pay. Members who are defeated in an election are eligible for this allowance to a maximum of 12 months' pay. Members who resign voluntarily before an election, unless for serious medical problems, are not eligible for the Transition Allowance.

SEVERANCE/TRANSITION ALLOWANCE - Effective October 5, 2011

Newly elected Members on April 25th, 1995, and in subsequent elections, are eligible for the Severance/Transition Allowance. Members who resign, retire or are defeated are entitled to receive the equivalent of one month's salary for each year of service and pro-rated for part of each year of service. The minimum transition payment is three (3) months' pay and the maximum is twelve (12) months' pay. Members have the option of receiving the transition allowance as bi-weekly payments, unless the outgoing Member makes a written request for the amount to be paid as a lump sum. If that request is made, the allowance is payable as a lump sum severance benefit. A Member is not eligible to receive the Transition Allowance if the Member is drawing from the Legislative Assembly Pension Plan during the period of transition.

Severance pay to Members elected prior to 1995 is made pursuant to section 52.21 of *The Legislative Assembly Act*.

Issues Arising of an Administrative or Interpretive Nature

Section 51(7) of the Members' Retirement Benefits Regulation requires that the outgoing member make a written request for the payment of the transition allowance to be made as a lump sum severance benefit. In one situation an outgoing member verbally requested payment of the lump sum severance benefit based on extenuating circumstances. Human Resource Services accepted the verbal direction.

Note: *The transition allowance is calculated and paid automatically by Human Resource Services, and is not a claim for reimbursement as paid by the Members' Allowances Office.*

Key Sections of Legislation

The Legislative Assembly Act

SEVERANCE ALLOWANCE: TRANSITIONAL PROVISIONS

Definition

[52.21\(1\)](#) In this section, "pay" means the annual salary described in item 1 of subsection 52.8(1).

Application

[52.21\(2\)](#) This section applies only to members of the 35th Legislature who are members on or after the day this section comes into force.

Severance allowance

[52.21\(3\)](#) Subject to subsection (4), a member who ceases to be a member for any reason other than under section 18 (conviction) or 20 (disqualification) is entitled to a payment calculated at a rate of one month's pay for each consecutive year that he or she has served as a member.

Calculation of payment

[52.21\(4\)](#) Notwithstanding the number of periods of service as a member, a payment under this section is to be a minimum of three months' pay and a lifetime maximum of 12 months' pay, calculated pro rata for any period of service less than a year.

Members' Retirement Benefits Regulation

PART 5 TRANSITION ALLOWANCE

Definitions

49 The following definitions apply in this Part.

"**basic salary**", in relation to an eligible member's transition allowance, means the basic annual salary provided for under subsection 1(1) of the *Members' Salaries Regulation* when the eligible member ceased to be a member.

"**departure date**" of an eligible member means the day on which he or she ceased to be member.

"**eligible member**" means a person who is eligible under section 50 for a transition allowance.

Eligibility

50 A former member is eligible for a transition allowance under this Part if he or she

- (a) ceased to be a member for any reason other than under section 18 of the Act (conviction) or section 20 of the Act (disqualification);
- (b) is not eligible for a severance allowance under section 52.21 of the Act; and
- (c) has not previously received a severance allowance under section 52.21 of the Act or a transition allowance under this Part in respect of one or more periods of service totalling 12 years.

Amount of allowance

51(1) Subject to subsections (2) to (6), the amount of the transition allowance is equal to one month's basic salary for each year of service.

Basic salary rate

51(2) The basic salary rate to be applied is the rate that applied to the outgoing member immediately before he or she ceased to be a member.

Prorating

51(3) The amount of the allowance for any period of service less than a year is to be prorated on a daily basis.

Minimum allowance

51(4) Subject to subsection (6), the minimum allowance is the equivalent of the member's basic annual salary for a three-month period.

No allowance for prior periods of service

51(5) If the outgoing member was re-elected after receiving a severance allowance under section 52.21 of the Act or a transition allowance under this Part, no prior period of service is to be included in calculating the allowance payable on his or her latest departure.

Lifetime maximum

51(6) The allowance is payable for a lifetime maximum of 12 years of service, including any prior period of service for which the member received a severance allowance under section 52.21 of the Act or a transition allowance under this Part.

Method of payment

51(7) The allowance is payable in equal biweekly instalments at the basic salary rate unless, before payment commences, the outgoing member makes a written request for the allowance to be paid as a lump sum. If that request is made, the allowance is payable as a lump sum severance benefit.