

**REPORT OF THE INTERIM COMMISSIONER  
FOR ALLOWANCES**

**Review of the Auditor General's  
2009 Audit of Members' Allowances  
- Manitoba Legislative Assembly**

September 1, 2010

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## **1.0 Background**

### **1.1 Jurisdiction and Authority of the Commissioner**

On December 10, 2009, Bill 2 received Royal Assent which made changes to *The Legislative Assembly Act* and *The Legislative Assembly Management Commission Act*.

The purpose of the amendment was to implement the recommendations contained in the November 2009 Audit of Manitoba MLA Allowances by the Office of the Auditor General - Manitoba.

The most relevant sections of *The Legislative Assembly Act* are reproduced below:

#### **Interim Commissioner for Allowances**

52.7.1(1) On the coming into force of this section, the last commissioner to be appointed under section 52.7 is appointed as an allowances commissioner with the following mandate:

- (a) to review the Auditor General's 2009 annual report as it relates to members' allowances established by regulation under section 52.12;
- (b) to decide what regulations, or amendments to existing regulations, should be made in order to implement the recommendations contained in the Auditor General's report; and
- (c) without limiting the generality of clause (b), to make regulations requiring details about members' allowances to be published at least quarterly by posting them on the Assembly's website, and prescribing the details to be published.

#### **Consultation**

52.7.1(2) The allowances commissioner may consult with interested individuals and groups when conducting the review.

#### **Report**

52.7.1(3) Within four months after being appointed, or any longer period of time allowed by the Speaker, the allowances commissioner must submit a

report to the Speaker setting out his or her decisions under subsection (1).

### **Report to be tabled**

52.7.1(4) The Speaker must table a copy of the allowances commissioner's report in the Assembly on any of the first 15 days on which the Assembly is sitting after the Speaker receives the report.

### **Regulations**

52.7.1(5) The allowances commissioner must, without delay after submitting his or her report to the Speaker, make any regulations the commissioner considers necessary or desirable to implement his or her decisions under subsection (1).

Michael Werier was the last Commissioner appointed under s. 52.7 and assumed the position of Allowances Commissioner.

Pursuant to s. 52.7.1(3), the Speaker allowed a longer period of time in order to allow for the preparation of the report.

It is important to note that this Interim Allowance Commissioner makes decisions, not recommendations, which are then implemented by way of Regulation.

## **1.2 Office of the Auditor General - Manitoba Audit of Members' Allowances of Manitoba Legislative Assembly (November, 2009)**

The Office of the Auditor General of Manitoba ("Auditor") conducted a detailed audit of Members' Allowance Claims from April 1, 2006 to March 31, 2008.

It was a detailed audit of Allowance claims which went beyond the annual audit of the financial statement. The audit also reviewed the Members' Printing Allowance. The audit did not review Members' Compensation or staff salaries.

It is important to note that the audit discovered that Members spent within the Allowance limits. The Auditor also stated that nothing came to her office's attention

to suggest that material inappropriate spending was taking place.

The Report makes numerous references to the Legislative Assembly Management Commission (LAMC) and the Members' Allowance Office (MOA), and it is helpful to review briefly their jurisdiction.

LAMC was created in 1983 by *The Legislative Assembly Management Commission Act*. It is made up of the Speaker of the Legislative Assembly, who is the Chairperson, four Government Members and three Opposition Members. One of LAMC's primary duties is to carry out the Rules of the Assembly and certain provisions of *The Legislative Assembly Act* pertaining to the financial management of the Assembly. The Clerk of the Legislative Assembly is LAMC's secretary. LAMC can amend a Regulation if it is of an administrative or technical nature or to deal with unforeseen circumstances arising after the last Commissioner's Report is submitted to the Speaker.

MAO is an office of the Legislative Assembly. It is managed by the Executive Director, Administration and Finance, of the Legislative Assembly. The Executive Director is accountable to the Speaker. MAO provides financial services to Members regarding their Allowances, provides advice and assistance relating to Allowances, and manages capital purchased through Members' Allowances. MAO has published a Members' Allowances Manual (Manual) to provide Members with information regarding Allowance eligibility.

MAO provides Members with the claim forms for each type of Allowance. The claims are given to MAO for approval and payment.

The Report makes a number of key findings. It also sets out recommendations to improve the system and sets out items to be addressed when the Regulations are amended.

The major findings of the audit are as follows:

1. There are differences between what the Regulations set out and the current



practice allowed by the LAMC. In some instances, the Regulations are unclear;

2. There has not been strict compliance in providing the required documentation to substantiate certain claims for reimbursement of expenses. Greater accountability is necessary;
3. That there be increased transparency and accountability and that information about expenses be available to the public;
4. That each category of representation expenses be reviewed and amended to reflect contemporary best practice.

In particular, the Auditor quoted the 2007 Green Commission in Newfoundland and Labrador which reviewed constituency allowances and related matters and is the most comprehensive report in Canada on Members' Compensation and Allowances.

The area of expenses allowed under the Representation category which include donations (cash and product), event tickets, scholarships and bursaries, hospitality, meals, flowers, and other promotional items were the focus of the concerns outlined in the Report.

The Auditor's Recommendations were summarized at the end of her Report. Due to their importance, they are reproduced in their entirety below:

## **6.0 Recommendations**

### **6.1 Overall Recommendations**

The findings in our report indicate that the system supporting the Members' Allowance and Printing claims requires improvement. There is a need to update the rules, to clarify the documentation required to support the claims and to strengthen the monitoring practices.

Both the Commissioner and the MAO can play an important role in strengthening the system. Both bring an independent perspective, and can provide Members and the public with assurance that appropriate rules are

first established and then adhered to. There is also an opportunity to strengthen the independence of the MAO by increasing the involvement of the Clerk of the Legislative Assembly.

With regards to the role of the Commissioner, we saw a need for this individual to be provided with additional information when reviewing the Regulations. He or she should be provided with an appropriate level of detail to enable him or her to understand whether or not the current system is operating as intended. This would include information as to whether or not Members are complying with the Regulations.

We recommend that as input to the Commissioner's work in reviewing the Members' Allowances that a compliance audit be conducted.

A compliance audit would also provide the Members and the public, assurance that the Regulations in place are being followed.

With regards to the role of the MAO, we noted during the course of our audit that the MAO is reporting directly to the LAMC with regards to the administration and monitoring of the Members' Allowances and Printing claims. It is common in other jurisdictions in Canada for the MAO to report to the Clerk of the Legislative Assembly (the Clerk). The Clerk is an independent officer of the Assembly with a long-standing history of providing support to elected officials in all Parliamentary democracies. In Manitoba, the Clerk's responsibilities include that of being the Secretary to the LAMC however the Clerk has no responsibility for the operations of the MAO. A conflict arises with the MAO reporting to the same group which it is monitoring.

We recommend that the MAO report to the Clerk of the Legislative Assembly.

Another area where the MAO plays an important role is in providing training and orientation to the Members. The MAO can contribute to a strong system by ensuring that all future training and orientation sessions reflect a culture of compliance, and that both the rules and the supporting documentation required by Members are clearly explained. In their monitoring role, the MAO need to decline any requests not meeting the rules or the documentation requirements.

Our findings included a number of items to be addressed in updating the rules around Members' Allowances and Printing claims. We noted instances where the Regulation and the Manual were not aligned. We also noted instances where the rules were not sufficiently clear, requiring interpretation from LAMC and a supporting manual to provide additional guidance. We also identified opportunities to strengthen practices around accountability and transparency

to the public. Our report includes a list of “items to be addressed” which should be taken into account in modernizing the existing regulations.

We recommend that the rules for Members’ Allowances and Printing claims be amended to clarify the documentation requirements, to strengthen public accountability and to reflect best practice. The amended rules should address the items listed in Section 6.2 of this report.

## **6.2 Summary of Items to be Addressed**

### **Transparency and Accountability**

- That the Regulations and detailed information about Members’ Allowances be available to the public on the Government of Manitoba website.
- That the Manual and LAMC deliberations be a matter of public record.

### **Adequacy of Supporting Documentation/Proof of Payment**

- That Members be reimbursed only for those claims that are supported with original documentation including proof of payment and that have the intended purpose of the expense documented.
- That Members provide the MAO with constituency bank statements and cheque information on a monthly basis.
- That the use of Statutory Declaration forms be eliminated.

### **Year End Cut-off of Member Claims**

- That a cut-off date be established for the submission of Member claims for each fiscal year.

### **Constituency Allowance**

#### *Capital Assets*

- That the Regulation be complied with in that all capital assets are the property of the Legislative Assembly.
- That the MAO capital asset inventory records include the location of the asset and the person who has been assigned the asset. For control purposes, MAO should conduct unannounced periodic inventory counts on these assets.

### *Capital Carry-Over*

- That the provisions of the Regulation be followed with regard to carry-over of capital expenses.

### *Communication Charges*

- That the entire invoice for communication charges be attached to all claims. All claims for communication charges should be supported with complete documentation for transparency and audit purposes.
- That the Regulation be amended to specify the nature and number of allowable communication devices.
- That the MAO conduct an analysis of the plans used by Members to determine if more cost effective plans are available.

### **Representation**

While we have included Items to be addressed which assume that the existing Regulation remains in place, each of the categories included in "Representation" should be reviewed and amended to reflect contemporary best practice.

### *Donations to Charitable and Non-Profit Organizations*

- That the provisions of the Regulation concerning donations be complied with.

### *Other Donations/Gifts*

- Should the Regulation be amended to include other donations/gifts, that Member claims for these expenses be supported with receipts from the recipients.
- Should claims for lottery and raffle tickets be permitted, that they be submitted prior to the draw date.

### *Scholarships and Bursaries*

- That the Regulation concerning Scholarships and Bursaries be complied with.
- That payments for Scholarships and Bursaries be made to the school or school division office rather than individual students.

### *Meals with Constituents*

- That the names of the persons attending and the purpose of the hospitality be documented and an original detailed restaurant receipt and proof of payment be documented and submitted for reimbursement.
- That charges for Member and staff meals, if allowable, be covered outside of the Members' Allowances intended for constituency work.

### *Event Tickets*

- That the Regulation clearly indicate whether or not event tickets are an allowable expense under Members' Allowances.
- That, if allowed, only those event ticket claims that are supported with a proper receipt be reimbursed to Members.

### **Travel Allowance**

#### *Private Vehicle Mileage*

- That all private vehicle mileage claims include the date, starting point, destination and total kilometres travelled.

#### *Meals*

- That dates and locations be documented for all meals and meal per diems claimed.

#### *Taxi/Parking*

- That supporting documentation be provided for all taxi/parking claims.

#### *Travel Outside of the Member's Constituency*

- That all expenses claimed for travel outside of the Member's constituency include the purpose for the travel.

#### *Airfare Claims*

- That all claims for airfare be supported with a boarding pass.

### *Living Allowance*

- That the date be documented for all meal per diems claimed under the Living Allowance and for meals claimed under other Allowances.
- That the Regulation be amended to prevent duplicate claims for meals.

### *Printing Allowance*

- That all claims under the Printing Allowance include a copy of printed materials to help prevent inappropriate expenditures being processed under this category.
- That the Regulation be amended to clearly define allowable printing costs being reimbursed from public funds.

## **1.3 Comments of the Manitoba Legislative Assembly**

On receipt of the draft Report from Auditor, the Assembly retained Michael Werier for advice on actions on the Report. The Assembly implemented twenty-four (24) of the thirty-four (34) recommendations. They further appointed me as Interim Commissioner for Allowances to address the recommendations in the form of new or amended Regulations.

The Assembly also undertook to introduce legislation to require online posting of Members' expenses.

## **1.4 Process for Review**

Manitobans were invited to submit their views in writing to the Commissioner. Advertisements appeared in five daily newspapers; Winnipeg Free Press, Winnipeg Sun, Brandon Sun, The Flin Flon Reminder and Portage Daily Graphic in January, 2010. Advertisements also appeared in many weekly newspapers throughout Manitoba, including La Liberte. Fifteen written submissions were received from members of the public.

Extensive consultations were held with dozens of sitting Members of all parties. Personal interviews were conducted and written submissions were received. The

input received from Members was of great assistance in gaining insight into the work of the Member and the range of issues involving Member's Allowances.

The majority of responses from the public supported full disclosure of Member's Allowances to the public and that Members should be required to provide supporting documentation for all expense claims.

Input was also requested from the following groups:

- (a) Manitoba Chamber of Commerce;
- (b) Canadian Taxpayers Federation - Manitoba;
- (c) Association of Manitoba Municipalities;
- (d) Manitoba Federation of Labour;
- (e) Manitoba Association of School Trustees;
- (f) Winnipeg Chamber of Commerce;
- (g) Manitoba Government Employees' Union (MGEU);
- (h) Association of Former Manitoba MLAs;
- (i) Canadian Union of Public Employees - Manitoba Division (CUPE);
- (j) Manitoba Teachers' Society.

A written brief was received from the Canadian Taxpayers Federation.

Reports on Members' Compensation and Benefits from many provinces were reviewed. These included the following:

<u>Province</u>	<u>Date</u>
Saskatchewan	June 2006
Nova Scotia Committee Report	September 2006
Report of the Nova Scotia Auditor General	February 2010
British Columbia	April 2007
Newfoundland and Labrador (The Green Commission)	October 2009

Prince Edward Island  
 Yukon  
 Northwest Territories

July 2007  
 October 2007  
 December 2005/  
 May 2010

These reports were a useful resource in that they contained detailed information as to the systems in place in other provinces and the rationale for the allowances in place. The Green Commission was particularly helpful and was also relied upon by the Auditor in Manitoba.

I also had available academic commentary, news reports and audit reports from Australia and Great Britain, both of which have experienced scandals involving excessive spending by elected officials.

In addition, a survey was conducted of all jurisdictions in Canada in order to obtain up to date information about certain aspects of their respective allowance systems, including their rules on donations to charitable and non-profit groups (whether cash or in-kind), souvenir items, and donations to schools.

Also, I had available previous reviews of Members' compensation in Manitoba from 1993, 2004, 2005 and 2007. Information on the system from Representation expenses for the City of Winnipeg was also reviewed.

## **1.5 Other Jurisdictions**

Spending by the country's legislators has come under increased scrutiny. In certain jurisdictions in Canada public auditors have found spending that has been excessive. In others, criminal charges and convictions have resulted because of fraudulent actions by elected officials.

Recently a scandal led to resignations of certain Members of Cabinet in Great Britain because of excessive spending by Members of Parliament.

Commentary in the media and by academics has been very critical of these events.



Most recently, there was a criticism of the House of Commons' initial reluctance to agree to the Auditor General doing a performance audit of the more than \$500 million spent annually by the House of Commons.

A Globe and Mail editorial on May 22<sup>nd</sup> was highly critical of the resistance to an audit and was representative of public opinion. The editorial stated:

“It is simply not credible when Canada’s legislators say the Auditor General has no right to audit their spending. Of course she does.”

Fortunately in this jurisdiction there has been not been any findings of fraud or excessive spending and there has been a willingness on the part of the legislators to review the report and have a Commissioner enact regulations based on the conclusions in the report.

This Commissioner’s work is aided by the work done in other jurisdictions, including the very comprehensive Green Commission in Newfoundland which, in the course of its work, analyzed the allowance’s schemes in each province and federally. As well, most provinces now have independent reviews of their compensation schemes and these reports were of assistance in preparation of this Report.

It is against this backdrop and with the assistance of analysis and review in other jurisdictions that this Report has been concluded.

## **1.6 Principles to be Applied in Implementing the Recommendations Contained in the Auditor’s Report**

In a 2007 Report to the Legislature on Salaries, Allowances and Retirement Benefits for Members of the Manitoba Legislative Assembly, I outlined a number of factors that can be utilized for determining the appropriate level of compensation for Members.

Expense allowances however are not compensation; they are reimbursement for payments related to a Member’s duties. Therefore, some of the factors considered

relevant for determining appropriate levels of compensation are not as relevant for determining what are appropriate expenses and the limits to be placed on each expense category.

Some of the factors are relevant. These include reasonableness, fairness to both the Members and the public, the unique requirements of the Member's role, the need to attract qualified candidates for this important position, and comparison with other provinces. Provincial comparisons are relevant because they reflect, in part, contemporary standards. This does not mean the system has to be uniform across the country. In preparing this report, a comprehensive review was undertaken of all jurisdictions in Canada.

While there is a certain degree of uniformity, some jurisdictions such as Newfoundland and Nova Scotia, in response to scandals, have initiated comprehensive reforms and provide a useful precedent.

Care, however, must be taken to ensure that certain expenses which are found acceptable in this province due to the existing culture are not swept away in an overall reform. An example is donations of books to schools and communities.

## **1.7 Fairness**

Members should be provided with a reasonable amount of allowances which allows them to perform their job. Members should not be expected to pay for reasonable expenses out of their own pocket. If expense limits or levels are inordinately low, this will discourage candidates who might find it a financial burden to seek office.

On the other hand, the public expectations are changing and evolving. As stated, scandals in other jurisdictions both at home and abroad have intensified public scrutiny. This has resulted in reviews of existing compensation and allowances, schemes resulting in dramatic charges and, overall, a heightened public awareness and focus.

While Manitoba has not experienced such a scandal, and while the Auditor did not

make such findings, a recurring theme in the reviews and the recommendations in the Report were to review certain expenses to ensure that they reflect contemporary best practices.

The particular area of Representation expense is the most challenging one. What is appropriate Representation expense and what is not?

For example, should Members be hosting community events and providing refreshments? Should Members give donations to schools for scholarships and bursaries? Should Members give financial support to local sports groups or cultural groups?

There are a number of sources from which to derive statements of principles to be used as a basis for a review of the allowance system for Members. A starting point and the main source is the Auditor's Report. Other sources are prior reports in this jurisdiction dealing with Members' compensation and allowances. Further sources are reviews which have been conducted in other jurisdictions, including the Green Commission in Newfoundland and Labrador.

The major findings of the Auditor have been outlined above. The Auditor recommended the rules for Members' allowances and printing claims be amended "to clarify the documentation required to strengthen public accountability and to reflect best practice".

In reviewing the rules on allowance, I have been guided by the Auditor's comments and reviews conducted in this and other jurisdictions. I have also taken into account input from current Members and from the public at large.

Following are the principles I believe should be applied to the review and amendment of the rules.

- (a) The allowances regime should have rules that are clear and easily understood. Members must comply with the rules to ensure accountability by supplying proof of payment.

- (b) The public should have full access to information about the spending of public funds. This will serve two purposes. Firstly, it will provide an avenue for the public to understand the overall utilization of public funds by Members in the course of their duties. Secondly, publication of information regarding specific spending by Members will have a self-policing impact on Members who will hesitate to incur an expense which is likely to raise questions by the public.
- (c) Allowable expenses should facilitate Members' fulfillment of the duties for which they are elected and be reflective of contemporary best practices and expectations.
- (d) The rules should clearly set out the areas in which expenses are allowed and the limit of any payment. There should be sufficient details so both Members and those administering the rules understand what is covered and what is not.

On the other hand, it would not be prudent to have such detailed rules that it becomes difficult for Members to render service to the constituents.

- (e) The rules should also carefully set out what Representation expenses are considered eligible in light of changing public expectation.
- (f) In reviewing the rules, I have borne in mind that it is in the public interest to attract good candidates to run for office. It is not in the public interest to render it impossible for certain people to run for office because it would impose a financial burden on them.

In this report I review a number of challenging areas where the issue of public expectations comes into play. In particular, these involve the whole area of Representation expense, and especially the area of donations.

A second difficult area centres around residual constituency allowances. Areas such as office, accommodation, travel, meals, and living expenses can be carefully defined and the system in place seems to operate efficiently. The more

controversial areas involve expenditures for promotional items and advertising. The issue is whether the expenditure is for legitimate constituency business as opposed to a partisan purpose.

## **1.8 Interim Rules**

As a response to the Auditor's Report, a number of Interim Rules were put into place by the LAMC. Some would not be binding, but Members were encouraged to abide by them.

Members were informed that the Interim Rules would be in place pending the next Commissionaire's decision. Members were advised they could appeal any decision to an Adjudicator. I was appointed as the Adjudicator.

During the consultation process Members were advised that the Interim Rules were temporary measures and were subject to change pending the formal review.

Subsequent to the implementation of the Interim Rules, a number of appeals were filed by Members as a result of denial of their claims by the MAO.

Some of these appeals centred on timing issues. The expense was incurred prior to the rules and was a legitimate expense under those rules, but was submitted after the rules.

Other appeals were about various Representation expenses and whether they were allowed under the interim rules.

## **Areas to be Addressed Arising out of the Auditor's Report**

I turn now to a review of the Auditor's Report with a view to deciding what Regulation or amendment to existing Regulation should be made in order to implement the recommendations contained in the Report. In performing this task I have taken into account the principles outlined earlier and the best practices as set out in other independent reviews and adopted in other Canadian jurisdictions.

The following areas will be addressed separately:

### **2.0 General Findings**

- 2.1 Transparency and Accountability
- 2.2 Adequacy of Supporting Documentation/Proof of Payment
- 2.3 Year End Cut-off of Members' Claims

### **Findings - By Type of Allowance**

- 2.4 Constituency Allowance
- 2.5 Travel Allowance
- 2.6 Living Allowance/Living Expenses
- 2.7 Printing Allowance

### **2.1 Transparency and Accountability**

The Auditor observed that the manual prepared by MAO to provide additional guidance to Members is not available to the public.

The Report stated that under the current Disclosure Regulation (The Members' Salaries, Allowances and Retirement Plans Disclosure Regulation) the public is entitled to inspect records relating to a Member's expense claim and can obtain a

copy by paying a fee. The public can inspect all records relating to a claim, including any supporting documentation. A Member's annual report is available for public inspection at the Member's constituency office.

The Auditor concluded that the Regulation is not readily available to the public and that current disclosure practices are not sufficient to inform the public about claims.

The Auditor recommended that the Regulation and detailed information about Members' Allowances be available to the public on the Government of Manitoba website and that the manual and LAMC deliberations be a matter of public record.

### **Decision on Transparency and Accountability**

**It is widely accepted that the system of Members' Allowances be transparent. The public is entitled to know how taxpayers' money is being spent. All submissions to this Commissioner endorsed this principle. Manitobans are the best judges of which expenses are appropriate and necessary.**

**As a result of the Auditor's Report, immediate action was taken by LAMC on a number of recommendations. In particular, the Regulation, the manual, and the most recent LAMC annual report have been posted on the Legislative Assembly website.**

**I have determined that these requirements should be specifically set out in a change to the Regulation.**

**Regarding the publication of LAMC minutes, *The Legislative Assembly Act* now requires the posting of the minutes, and it is being done.**

**The last issue in this area is the nature of the information to be made available to the public on the Government website. One option is to have the Member's annual report posted on the website, together with monthly reports of the amounts spent under the Constituency Allowance, Constituency Assistants Allowance, Travel Allowance, Printing Allowance, and Committee Allowance, along with posting of the claims for each Allowance. This can be**

accompanied by information as to how the public can examine copies of receipts, the claims submitted and other particulars, including examining copies of supporting documentation.

The other option is to put copies of all claims and supporting documentation on the website. This involves scanning over 40,000 pieces of paper per year.

I have determined that the first option should be implemented by changes to the Regulation. I believe this will address the Auditor's concerns about transparency and provide members of the public with more detailed information.

The issue of whether to have all documentation (bills, receipts, invoices) posted can be reviewed by subsequent Commissioners who will be able to access the effectiveness of the changes made in this Report.

## **2.2 Adequacy of Supporting Documentation/Proof of Payment**

The Auditor found that often Members were not supplying the required documentation to substantiate an expense. Frequently statutory declarations were provided and the Auditor stated that such a practice was not adequate to demonstrate accountability over the use of public funds.

In addition, Members were not always providing a description of the reason for the expenditure. The Regulation does not require a description.

The Auditor concluded the following:

- That Members be reimbursed only for those claims that are supported with original documentation including proof of payment and that have the intended purpose of the expense documented.
- That Members provide the MAO with constituency bank statements and cheque information on a monthly basis.



- That the use of Statutory Declaration forms be eliminated.

As a result, LAMC took the following steps:

- (1) Effective November 1, 2009, LAMC recommended that Members agree that a claim for payment of an authorized expense be supported only with original documentation including proof of payment and the purpose of the expense as may be required by MAO. Members were encouraged to begin this practice immediately.

Proof of payment may consist of any of the following:

- Original receipt
- Bank statement if payee is identified (can be portion of bank statement that identifies expense and does not have to be original bank statement)
- Image of cancelled cheque
- Invoice marked paid by supplier
- Ticket to event (date of event and price of ticket on the ticket)

Credit card slips and/or credit card statements are not proof of payment.

The purpose of expense will be required when the purpose of the expense is not obvious from the nature of the expense. In these situations, MAO may inquire verbally and document the Members' response on the claim.

- (2) Since November 1, 2009 all Members have been asked to provide the MAO with their monthly constituency allowance bank statement and detailed cheque information or copies of cancelled cheques. This should be set out in the Regulations that original bank statements must be accompanied by cheque images. Bank statements are not required in the event of internet banking, in which case, printed statements are allowed.
- (3) Expense claims cannot be submitted for any item supported by a Statutory Declaration save and except for parking at parking meters.

The Auditor's concerns were that in some instances payments were made for a variety of purchases with only an invoice or statement from a supplier or in some cases there was no proof of payment.

The proof of payment should be required except in unusual circumstances. Statutory Declarations by Members attesting to payments without proof of payment was excessive.

Original documentation is required for the purpose of expenses. Constituency based statements with cheque information should be provided monthly to the MAO.

### **Decision on Adequacy of Supporting Documentation/Proof of Payment**

**The Interim Rules shall be added to the Regulation with a stipulation that all expenses have the intended purpose documented.**

#### **2.2.1 Bank Accounts**

Under the current Regulation, s. 12(1)(f), Members can claim certain expenses for maintaining a Constituency Allowance account to provide overdraft protection on a line of credit to pay expenses. There is no provision in the Regulation for maintenance of such an account for Living Allowances or Travel Allowances. This is a gap in the Regulation and this needs to be addressed.

The Auditor stated that during the audit, they found that many Members had set up an account for constituency business and that one of the items to be addressed was that Members provide MAO with bank statements and cheque information on a monthly basis.

Another issue linked to this is whether all expenses can be claimed under one account.

### **Decision on Bank Accounts**

**The Auditor's recommendation should be implemented and set out in the**

**Regulations. Members shall submit bank statements and cheque information monthly. One bank account for all allowances will reduce expense and enhance organization and disclosure.**

**The Regulations shall be modified to ensure that Members can claim all expenses through one account.**

**The Interim Rules provided that Members could claim up to a maximum of \$100.00 per month for the costs of this account. This limit shall continue and be set out in the Regulations.**

### **2.3 Year End Cut-off of Members' Claims**

The Auditor concluded that Members' annual reports are not accurate if claims are submitted subsequent to the filing of the reports in the Legislative Assembly.

#### **Decision on Year End Cut-off of Members' Claims**

**It is important for Members to keep current with the submission of their expense claims. A cut-off date is advisable and I have determined that a claim must be submitted within three (3) months of the year end. Further, a Member's annual allowances report shall include a report of any payment made during the allowance report year in respect of the previous allowance year, but not reported in past reports.**

### **Findings - By Type of Allowance**

#### **2.4 Constituency Allowance**

There are four categories of expenses under this Allowance. They are:

- Office space
- Office operation
- Representation
- Constituency Staff Salaries

The Auditor did not deal with Constituency Staff Salaries, although one aspect of it is dealt with under the Miscellaneous portion of this Report. As well, the Auditor determined that office space expenses related to rent were appropriate and adequately supported and in accordance with the Regulation. Therefore, Office Operation and Representation are the areas to be examined with respect to the Constituency Allowance.

#### **2.4.1 Office Operation**

##### **(A) Capital Assets**

The current Regulation sets out that all capital assets are the property of the Legislative Assembly.

The Auditor observed that there was a practice of allowing Members to retain fully depreciated capital assets, to purchase computers or printers at their depreciated cost, or to donate them to a charity.

The Auditor concluded that all capital assets remain the property of the Legislative Assembly in compliance with the Regulation.

Secondly, the Auditor indicated internal controls over capital assets be improved by having the inventory records include the location of the asset and to whom it has been assigned.

##### **Decision on Capital Assets**

**The following LAMC decisions made subsequent to the Auditor's Report should be set out in the Regulations:**

**(a) Capital furnishings and equipment are the property of the Legislative Assembly and cannot be disposed of without the authorization of MAO;**

**(b) An outgoing Member, on ceasing to be a Member, can:**

- (i) Leave the equipment and furniture for the incoming Member. This will not be a cost to the incoming Member, however, the book value of the capital item remains; or
  - (ii) Leave the equipment and furniture for Members' Allowances for disposal.
- (c) Capital items that are no longer required may be turned into the MAO for disposal. MAO will assess the condition of the remaining equipment or furnishings and determine its disposition based on cost effectiveness (i.e. offered to all other Members or, if not required by the incoming or other Members, disposed of through the usual governmental disposal process);
- (d) MAO will replace hard drives. If not practical, MAO will dispose of the computer through the governmental disposal process.

In addition, the following should become part of the Regulations:

- (a) That the MAO capital asset inventory records include the location of the asset and the person who has been assigned the asset.
- (b) For control purposes MAO should conduct unannounced periodic inventory counts on these assets.

LAMC has the authority to define a standard suite of constituency office furnishings and equipment as set out in Section 12(1)(b) of the Regulations. The definition adopted in 1995 set out the following:

- Standard office furniture including such items as a sofa which may reasonably be found in a constituency office but excluding custom made furniture
- Standard office equipment
- Appliances such as a fridge, microwave
- Electronic equipment such as a TV, VCR, video equipment,

camera

**An updating by LAMC should occur and I see no need to itemize each item in a Regulation.**

**(B) Capital Carry-Over**

The Regulation s. 15(2) provides that if a Member's Constituency Allowance was not sufficient to pay for an authorized capital expense incurred in that period, the unpaid balance could be paid out of the Allowance for the next period.

The Auditor observed that some Members were fully reimbursed for capital expense in the initial year even though this resulted in them exceeding their Allowance limit.

The Auditor concluded that provisions of a Regulation be followed.

**Decision on Capital Carry-Over**

**The Regulation is appropriate in its present form and does not require amendment.**

**LAMC has determined that in carrying out this Regulation, a Member carrying over capital from the old fiscal year to the new fiscal year must provide both a cheque for the amount of the carry-over and a claim for the new year for the amount of the capital carry-over. I endorse this approach.**

**(C) Communication Charges**

The relevant section of the Regulations is s. 12(1) which states:

"The following types of expenses are authorized expenses for constituency service and office operation to the extent that they are incurred by the member for the purpose of access and service to his or

her constituents:

- (d) telephone services, including
  - (i) installing a telephone,
  - (ii) renting a telephone,
  - (iii) extra directory listings,
  - (iv) telephone answering service,
  - (v) Zenith telephone service, whether installed in the Member's constituency office or residence,
  - (vi) long distance calls, and
  - (vii) mobile communication services, including all charges for voice, text, data and email services and related access fees; ...
- (d.1) the cost of purchasing a cell-phone or other mobile communication device, a personal digital assistant or other handheld computing device, and any related warranty; ...
- (h) communication by internet or other electronic means, including the expense of establishing and maintaining a home page and any expenses relating to communicating with other persons using the internet"; ...

The Auditor observed that a number of Members claimed for home phone, internet expenses or for several phones. The Regulations do not state whether home phones or internet charges are an allowable expense nor does it set out the number of communication devices allowed. The Auditor stated that the Regulations should be amended to specify the nature and number of allowable communication devices.

Secondly, the Auditor noted that claims for communication charges were not always supported with complete documentation. The Auditor indicated that the entire invoice for communication charges should be attached to all claims in order that it was possible to determine that the expenditure was appropriate.

The Auditor commented that several Members were incurring significant cell

phone charges.

Lastly, the Auditor indicated that MAO conduct an analysis of the phones used by Members to determine if more cost effective plans are available in the market place.

### **Decision on Communication Charges**

**To ensure transparency and for audit purposes, the entire invoice rather than a summary of charges should be submitted so details of long distance charges and/or roaming charges are available for review for audit purposes.**

**Secondly, the Regulations shall be amended to include the use of home phones and home internet charges as an allowable expense. I am advised that at present four (4) Members claim home phones for constituency use and six (6) claim internet service at home in order to conduct research or answer constituency email. Some of the Members maintain offices in their home (due in part to the size of their constituency), and others do not have a constituency office (three (3) at present).**

**The purpose of this amendment is to address the Auditor's concerns that home phone and home internet are not set out in the Regulations. It is my expectation that based on present usage, this category will continue to be used by a small number of Members and that MAO will monitor accordingly.**

**It has also been brought to my attention that due to changes in technology, there are other services available which can be or are used by Members in the course of serving constituents. These include:**

- (a) Signal boosters for cell phones in locations where service is weak;**



- (b) Conference call equipment and amplifiers;**
- (c) Use of blogging and social networking over the internet;**
- (d) Automated calling programs;**
- (e) Hands free enabling devices, such as Bluetooth for vehicle cell phone use.**

**These services are not expressly particularized in the authorized expense list. The above services shall be added to s. 12 of the Regulations as authorized expenses.**

**With respect to the number of communication devices allowed, the Regulations shall specify that each Member is entitled to claim expenses for a cell phone and/or a BlackBerry, an installed car phone, a land line at each constituency office, a fax and internet services at each constituency office, and a home land line and home fax and internet services, if required.**

**The current Regulations provide for communication services to the extent they are incurred for the purpose of access and service to constituents. I am advised that Members claim as expenses cell phone costs for staff. For purposes of clarification, the Regulations shall state that monthly cell phone or BlackBerry costs for staff are authorized only for staff that are paid out of the Constituency Assistants Allowance.**

**Lastly, as a follow up to the Auditor's conclusions, I am advised that MAO has reviewed the communication plans currently used by Members with a view to taking advantage of government rates and recommends that Members and Members' constituency staff change from private cell phone and BlackBerry plans to the government plans on the expiry of the existing private plans. I endorse this initiative.**

### **2.4.2 Representation**

The Representation expenses are incurred by a Member in the course of providing access and service to the constituents in their riding. The main Representation expenses incurred by Members are for the following:

- (A) Donations to charitable and non-profit organizations;
- (B) Other donations/gifts which include:
  - (i) Donations of food, refreshment and product to groups for fundraising and hospitality;
  - (ii) Donations to schools, parent associations (other than scholarships and bursaries);
  - (iii) Flowers;
  - (iv) Donations to teams and individuals to attend sporting events, youth parliament and similar types of events;
  - (v) Gift certificates;
  - (vi) Raffle and lottery tickets.
- (C) Scholarships and bursaries;
- (D) Meals with constituents;
- (E) Event tickets;
- (F) Pins, flags and other souvenir items.

Each of these six areas will be reviewed separately in this Report.

The annual maximum limit for all Representation expenses is fifteen (15%) percent of the Member's Constituency Allowance Entitlement which at present is \$48,544.00 for a Northern Member, \$50,425.00 for a Southern Member, and \$54,380.00 for a Winnipeg Member. This translates into \$7,282.00 for a Northern Member, \$7,564.00 for a Southern Member, and \$8,157.00 for a Winnipeg Member. There is no monetary limit on an individual donation subject of course to the maximum limit for the whole category.

Section 14 of the Regulation states:

**Authorized expenses for representation**

14 The following types of expenses are authorized expenses for representation to the extent that they are incurred by the member for the purpose of access and service to his or her constituents:

- (a) the expense of providing to constituents cards, acknowledgements, flowers, non-monetary gifts to mark special occasions and other similar greetings;
- (b) the expense of
  - (i) purchasing a meal for two or more persons, or
  - (ii) a bulk purchase of food or non-alcoholic beverages,
    - if the purchase is made to provide hospitality in conjunction with constituency business and the Member, when claiming the expense, provides particulars of the number of persons to whom the hospitality was provided and the reasons for providing it;
- (c) the expense of providing a bursary or scholarship, if a receipt for it is delivered when the expense is claimed;
- (d) the expense of a charitable donation or a donation to a non-profit organization, other than a political party, if
  - (i) the official receipt for the donation is delivered when the expense is claimed, and
  - (ii) in the case of a charity registered under the Income Tax Act (Canada), no person claims a tax credit or deduction for the donation;
- (e) the expense of a raffle ticket, if
  - (i) the ticket is delivered when the expense is claimed, and
  - (ii) any prize won by the member is donated to a registered charity;
- (f) the expense of lapel pins and other souvenir items for distribution to constituents.

It is important to stress that the expenses to be authorized must be for the purpose of access and service to constituents.

In the Interim Rules adopted by LAMC following the release of the Auditor's Report, Members agreed on an interim basis to cease claiming for a number of expenses including, among other things:

- (a) gift certificates, raffles, lottery tickets
- (b) donations to individuals and teams
- (c) donations to schools or parent associations, other than scholarships and bursaries which must be made directly to a school and properly receipted.
- (d) donations of food, refreshment, and product for fundraising activities, community events and hospitality;
- (e) sporting events, meal charges for service club meetings, social tickets, wedding gifts, gifts for staff, entertainment books, car rentals for parades.

The complete Interim Rules are set out in Appendix "A".

The Auditor focused on two main areas. The Report observed (as in other areas) that there was non-compliance with the existing Regulation in that there was not adequate support for proof of payment. Also the Regulation was unclear as to whether expenses were authorized.

Secondly, and of most significance, the Report stated that each of the categories included in "Representation" should be reviewed and amended to reflect contemporary best practice.

The Report cited the Green Commission report from Newfoundland/Labrador which led to sweeping changes in that jurisdiction.

The Auditor included the following quote from the Green Commission:

"In Chapter 10, I argue that the spending of public money in such ways is no longer appropriate and that the role of an MHA should not include, and should not be expected by the public to include, such matters."

Other portions of the Green Commission Report which are linked to this quote stated:

“During the course of this inquiry, I was told that the job of a politician continues to involve countless examples of dispensation largesse in the local community. In the normal course of the year, he or she may be expected to provide hospitality, including rounds of drinks at community events; to contribute to sponsorship of individuals or groups, especially cultural or sports groups who are traveling to compete away; to give donations; to buy raffle tickets, to buy and provide often with constituency allowances, gifts or trinkets for constituents or visitors; to furnish items or services, including clothing and food, for constituents; and to buy local artwork, including paintings, prints, sculptures and crafts.

Such spending supports the unacceptable notion that the politician’s success is tied to buying support with favours. This demeans the role of the elected representative and reinforces the inappropriate view that the standards of the politician are not based on ethical principle.”

Furthermore, in the specific area of Representation expense of other donation/gifts, the Auditor stated:

“The current practice of claiming other donations/gifts is not specifically identified as an authorized expense in the Regulation. Section 10(1) of the Regulation which relates to the annual Constituency Allowance states authorized expenses are for non-partisan access and service to constituents. We do not believe a Member’s non-partisan access and service to his or her constituents is enhanced by making donations to organizations or individuals, by giving gift certificates to constituents or through the purchase of raffle tickets or lottery tickets. The use of public funds for these purposes has the potential to be more personal and partisan than providing service to constituents.”

The Green Commission and other commentators and independent review committees have cited a number of reasons as to why these types of expenses should not be allowed.

Some of the reasons include:

1. The practice of making financial contributions and spending in this way supports the unacceptable notion that the politician’s success is tied to their

support for such favours;

2. Even if it were deemed acceptable to make certain kinds of donations such as those to worthy causes like cultural groups or sports teams, the practice by its nature is open to inequitable application and leaves the politician susceptible to allegations of discrimination. How can a Member justify that one organization is more deserving of support than another;
3. Members should not be expected to “fund people or organizations in need”. That is the role of government. If there is no assistance, the Members should lobby government programs to provide such assistance, or if in power, implement them. Donations to charitable and non-profit groups should be disallowed. Taxpayers should decide which charities receive their money, not politicians.

### **View of Members Representation Expenses**

All Members across party lines supported the Auditor’s call for transparency and accountability and agreed that expense rules should be clear.

Members stressed that their role is to act in the public interest and that representation expenditures help them communicate with constituents and respond to the needs of the constituency.

Many expressed the view that their role included building community in their neighbourhood. All those interviewed mentioned Members require adequate resources to represent their constituents and should not be put in a disadvantaged position as compared to their City, Municipal, or Federal counterparts.

There was also a widespread conviction that certain of the Interim Rules put into place after the Auditor’s Report were unduly restrictive and went too far. There is an expectation in Manitoba that Members will support sports teams, charities, local

parades, schools, and community events. Members never hear any criticism about such expenditures.

Following is a cross-section of particular representations made by Members or their Caucuses regarding Representation expenses:

- During the course of my consultation Members advised that donations to community organizations should continue to be allowed and are vital to the continued good work of these organizations. Furthermore, it was suggested that small donations in kind to certain groups and events promote community involvement and civic spirit, whether it is photocopying flyers for a local group, buying coffee and donuts for a community meeting, presenting tobacco when meeting with a First Nations elder or bringing a box of oranges to a northern community meeting.
- Donations, whether monetary or in kind, to sports teams, schools and parent associations should be allowed as expenses. Donations to schools should include books and not be limited to scholarships or bursaries;
- Donation of food, refreshment and other products for fundraising activities, community events and hospitality should be allowed whether it is a Member or a community group sponsoring the event;
- Expenses for food and refreshment for events that inform constituents about services and programs available to them should be allowable expenses;
- Sponsorships should be allowed, especially when it is in reality advertising but called a "sponsorship";
- Expenses for candy handed out at local parades and the cost of the parade (lights) should be allowed;
- Token souvenir items should be defined by dollar amounts rather than have

the rules set out a list of allowable items;

- Donations should be permitted to organizations such as the Rotary Club or the Lions Club who are not registered charities but are involved in charitable work;
- Members should be allowed to take somebody to dinners and events and be reimbursed for the expense. This is a concern especially for female Members who have concerns for their safety, particularly when attending events at night;
- Providing raffle items and door prizes for community events are appropriate;
- Gifts to institutions such as personal care homes or hospital wards should not be limited to poinsettias. Donations such as boxes of oranges and all types of flowers should be allowed.

It is of interest to note that when the Green Commission in Newfoundland and Labrador surveyed its Members, at least three-quarters (3/4) of those responding considered most charitable donations, school scholarships, fundraisers, and subsidization of school trips to be appropriate expenses for Members.

### **Treatment of Donations in Other Jurisdictions**

The Green Commission surveyed the basic trend in the United Kingdom and Canada and concluded that the basic trend is not to permit donations out of Members' Allowances. The Green Commission stated "The trend represents best practice". The Commission recommended that the practice be adopted in Newfoundland and it was.

In the course of preparing this Report, a jurisdictional survey was conducted with respect to a number of matters, including whether donations to charitable or non-profit organizations were allowed in that jurisdiction.



The results confirmed the finding of the Green Commission. They were as follows:

Jurisdiction

British Columbia

No donations are allowed.

Alberta

No cash donations are allowed.

Only tangible gifts or promotional items as allowed under the Members' Services Committee Order, Section 6

Allowable gifts cannot exceed \$400. If it was believed that there were multiple gifts given to one group or individual to subvert the \$400 limit, the Leg. Assembly Financial Mgmt. and Admin. Services office would investigate and possibly deem subsequent purchases non-compliant.

Saskatchewan

No donations are allowed. They are not permitted from the Constituency Service Expenses provision.

Donations in the form of sponsorships are also not permitted. Members must be receiving something tangible in exchange for their funds, i.e., an advertisement that contains office hours, location, telephone contact numbers or a website address. An ad that only includes the Member's name or only indicates that the Member is a "sponsor" of an ad or an event would be considered a donation and would not be eligible for payment.

Ontario

No donations are allowed. Donations are strictly prohibited from the Member's Global Budget.

Quebec

No donations are allowed.

New Brunswick

No donations are allowed.

Prince Edward Island

The caucus offices are required to provide only a "general accounting" of how the

dollars are spent so expenses such as charitable donations, lapel pins, flags, etc. may not have been specifically indicated, but could have been covered under the grant.

Newfoundland and Labrador

No donations are allowed.

Northwest Territories

No donations are allowed. Members are prohibited from making any donations from their Constituency Work Expense Allowance.

However, Members are provided with a non-taxable non-accountable allowance which they may use for this type of expenditure if they wish.

Nunavut

No donations are allowed (except for the 'Exception to Sponsorship' section noted below). The Legislature and its Members cannot be reimbursed for donations.

Exception to Sponsorship where a donation may be made:

Members may contribute up to \$1,000 a year for food, to each community within their constituency for events such as feasts and community events. Members may also contribute bereavement flowers or a basket of food to a grieving family, within their constituency, of a value not to exceed \$200. In practice (99% of the time) a request is provided to OLA Corporate Services and a purchase is made directly by the OLA staff pursuant to public procurement policy. This addresses issues of a lack of supporting documents, accountability and transaction transparency, etc. and also is easier for the Member to go through OLA staff for these types of allowable contributions. Cash contributions are permitted but almost never used.

House of Commons

No donations are allowed. Donations are not permitted under any circumstances.

The City of Winnipeg has a policy adopted by City Council entitled *The Councillors' Representation (CRA) Fund*. City Councillors receive an annual allowance in the sum of \$72,000.00 per year. The allowance is used to pay for furnishings, office equipment, materials and administrative services for their offices. It is also used for business expenses.

An eligible expense under this allowance is a donation to an organization, event or group. The total amount to any one organization or event or group is \$2,500.00 per year.

The challenge in the Representation expense category is to determine contemporary best practice and to put in place rules which meet the Manitoba public's expectations.

Each of the categories in Representation Allowances will be reviewed separately.

### **Representation Categories**

#### **(A) Donations to Charitable and Non-Profit Organizations**

The Auditor highlighted that for the two year period of the Audit, Members claimed donations to charitable organizations of \$50,830.00 and \$134,189.00 to non-profit organizations.

As stated, there are no limits on an individual donation.

The Auditor's concerns with this category of expense were reviewed above. The major concern was that each Representation expense be reviewed and amended to reflect contemporary best practice.

### **Decision on Donations to Charitable and Non-Profit Organizations**

**I am satisfied that many Members across all party lines believe that by**

**supporting certain charitable and non-profit organizations that they are serving the public good. I accept that Members generally believe they are helping community groups or charities and the underprivileged and that their actions are not in any way being done for partisan purposes. I also accept that the donations support good causes.**

**In response to suggestions that they are able to prefer certain groups over others, Members responded that they have been elected by the constituency and have the right to make such decisions.**

**I am also aware that if these expenses are no longer allowed, it will put provincially elected Members on a different playing field than City Councillors.**

**However, I am satisfied on balance, that in order to reflect contemporary best practice, this category of Representation expenses should be eliminated, save and except for a few exceptions outlined later on in this Report.**

**This change will bring Manitoba in line with most other jurisdictions in the country and will eliminate the potential concerns that such donations are for partisan purposes or unfairly prefer one group over another without justification.**

**Therefore, the Regulation shall be amended to remove donations to charitable and non-profit organizations as authorized expenses.**

**I have determined that there will continue to be certain exceptions which will be outlined later in this Report.**

**I recognize that certain non-profit and charitable organizations will be impacted by these changes. I recommend that MAO send a letter to all organizations who received support from Members indicating the change in the Regulation and the reason for the change in the policy.**

**To facilitate the transition to this new system, the effective date of the decision on donations to charitable non-profit organizations shall be sixty (60) days after the date of this Report.**

**(B) Other Donations/Gifts**

This category includes a number of items such as:

- Food, refreshment and product
- Donations to school and parent associations
- Event tickets
- Flowers
- Donations to individuals and teams
- Gift certificates
- Raffle and lottery tickets
- Pins and other souvenir items

The Auditor set out the amounts of these donations and gifts for most of these categories over the two year period of the Audit. They were as follows:

<u>Type</u>	<u>Amount</u>
Donations of food, refreshment and product	\$97,002
Donations to schools and parent associations	25,294
Flowers	14,310
Donations to individuals and teams	11,208
Gift certificates	10,123
Raffle and lottery tickets	645

The Auditor stated that the current Regulations (s. 14) do not define donations beyond payments to registered charities and not-for-profit organizations. Event tickets are not mentioned, nor are food and beverage expenses related to hosting community events.

As stated earlier, the Auditor questioned whether many of these categories reflected contemporary best practice.

The Auditor specifically stated that payments for scholarships and bursaries be made to the school or school division office rather than to individual students.

The Auditor concluded that a number of the above expense categories did not represent non-partisan access or service to constituents and that the use of public funds for these purposes has the potential to be more personal and partisan.

### **Decision on Other Donations/Gifts**

**For the reasons outlined above in respect of donations to charitable and non-profit organizations, I have decided that the Regulation shall be amended so that Members can no longer claim as allowable expenses the following:**

- 1) Donations of gift certificates;**
- 2) Purchase of raffle tickets;**
- 3) Purchase of lottery tickets;**
- 4) Donations to individuals and teams;**
- 5) Donations to schools and parent associations (save and except for scholarships and bursaries and donations of books as outlined below);**
- 6) Donations of food, refreshment and products.**

**Expenses for donations of flowers, souvenirs, event tickets and books are not included and will be reviewed individually.**

#### **(C) Event Tickets**

Event tickets are not specifically set out in the Regulations as an allowable expense other than as payments to registered charities and non-profit

organizations.

The Auditor indicated that the Regulation should clearly indicate whether or not event tickets are an allowable expense and, if allowed, they should be supported by a proper receipt.

The Interim Rules allowed for the purchase of a ticket to an allowable event such as a community fundraising dinner for non-profit or charitable organizations. The Interim Rules set out that Members agree to cease claiming for reimbursement for the purchase of tickets for sporting events, meal charges, for service club meetings and social tickets. Only a Member can use the ticket.

During the course of my interviews with Members, a common theme was that Members are not allowed to claim as an expense the cost of an additional ticket for an event for either a constituency assistant, Executive Assistant, researcher or intern.

When Members attend community events, they are often approached by members of the public to discuss constituency issues. An assistant can be a valuable resource and aide in such situations. As well, often these events are at night and safety is a concern, particularly for female Members.

The Auditor indicated that the Regulations clearly indicate whether or not event tickets are an allowable expense and, if allowed, should be supported with a proper receipt.

### **Decision on Event Tickets**

**I agree that event tickets should be set out as an authorized expense in the Regulation. Members are constantly invited and expected to attend community dinners and events for non-profit or charitable organizations. They are often asked to bring greetings. They are often approached at these events by constituents wishing to discuss issues**

of concern. These events are usually held in the evening.

I have determined that it is appropriate and in the public interest for these events to be an allowable expense for Members and to be set out in the Regulation. It is also appropriate for business and safety reasons that the amended Regulation allows Members to claim the cost of one additional ticket for the Member's constituency assistant, Executive Assistant, researcher or intern to attend for non-partisan constituency business purposes. A Member shall be able to claim for the above to attend an event in case the Member cannot attend.

Excluded from allowable event tickets are events which are not of a charitable or non-profit nature. This list will include attendance at sporting events, golf tournaments, social tickets and service club meetings.

The reason for excluding these types of events is that they involve a personal benefit to the Members and should be a personal expense if they choose to attend.

(D) **Sponsorship**

In the course of receiving submissions from sitting Members, an issue was raised that related to a problem that arose in the area of purchasing tickets for community events or purchasing an advertisement in a publication. While the ability to make donations is being limited to a few areas, based on decisions outlined in this Report, it is still relevant to examine.

The problem arises because organizations and publications do not distinguish between donations and sponsorships. Under the Interim Rules, sponsorships were not allowed. Members could purchase non-partisan advertising in team programs, but if the Members received a free ticket with the placement of the advertisement, then it would be viewed as a sponsorship.



However, Members have had claims for reimbursement of the purchase of a ticket to a community event rejected because the organization identifies any ticket purchase as a sponsor. In this situation the Member is not sponsoring but is labeled a sponsor.

### **Decision on Sponsorship**

**The Regulation shall be amended to reflect that any purchase of a ticket for non-profit or charitable community events or an advertisement in a publication or a program shall be an allowable expense as long as the Member does not receive any benefit of a personal nature and irrespective of whether it is labeled a sponsorship by an organization.**

### ***(E) Token Souvenir Items***

The Regulation (s.14(f)) states that the expense of lapel pins and other souvenir items for distribution to constituents are an allowable expense if incurred for the purpose of access and service to constituents.

The Auditor stated that there were no significant concerns noted from the audit of these amounts.

The Interim Rules provided that Members may claim such souvenir items as pins, flags, magnets and pens. Flags were established as a separate category on an interim basis recognizing the practice of Members supplying flags to organizations in their constituency.

The Interim Rules have proven to be difficult to administer as token is not defined, nor is there a monetary limit for any item set out in the Regulation, nor have the MAO been able to determine what items should be included as a souvenir.

### **Decision on Token Souvenir Items**

**It is accepted by the public that a Member should be able to distribute**

lapel pins, pens and other souvenir items to constituents. It is important however to maintain that the purpose of distributing such items is not for partisan purposes. One way of controlling this is to limit the monetary value of each item. A \$30.00 limit is appropriate in the circumstances and is a solution to trying to define token.

Regulation 14(f) should be amended to state:

**“that the expense of lapel pins, pens, magnets and other souvenir items are authorized and are subject to a \$30.00 limit per item.”**

While the Interim Rules provided for a restriction on recipients of flags, I do not believe it is necessary on an ongoing basis to maintain such a restriction. The recipient of the flag shall be identified.

(F) **Flowers (Wreaths/Poinsettias)/Plaques**

The current Regulation allows expenses incurred for the purpose of access and service to constituents for cards, acknowledgements, flowers, non-monetary gifts to mark special occasions and other similar greetings. The Auditor noted that not all flower purchases were supported by a receipt or invoice and the name of the recipient.

The Interim Rules allowed wreaths for Remembrance Day/Legion events and for poinsettias for personal care homes. Flowers were not allowed.

There have been problems determining which facilities are eligible for this expense. Also, there remains the issue of whether gifts of flowers generally should be an allowable expense.

Presentations of plaques and certificates to recognize a special achievement or an honour received by a constituent are accepted practices.

The Regulation does not specify a monetary limit and this requires clarification.

**Decision on Flowers (Wreaths/Poinsettias)/Plaques**

The Auditor's main concern was that Members identify the recipient of flowers and support the expense with appropriate supporting documentation. As stated many times, this principle applies to all Members' expenses.

With respect to the limits regarding flowers and potential recipients, I do not believe it is necessary in the public interest to unduly restrict the recipient and accordingly, the Regulation as presently worded, can remain as is. The Interim Rules shall no longer be applicable.

I agree with comments made by the Green Commission that it is not unreasonable for a local Member to recognize important contributions to the community on behalf of the government in a modest way.

Transparency and accountability are best served by setting a monetary limit for such items. Accordingly, the Regulation shall be amended to set a monetary limit of \$150.00 for any such expense. The Member shall identify the recipient of the item when claiming reimbursement for the expense.

(G) (i) **Scholarships and Bursaries**

Section 14(c) of the Regulations states that scholarships and bursaries are allowable expenses. The Auditor noted that a majority of payments were made to the student rather than to the school or school division and that all payments be supported by a receipt with payment made to the school or school division.

**Decision on Scholarships and Bursaries**

This form of expense is an accepted part of the political fabric of the

**province and should continue. The Regulation shall be amended to require that all payments be made to the school or school division in accordance with the Auditor's conclusions.**

**(ii) Books**

This category falls under a category which is not clearly defined in the Regulations. It is arguably under 14(c) (donation to a non-profit or charitable organization) or 14(d) scholarships or bursaries.

The Auditor indicated that should the Regulations be amended to specifically include this type of donation, that these claims be supported by receipts from the recipients.

Overall, the Auditor said that donations/gifts generally do not enhance non-partisan access or service to constituents.

The Interim Rules only allow claims for books for "I Love to Read Month". No monetary limit was imposed. The limitation imposed has given rise to many questions from Members about this expense, particularly because donations of books to schools were not allowed.

**Decision on Books**

**I am mindful of the Auditor's overall concern about donations and gifts and that such use of public funds has the potential to be more personal and partisan than providing service to constituents.**

**I am also cognizant of the Auditor's reliance on the Green Commission which was very critical of such use of public funds.**

**Furthermore, I have noted that a review of other jurisdictions confirms that donations generally have been restricted.**

**Having noted all the above, I am aware that there is a fairly widespread**

**practice of Members supporting certain community groups, reading programs and schools generally by donations of books. I am satisfied that this use of public funds is relatively small, but that it serves the public interest and is part of the cultural fabric of this province.**

**These donations of books go to the underprivileged and those in remote areas.**

**Therefore, I have decided that s. 14 of the Regulations be amended to include donations of books to non-profit or charitable groups and schools as an allowable expense. As with other expense claims, the recipient shall be identified when reimbursement is sought.**

**This will be an exception to the general exclusion of donations as an allowable expense.**

**I encourage future Commissioners to review this issue to determine if this exception continues to be justified and in the public interest.**

**(H) Meals**

Section 14(b) allows for an allowable expense of meals if incurred for the purpose of access and service to constituents.

The Auditor commented that in many instances receipts were not provided. Further, the Regulation does not require that the names of the person attending be documented, and that for the purpose of transparency and accountability, they should be set out.

**Decision on Meals**

**The Auditor's recommendations shall be reflected in the Regulations for the reasons stated. All claims for meal expenses shall set out the purpose of the meeting and the names of the persons attending.**

(I) **Expenses for Food, Refreshment and Product for Fundraising Activities, Community Events and Hospitality**

Members have purchased food and beverage for the purpose of providing hospitality for constituents. These were classified as Representation expenses (s. 14(b)). Hospitality products such as plates and cutlery were removed as a Representation expense in the past (due to a small limit in this category) and were expensed under the Office category.

Since the limits were increased for Representation expenses in the last amendment to the Regulations, the issue is whether it is still necessary to separate these items into two categories.

Furthermore, the Interim Rules restricted Members claiming these kinds of expenses to an event which they were actually hosting as opposed to their support of a non-partisan community event in conjunction with other organizations.

During my consultation process, Members expressed concerns that these interim restrictions unduly restricted their ability to host and co-host forums in which the public is informed about access to programs and services about opportunities for input into the formation of government policy and education about activities which can improve public safety and wellbeing.

The issue for determination is whether these Interim Rules should be relaxed to address the above concerns. A further issue is whether ancillary expense for events such as entertainers or speakers is an allowable expense. The Interim Rules do not allow for this expense.

**Decision on Expenses for Food, Refreshment and Product for Fundraising Activities, Community Events and Hospitality**

**I am advised that the current split of food and beverage expense from other hospitality products has proven to be an administrative headache**

for the MAO. There is no requirement for the split. Therefore, the Regulations should be amended to state all food, beverage and related products are to be treated as a Representation category expense.

I am not satisfied that there is a need to allow expenses for entertainment and speakers at community events and therefore the Interim Rules should be set out in the Regulation. Nor do I believe it is in the public interest to have Members giving donations to facilitate meetings of other organizations. This view is consistent with the rules and practice in most other jurisdictions.

(J) **Parades**

There is a tradition in rural Manitoba, in particular, of having parades to commemorate certain community events. Members are invariably asked to participate and it is customary for Members to hand out candies and sweets to children lining the route of the parade or provide lights and decorations.

Under the Interim Rules Members were not allowed to claim as expenses donations of food at community events or the cost of car rentals for parades or parade entry fees.

Prior to the Interim Rules, Members claimed expenses related to parade entry fees and candy for handout as Representation expenses under s. 14(a) of the Regulation.

The issue for determination is whether these items should be allowable expenses.

**Decision on Parades**

**Based on my consultations with Members of all parties, I am satisfied that a Member's involvement in community parades is an accepted and welcomed aspect of the role of the Member in serving his or her**

**constituents. The practice is widespread. Many Members participate in numerous parades annually. The costs involved are minimal.**

**I have determined that the Members will be able to claim as allowable expenses the cost of participating in parades, including parade entry fees, candy costs, hats, and decorations. I do not feel it is appropriate or necessary to fund car rental costs out of the public purse in these circumstances.**

**(K) Supplies for Office Hospitality**

As noted above, purchases for hospitality fall under the Representation category which has an annual limit, being fifteen (15%) percent of their global constituency allowance.

Section 12(1)(a) of the Regulations provides for office supplies and stationary, which falls under the Office Operations category which currently does not have an annual limit.

I am advised that it is sometimes difficult to determine whether an expense for supplies is really a Representation expense or an Office expense. The issue requires clarification.

**Decision on Supplies for Office Hospitality**

**I am not prepared to make any changes to the Regulations in this area. Members should take reasonable steps to claim only those supplies that are necessary for general office use under the Office Operations category.**

**2.5 Travel Allowance**

**(A) Private Vehicle Mileage**

The current Regulation provides that Members are reimbursed at a set rate



per kilometre for use of their private vehicle. The Regulation does not require the Member to set out the starting point and destination.

The Auditor recommended that all private vehicle mileage claims include the date, starting point, destination, and total kilometres travelled, otherwise it is impossible to determine the reasonableness of the claims.

### **Decision on Private Vehicle Mileage**

**I accept that the current system of recording mileage does not provide adequate information. All private mileage claims shall include the date on which the travel took place, the starting point, the destination (street), and total distance. Records are to be maintained by a log book or a travel claim form which sets out the above information.**

#### **(B) Meals**

Members are reimbursed for individual meals per diem at the civil service rate when travelling.

The Auditor recommended that dates and locations be set out for all meals and per diem meals claimed as certain claims did not set out the date and location. Therefore the Regulation should be amended.

### **Decision on Meals**

**To address concerns about transparency and accountability, I have determined that Members should document dates and locations (City or Town and restaurants) for all meals and per diems claimed under the Travel Allowance. Original receipts shall be required or alternately the civil service rate shall apply.**

#### **(C) Taxi/Parking**

The Auditor noted that supporting documentation was not always provided for

taxi/parking claims so as to be unable to conclude whether all claims were appropriate.

**Decision on Taxi/Parking**

**This is an example of an area where supporting documentation is lacking. The Regulations shall state that all claims for taxis and parking be supported by an original receipt.**

**I am aware that in some instances it is difficult to obtain a receipt for parking. In such limited instances, a statutory declaration shall suffice.**

**(D) Travel Outside the Constituency**

Currently the Regulation allows for travel outside the constituency in the performance of his or her duties as a Member. The Auditor found that all expenses claimed for travel outside the constituency did not include the purpose for the travel. The Auditor stated that all expenses for travel outside the constituency include the purpose for the travel.

**Decision on Travel Outside of the Member's Constituency**

**It is appropriate that the expense claim lists both the amount of the expense plus the purpose of the travel. The trip purpose shall be identified as legislative or constituency. This will ensure that the travel is related to the performance of the Member's duties as per s. 21(1) of the Regulations.**

**(E) Airfare Claims**

The Auditor stated that there was not adequate proof (only itinerary supplied) that a flight was actually taken when a claim was made and recommended that all claims for airfare be supported with a boarding pass.

### **Decision on Airfare Claims**

**The Regulation (s. 15(b)) should be amended to state that all Members provide a boarding pass as well as purchase information for all airfare claims. This will preclude the problem of duplicate claims.**

**In those instances where a boarding pass is not provided, such as with charter flights, other proof of payment will be acceptable.**

### **2.6 Living Allowance/Living Expenses**

Under the Regulations, non-Winnipeg Members are eligible for repayment of allowable temporary residence and living expenses. These types of allowances are similar to schemes in other provinces and are a recognition that Members who reside outside Winnipeg have to incur these types of expenses in order to perform their duties in Winnipeg.

Members are entitled to a maximum monthly entitlement for living expenses which is presently \$682.00 per month. There are certain conditions for claiming this maximum amount including the House being in session, special or standing committee meetings and two months of the Member's choice.

The authorized expenses set out in the Regulations include meals at Civil Service rates or to any amount with receipts, dry cleaning and laundry charges.

Two main issues arise under this category of expense and they are related. The first one was identified by the Auditor. The focus of the Auditor was the Living Expense portion of the Living Allowance. The other is a limitation in the Living Allowance category due to the limited nature of authorized expenses.

The Auditor stated that Members eligible for living expenses usually claim the maximum monthly entitlement as a meal per diem. The Audit revealed that most Members are not providing the dates for which they are claiming a per diem living expense and also are not providing the dates for which they are making claims

under the Representation category or under the Travel Allowance for meal expenses.

The Auditor therefore concluded that it was impossible to determine if the meal per diem was appropriate and whether there was duplication with specifically reimbursed meals under other Allowances.

The Auditor stated that the date be documented for all meal per diems under the Living Allowance and for all meals claimed under other Allowances. The Auditor said that the Regulation be amended to prevent duplicate claims for meals.

The other issue arises in part out of the above issue. The list of allowable expenses under the Members' Living Allowance (other than meals) is short. Members incur other living expenses in maintaining another residence such as food purchases for eating at home, cleaning supplies, and consumable household items such as linens (towels and bedding), small appliances and housewares.

These purchases are legitimate living expenses, and being eligible to recover such expenses will at least partially resolve the issue of claiming "a per diem" meal allowance which gives rise to potential duplication of claims.

#### **Decision on Living Allowance/Living Expenses**

**I agree that the date be documented for all meal per diems claimed under the Living Allowance and other Allowances. It is also appropriate that the Regulation be amended to prevent duplicate claims for meals. It shall clearly state that Members cannot claim a per diem meal expense under the Living Expense category on the same date a meal expense is claimed under some other Allowance category.**

**Secondly, the Regulation s. 25(2) shall be amended to include the following additional authorized living expenses:**

- (a) Groceries;**
- (b) Cleaning supplies;**

**(c) Consumable household items including linens, towels, bedding, small appliances and housewares.**

**Any consumable item purchased must be less than \$171.00 so as to preclude it being defined as capital under the Constituency Allowance. The expense of any consumable household item can be claimed over two or more months to allow consistency in claiming groceries and meals.**

**These additional authorized living expenses must be claimed against the monthly maximum subject to the above condition of claiming the expense of a consumable household item over two or more months.**

## **2.7 Printing Allowance**

The Auditor pointed out that under *The Legislative Assembly Act* all Members are given an allowance for three (3) printings and mailings to constituents each year. The total amount is based on the size of the constituency. The Member is required to submit a copy of the invoice, but is not required to provide a copy of the printed material.

If a Member exceeds the amount allowed, they can claim the excess under the Constituency Allowance and must submit a copy of the material.

The Auditor stated that all claims under the Printing Allowance include a copy of the printed material to help prevent inappropriate expenditures and the Regulation be amended to clearly define allowable printing costs.

### **Decision on Printing Allowance**

**Only legislative changes, not a change in the Regulation, can effect the items to be addressed. In the circumstances, I recommend that the Legislature enact such legislation to address the Auditor's concerns.**

### **3.0 Miscellaneous Items**

#### **3.1 Appeal Process**

The Auditor commented that MAO staff help prepare claims for Members and then process them. Appeals regarding expense issues are referred to LAMC for decision.

Under the Interim Rules, any dispute as to whether a Representation expense is allowable was referred to an Adjudicator.

#### **Decision on Appeal Process**

**To ensure transparency and accountability, appeals from a decision of the MAO should be made to an independent third party rather than to LAMC. LAMC should make this appointment and the decisions of that party shall be final and binding.**

#### **3.2 Advertising**

In the course of the review of the Regulation, a number of issues were raised about advertising. Section 12(1)(i) states:

Advertising for the purpose of providing information to the public about

- (i) the location, address, telephone number or business hours of the member's office, or
- (ii) the time and place of public meetings.

Section 12(1)(o) provides for messages in any newspaper, magazine or other publication. Members have contact information in these ads.

The Regulation does not require that contact information be included in messages.

There is no reason to distinguish between the two forms of advertising.

The issue arises as to whether or not for clarity and consistency, both advertising

and messages in publications include the Member's name, constituency and contact information.

A second issue arises under the application of s. 12(1) of the Regulation.

Pursuant to this Section, Members advertise contact information on billboards, bus benches and in arenas and community clubs. LAMC has restricted this advertising to a Member's own constituency. There will be new boundaries in the next election. There has been a concern expressed that Members may attempt to advertise in another constituency where parts of this area may be part of a new constituency where the Member may run. The issue is whether a restriction should be set out in the Regulation restricting advertising to one's own constituency.

### **Decision on Advertising**

**To ensure consistency and clarity in the Regulation, there should be a requirement that messages include the Member's name, constituency and contact information.**

**It is not appropriate that a Member's advertising should extend to parts of a new constituency in the next election. This is not in the public interest. LAMC's current direction that sign advertising be restricted to a Member's own constituency shall be set out in the Regulations.**

### **3.3 Three Different Representation Limits**

The Representation Allowance limit is fifteen (15%) percent of the Member's constituency allowance. There are three different constituency allowances across the province based on location. The maximum constituency allowance for a Winnipeg Member is approximately \$5,000.00 higher than a Northern Member and \$3,500.00 higher than a Southern Member. As a result, there are three different Representation expenses even though the expenses are not geographically based. The issue is whether this distinction needs to be maintained.

**Decision on Three Different Representation Limits**

There is no economic or other reason to continue to have different maximums for different areas of the province. Therefore, I have determined that the Regulation shall be amended to have all Members receive the level currently received by a Winnipeg Member.

**3.4 Constituency Assistants Allowance**

The current Regulation provides for the pay and benefits for assistants. The Regulation does not state which entity establishes employment policies and benefits. LAMC has performed this task. The issue is whether this should be set out in the Regulation.

**Decision on Constituency Assistants Allowance**

The Regulation should clearly set out that LAMC is given the authority to determine the employment policies of Constituency Assistant. Section 10.1(1) of the Regulation should be amended to reflect this.

DATED this 1<sup>st</sup> day of September, 2010.



Michael D. Werier  
Commissioner



## **SUMMARY OF DECISIONS**

### **Decision on Transparency and Accountability**

It is widely accepted that the system of Members' Allowances be transparent. The public is entitled to know how taxpayers' money is being spent. All submissions to this Commissioner endorsed this principle. Manitobans are the best judges of which expenses are appropriate and necessary.

As a result of the Auditor's Report, immediate action was taken by LAMC on a number of recommendations. In particular, the Regulation, the manual, and the most recent LAMC annual report have been posted on the Legislative Assembly website.

I have determined that these requirements should be specifically set out in a change to the Regulation.

Regarding the publication of LAMC minutes, *The Legislative Assembly Act* now requires the posting of the minutes, and it is being done.

The last issue in this area is the nature of the information to be made available to the public on the Government website. One option is to have the Member's annual report posted on the website, together with monthly reports of the amounts spent under the Constituency Allowance, Constituency Assistants Allowance, Travel Allowance, Printing Allowance, and Committee Allowance, along with posting of the claims for each Allowance. This can be accompanied by information as to how the public can examine copies of receipts, the claims submitted and other particulars, including examining copies of supporting documentation.

The other option is to put copies of all claims and supporting documentation on the website. This involves scanning over 40,000 pieces of paper per year.

I have determined that the first option should be implemented by changes to the Regulation. I believe this will address the Auditor's concerns about transparency

and provide members of the public with more detailed information.

The issue of whether to have all documentation (bills, receipts, invoices) posted can be reviewed by subsequent Commissioners who will be able to access the effectiveness of the changes made in this Report.

### **Decision on Adequacy of Supporting Documentation/Proof of Payment**

The Interim Rules shall be added to the Regulation with a stipulation that all expenses have the intended purpose documented.

### **Decision on Bank Accounts**

The Auditor's recommendation should be implemented and set out in the Regulations. Members shall submit bank statements and cheque information monthly. One bank account for all allowances will reduce expense and enhance organization and disclosure.

The Regulations shall be modified to ensure that Members can claim all expenses through one account.

The Interim Rules provided that Members could claim up to a maximum of \$100.00 per month for the costs of this account. This limit shall continue and be set out in the Regulations.

### **Decision on Year End Cut-off of Members' Claims**

It is important for Members to keep current with the submission of their expense claims. A cut-off date is advisable and I have determined that a claim must be submitted within three (3) months of the year end. Further, a Member's annual allowances report shall include a report of any payment made during the allowance report year in respect of the previous allowance year, but not reported in past reports.

### **Decision on Capital Assets**

The following LAMC decisions made subsequent to the Auditor's Report should be set out in the Regulations:

- (a) Capital furnishings and equipment are the property of the Legislative Assembly and cannot be disposed of without the authorization of MAO;
- (b) An outgoing Member, on ceasing to be a Member, can:
  - (i) Leave the equipment and furniture for the incoming Member. This will not be a cost to the incoming Member, however, the book value of the capital item remains; or
  - (ii) Leave the equipment and furniture for Members' Allowances for disposal.
- (c) Capital items that are no longer required may be turned into the MAO for disposal. MAO will assess the condition of the remaining equipment or furnishings and determine its disposition based on cost effectiveness (i.e. offered to all other Members or, if not required by the incoming or other Members, disposed of through the usual governmental disposal process);
- (d) MAO will replace hard drives. If not practical, MAO will dispose of the computer through the governmental disposal process.

In addition, the following should become part of the Regulations:

- (a) That the MAO capital asset inventory records include the location of the asset and the person who has been assigned the asset.
- (b) For control purposes MAO should conduct unannounced periodic inventory counts on these assets.

LAMC has the authority to define a standard suite of constituency office furnishings and equipment as set out in Section 12(1)(b) of the Regulations. The definition adopted in 1995 set out the following:

- Standard office furniture including such items as a sofa which may

reasonably be found in a constituency office but excluding custom made furniture

- Standard office equipment
- Appliances such as a fridge, microwave
- Electronic equipment such as a TV, VCR, video equipment, camera

An updating by LAMC should occur and I see no need to itemize each item in a Regulation.

### **Decision on Capital Carry-Over**

The Regulation is appropriate in its present form and does not require amendment.

LAMC has determined that in carrying out this Regulation, a Member carrying over capital from the old fiscal year to the new fiscal year must provide both a cheque for the amount of the carry-over and a claim for the new year for the amount of the capital carry-over. I endorse this approach.

### **Decision on Communication Charges**

To ensure transparency and for audit purposes, the entire invoice rather than a summary of charges should be submitted so details of long distance charges and/or roaming charges are available for review for audit purposes.

Secondly, the Regulations shall be amended to include the use of home phones and home internet charges as an allowable expense. I am advised that at present four (4) Members claim home phones for constituency use and six (6) claim internet service at home in order to conduct research or answer constituency email. Some of the Members maintain offices in their home (due in part to the size of their constituency), and others do not have a constituency office (three (3) at present).

The purpose of this amendment is to address the Auditor's concerns that home phone and home internet are not set out in the Regulations. It is my expectation that based on present usage, this category will continue to be used by a small number of Members and that MAO will monitor accordingly.

It has also been brought to my attention that due to changes in technology, there are other services available which can be or are used by Members in the course of serving constituents. These include:

- (a) Signal boosters for cell phones in locations where service is weak;
- (b) Conference call equipment and amplifiers;
- (c) Use of blogging and social networking over the internet;
- (d) Automated calling programs;
- (e) Hands free enabling devices, such as Bluetooth for vehicle cell phone use.

These services are not expressly particularized in the authorized expense list. The above services shall be added to s. 12 of the Regulations as authorized expenses.

With respect to the number of communication devices allowed, the Regulations shall specify that each Member is entitled to claim expenses for a cell phone and/or a BlackBerry, an installed car phone, a land line at each constituency office, a fax and internet services at each constituency office, and a home land line and home fax and internet services, if required.

The current Regulations provide for communication services to the extent they are incurred for the purpose of access and service to constituents. I am advised that Members claim as expenses cell phone costs for staff. For purposes of clarification, the Regulations shall state that monthly cell phone or BlackBerry costs for staff are authorized only for staff that are paid out of the Constituency Assistants Allowance.

Lastly, as a follow up to the Auditor's conclusions, I am advised that MAO has reviewed the communication plans currently used by Members with a view to taking advantage of government rates and recommends that Members and Members' constituency staff change from private cell phone and BlackBerry plans to the government plans on the expiry of the existing private plans. I endorse this initiative.

### **Decision on Donations to Charitable and Non-Profit Organizations**

I am satisfied that many Members across all party lines believe that by supporting certain charitable and non-profit organizations that they are serving the public good. I accept that Members generally believe they are helping community groups or charities and the underprivileged and that their actions are not in any way being done for partisan purposes. I also accept that the donations support good causes.

In response to suggestions that they are able to prefer certain groups over others, Members responded that they have been elected by the constituency and have the right to make such decisions.

I am also aware that if these expenses are no longer allowed, it will put provincially elected Members on a different playing field than City Councillors.

However, I am satisfied on balance, that in order to reflect contemporary best practice, this category of Representation expenses should be eliminated, save and except for a few exceptions outlined later on in this Report.

This change will bring Manitoba in line with most other jurisdictions in the country and will eliminate the potential concerns that such donations are for partisan purposes or unfairly prefer one group over another without justification.

Therefore, the Regulation shall be amended to remove donations to charitable and non-profit organizations as authorized expenses.

I have determined that there will continue to be certain exceptions which will be outlined later in this Report.

I recognize that certain non-profit and charitable organizations will be impacted by these changes. I recommend that MAO send a letter to all organizations who received support from Members indicating the change in the Regulation and the reason for the change in the policy.

To facilitate the transition to this new system, the effective date of the decision on

donations to charitable non-profit organizations shall be sixty (60) days after the date of this Report.

### **Decision on Other Donations/Gifts**

For the reasons outlined above in respect of donations to charitable and non-profit organizations, I have decided that the Regulation shall be amended so that Members can no longer claim as allowable expenses the following:

- 1) Donations of gift certificates;
- 2) Purchase of raffle tickets;
- 3) Purchase of lottery tickets;
- 4) Donations to individuals and teams;
- 5) Donations to schools and parent associations (save and except for scholarships and bursaries and donations of books as outlined below);
- 6) Donations of food, refreshment and products.

Expenses for donations of flowers, souvenirs, event tickets and books are not included and will be reviewed individually.

### **Decision on Event Tickets**

I agree that event tickets should be set out as an authorized expense in the Regulation. Members are constantly invited and expected to attend community dinners and events for non-profit or charitable organizations. They are often asked to bring greetings. They are often approached at these events by constituents wishing to discuss issues of concern. These events are usually held in the evening.

I have determined that it is appropriate and in the public interest for these events to be an allowable expense for Members and to be set out in the Regulation. It is also appropriate for business and safety reasons that the amended Regulation allows Members to claim the cost of one additional ticket for the Member's constituency assistant, Executive Assistant, researcher or intern to attend for non-partisan constituency business purposes. A Member shall be able to claim for the above to

attend an event in case the Member cannot attend.

Excluded from allowable event tickets are events which are not of a charitable or non-profit nature. This list will include attendance at sporting events, golf tournaments, social tickets and service club meetings.

The reason for excluding these types of events is that they involve a personal benefit to the Members and should be a personal expense if they choose to attend.

### **Decision on Sponsorship**

The Regulation shall be amended to reflect that any purchase of a ticket for non-profit or charitable community events or an advertisement in a publication or a program shall be an allowable expense as long as the Member does not receive any benefit of a personal nature and irrespective of whether it is labeled a sponsorship by an organization.

### **Decision on Token Souvenir Items**

It is accepted by the public that a Member should be able to distribute lapel pins, pens and other souvenir items to constituents. It is important however to maintain that the purpose of distributing such items is not for partisan purposes. One way of controlling this is to limit the monetary value of each item. A \$30.00 limit is appropriate in the circumstances and is a solution to trying to define token.

Regulation 14(f) should be amended to state:

“that the expense of lapel pins, pens, magnets and other souvenir items are authorized and are subject to a \$30.00 limit per item.”

While the Interim Rules provided for a restriction on recipients of flags, I do not believe it is necessary on an ongoing basis to maintain such a restriction. The recipient of the flag shall be identified.



**Decision on Flowers (Wreaths/Poinsettias)/Plaques**

The Auditor's main concern was that Members identify the recipient of flowers and support the expense with appropriate supporting documentation. As stated many times, this principle applies to all Members' expenses.

With respect to the limits regarding flowers and potential recipients, I do not believe it is necessary in the public interest to unduly restrict the recipient and accordingly, the Regulation as presently worded, can remain as is. The Interim Rules shall no longer be applicable.

I agree with comments made by the Green Commission that it is not unreasonable for a local Member to recognize important contributions to the community on behalf of the government in a modest way.

Transparency and accountability are best served by setting a monetary limit for such items. Accordingly, the Regulation shall be amended to set a monetary limit of \$150.00 for any such expense. The Member shall identify the recipient of the item when claiming reimbursement for the expense.

**Decision on Scholarships and Bursaries**

This form of expense is an accepted part of the political fabric of the province and should continue. The Regulation shall be amended to require that all payments be made to the school or school division in accordance with the Auditor's conclusions.

**Decision on Books**

I am mindful of the Auditor's overall concern about donations and gifts and that such use of public funds has the potential to be more personal and partisan than providing service to constituents.

I am also cognizant of the Auditor's reliance on the Green Commission which was very critical of such use of public funds.

Furthermore, I have noted that a review of other jurisdictions confirms that donations generally have been restricted.

Having noted all the above, I am aware that there is a fairly widespread practice of Members supporting certain community groups, reading programs and schools generally by donations of books. I am satisfied that this use of public funds is relatively small, but that it serves the public interest and is part of the cultural fabric of this province.

These donations of books go to the underprivileged and those in remote areas.

Therefore, I have decided that s. 14 of the Regulations be amended to include donations of books to non-profit or charitable groups and schools as an allowable expense. As with other expense claims, the recipient shall be identified when reimbursement is sought.

This will be an exception to the general exclusion of donations as an allowable expense.

I encourage future Commissioners to review this issue to determine if this exception continues to be justified and in the public interest.

### **Decision on Meals**

The Auditor's recommendations shall be reflected in the Regulations for the reasons stated. All claims for meal expenses shall set out the purpose of the meeting and the names of the persons attending.

### **Decision on Expenses for Food, Refreshment and Product for Fundraising Activities, Community Events and Hospitality**

I am advised that the current split of food and beverage expense from other hospitality products has proven to be an administrative headache for the MAO. There is no requirement for the split. Therefore, the Regulations should be amended to state all food, beverage and related products are to be treated as a

Representation category expense.

I am not satisfied that there is a need to allow expenses for entertainment and speakers at community events and therefore the Interim Rules should be set out in the Regulation. Nor do I believe it is in the public interest to have Members giving donations to facilitate meetings of other organizations. This view is consistent with the rules and practice in most other jurisdictions.

### **Decision on Parades**

Based on my consultations with Members of all parties, I am satisfied that a Member's involvement in community parades is an accepted and welcomed aspect of the role of the Member in serving his or her constituents. The practice is widespread. Many Members participate in numerous parades annually. The costs involved are minimal.

I have determined that the Members will be able to claim as allowable expenses the cost of participating in parades, including parade entry fees, candy costs, hats, and decorations. I do not feel it is appropriate or necessary to fund car rental costs out of the public purse in these circumstances.

### **Decision on Supplies for Office Hospitality**

I am not prepared to make any changes to the Regulations in this area. Members should take reasonable steps to claim only those supplies that are necessary for general office use under the Office Operations category.

### **Decision on Private Vehicle Mileage**

I accept that the current system of recording mileage does not provide adequate information. All private mileage claims shall include the date on which the travel took place, the starting point, the destination (street), and total distance. Records are to be maintained by a log book or a travel claim form which sets out the above information.

**Decision on Meals**

To address concerns about transparency and accountability, I have determined that Members should document dates and locations (City or Town and restaurants) for all meals and per diems claimed under the Travel Allowance. Original receipts shall be required or alternately the civil service rate shall apply.

**Decision on Taxi/Parking**

This is an example of an area where supporting documentation is lacking. The Regulations shall state that all claims for taxis and parking be supported by an original receipt.

I am aware that in some instances it is difficult to obtain a receipt for parking. In such limited instances, a statutory declaration shall suffice.

**Decision on Travel Outside of the Member's Constituency**

It is appropriate that the expense claim lists both the amount of the expense plus the purpose of the travel. The trip purpose shall be identified as legislative or constituency. This will ensure that the travel is related to the performance of the Member's duties as per s. 21(1) of the Regulations.

**Decision on Airfare Claims**

The Regulation (s. 15(b)) should be amended to state that all Members provide a boarding pass as well as purchase information for all airfare claims. This will preclude the problem of duplicate claims.

In those instances where a boarding pass is not provided, such as with charter flights, other proof of payment will be acceptable.

**Decision on Living Allowance/Living Expenses**

I agree that the date be documented for all meal per diems claimed under the Living Allowance and other Allowances. It is also appropriate that the Regulation be

amended to prevent duplicate claims for meals. It shall clearly state that Members cannot claim a per diem meal expense under the Living Expense category on the same date a meal expense is claimed under some other Allowance category.

Secondly, the Regulation s. 25(2) shall be amended to include the following additional authorized living expenses:

- (a) Groceries;
- (b) Cleaning supplies;
- (c) Consumable household items including linens, towels, bedding, small appliances and housewares.

Any consumable item purchased must be less than \$171.00 so as to preclude it being defined as capital under the Constituency Allowance. The expense of any consumable household item can be claimed over two or more months to allow consistency in claiming groceries and meals.

These additional authorized living expenses must be claimed against the monthly maximum subject to the above condition of claiming the expense of a consumable household item over two or more months.

#### **Decision on Printing Allowance**

Only legislative changes, not a change in the Regulation, can effect the items to be addressed. In the circumstances, I recommend that the Legislature enact such legislation to address the Auditor's concerns.

#### **Decision on Appeal Process**

To ensure transparency and accountability, appeals from a decision of the MAO should be made to an independent third party rather than to LAMC. LAMC should make this appointment and the decisions of that party shall be final and binding.

**Decision on Advertising**

To ensure consistency and clarity in the Regulation, there should be a requirement that messages include the Member's name, constituency and contact information.

It is not appropriate that a Member's advertising should extend to parts of a new constituency in the next election. This is not in the public interest. LAMC's current direction that sign advertising be restricted to a Member's own constituency shall be set out in the Regulations.

**Decision on Three Different Representation Limits**

There is no economic or other reason to continue to have different maximums for different areas of the province. Therefore, I have determined that the Regulation shall be amended to have all Members receive the level currently received by a Winnipeg Member.

**Decision on Constituency Assistants Allowance**

The Regulation should clearly set out that LAMC is given the authority to determine the employment policies of Constituency Assistant. Section 10.1(1) of the Regulation should be amended to reflect this.

## APPENDIX "A"

### **LAMC - INTERIM RULES RESPECTING MEMBERS' ALLOWANCES**

**SEPTEMBER 23, 2009**

#### **I. TRANSPARENCY AND ACCOUNTABILITY**

1. That the regulations be put on the Assembly website and linked from the government regulation website by October 1, 2009.
2. That the Allowances manual be put on the Assembly website as soon as possible.  
*(The Manual is presently being translated and Members' Allowances Office is working on the manual placement on the Assembly website.)*
3. That the 2008/09 LAMC annual report be put on the Assembly Website by October 1, 2009 or the earliest possible time thereafter.
4. That the LAMC 2009/10 annual report and subsequent LAMC annual reports be put on the Assembly Website.

#### **II. ADEQUACY OF SUPPORTING DOCUMENTATION**

1. That, effective November 1, 2009, LAMC recommends that Members agree that a claim for payment of an authorized expense be supported only with original documentation including proof of payment and the purpose of the expense as may be required by Members' Allowances Office. Members are encouraged to begin this practice immediately.

***Proof of payment may consist of any of the following:***

- *original receipt*
- *bank statement if payee is identified (can be portion of bank statement that identifies expense and does not have to be original bank statement)*
- *image of cancelled cheque*
- *invoice marked paid by supplier*
- *ticket to event (date of event and price of ticket on the ticket)*

***Note: Credit card slips and/or credit card statements are not proof of payment.***

***Purpose of expense*** will be required when the purpose of the expense is not obvious from the nature of the expense. In these situations, Members' Allowances Office may inquire verbally and document the Member's response on the claim.

2. That, effective November 1, 2009, all Members provide the Members' Allowances Office with their monthly Constituency Allowance bank statements and detailed cheque information or copies of the cancelled cheques. Members are encouraged to begin this practice immediately.

***Detailed cheque information*** is only available on the cheque image. Bank statements indicate a cheque number or other reference but not the name of the payee on the cheque. Members need to provide bank statements with cheque images. There may be an additional cost for the Member and the additional cost (up to \$100 per month) is an allowable expense under the Constituency Allowance.

*Note that original bank statements are not required as Members may have paperless banking and would be printing statements themselves from internet access. Members are encouraged to use internet banking.*

3. That, effective November 1, 2009, LAMC recommends that Members agree on an interim basis not to submit claims for any item supported by a statutory declaration, with the exception of claims for parking at parking meters. Members are encouraged to begin this practice immediately.

### **III. YEAR END CUT-OFF OF MEMBER CLAIMS**

1. That a Member's annual allowances report include a report of any payments made during the allowance report year in regard to previous allowance years but not previously reported in past reports.

### **IV. CONSTITUENCY ALLOWANCE**

#### **General**

1. That, effective immediately, the disposal of capital items under the Constituency Allowance be as follows:
  - a. Capital furnishings and equipment are the property of the Legislative Assembly and cannot be disposed of without the authorization of Members' Allowances Office.



*Members' Allowances Office may use discretion and, based on the circumstances, give a Member authorization to dispose of an item, e.g. a broken and non-repairable chair in Thompson.*

- b. An outgoing Member, on ceasing to be a Member, can:
  - i) leave the equipment and furniture for the incoming Member. This will not be a cost to the incoming Member, however, the book value of the capital item remains; **or**
  - ii) leave the equipment and furniture for Members' Allowances for disposal.
- c. Capital items that are no longer required may be turned into the Members' Allowances Office for disposal. Members' Allowances Office will assess the condition of the remaining equipment or furnishings and determine its disposition based on cost effectiveness (i.e. offered to all other Members or, if not required by the incoming or other Members, disposed of through the usual government disposal process).

*Members' Allowances Office will replace computer hard drives. If this is not practical, Members' Allowances Office will dispose of the computer through the government disposal process.*

- 2. That Members Allowances capital asset records should now include the location of the capital asset and the person who has been assigned the asset.
  - a. That Members' Allowances Office immediately send all MLAs a list of his/her current capital inventory, and
  - b. That, by December 1, 2009, Members verify their capital list and update their list to include any capital items not on the list but currently in the Member's possession and provide Members' Allowances Office the location of all their capital items and the person who has been assigned the asset.
- 3. That Members' Allowances Office conduct unannounced, periodic inventory counts...

*Members' Allowances Office will randomly select a few Members each year for unannounced, periodic inventory counts.*

- 4. LAMC recommends that, effective November 1, 2009, Members agree on an interim basis to provide dates, locations, and original receipts for all meals claimed under this allowance. Members are encouraged to begin this practice immediately.

*If the date and/or location are not on the original receipt, the Member may ask the vendor to write that information on the receipt.*

5. LAMC recommends that, effective immediately, Members agree that bank charges over \$100 month, safety deposit boxes and passports are not eligible expenses for claims.

### **Capital Carry Over**

1. That, effective immediately, a Member carrying over capital from the old fiscal year to the new fiscal year provide both a cheque for the amount of the carry over and a claim for the new year for the amount of the capital carry over.

### **Communication Charges**

1. That complete documentation, including the entire invoice, for communication charges be attached to claims for reimbursement of communication charges effective November 1, 2009.

*Members' Allowances Office will sever call detail before providing the invoice in relation to a request for public disclosure. No third party information will be disclosed.*

2. That Members' Allowances Office review the communication plans currently used by Members with a view to taking advantage of government rates wherever possible to see if any savings can be achieved.

## **V. REPRESENTATION**

1. LAMC recommends that, effective immediately, Members agree that claims for any donation to a charitable or non-profit organization be supported by an original receipt.

*An original receipt is the best form of verification and should be provided whenever possible.*

*Failing the availability of an original receipt, a "Thank You" letter from the organization would be second choice. The reason for not providing an original receipt must be documented.*

*The third and final option would be a cheque image. The reason for not providing an original receipt or "Thank You" letter must be documented.*

2. LAMC recommends that, effective immediately, Members agree that claims for allowable event tickets must be supported by an original receipt.

*Examples of tickets to allowable events are Dalnavert Historical Society dinner and concerts.*

*Members should be encouraged to provide an "original" receipt (ie ticket). If that is not possible, then other proof of payment would be acceptable.*

*Note: Ticket is for Member's use only. A Member may not claim the expense of a ticket that the Member has donated to or has been used by someone other than the Member.*

3. LAMC recommends that, effective immediately, Members agree on an interim basis to cease claiming for
  - a. gift certificates, raffles, lottery tickets
  - b. donations to individuals and teams

*Members may claim **token souvenir items** such as:*

- pins
- flags\*
- magnets
- pens

*\*Although a full sized flag may not be considered a "token" souvenir item, on an interim basis a Member may claim the expense of a flag that is provided to an organization in his or her constituency.*

*Members may also claim:*

- plaques
- frames for certificates/congratulations
- books to be donated in "I Love to Read" month
- wreaths\* for Remembrance Day/Legion events in connection with a Member's role as a MLA
- poinsettias (specifically) provided to personal care homes, etc.

*\*Wreaths should not be provided indiscriminately; ie it should be in connection with a Member's attendance at a Remembrance Day Service. However, if a Member is unable to attend a Remembrance Day service, a designate may attend on his or her behalf. If a designate is not able to attend, it would not preclude a Member giving a wreath.*

*Members **may not** claim:*

- any other flowers than indicated above
- chocolates

- *other items, such as clothing, from the Legislative Assembly Gift Shop or elsewhere that do not fall in the category of “token souvenir items”*
- c. donations to schools or parent associations, other than scholarships and bursaries which must be made directly to a school and properly receipted.

*Members may claim donations to charitable or non-profit organizations. The test for programs such as Encounters With Canada, Youth Parliament, etc. is whether the program is also a charitable or non-profit organization. If the program is only affiliated with a charitable or non-profit organization, then the donation may be made to the affiliated charitable or non-profit organization rather than the program.*

*Members **may not** claim donations to schools or parent associations (other than scholarships and bursaries) and other similar institutions or organizations such as universities or parent councils.*

- d. donations of food, refreshment, and product for fund raising activities, community events and hospitality.

*Members **may only** claim the expense of food, refreshment and related products **if the Member is hosting** a community event such as a barbeque, book swap, information for seniors (ERIK), etc. (Note product (e.g. napkins, paper plates) may fall under “office expense” or “hospitality – representation”.)*

*Members **may not** claim the above-noted expenses if they are facilitating meetings for other organizations – whether the organization is non-profit (Firefighters Burn Fund) or a crown corporation (Manitoba Hydro’s Power Smart Program) or any other organization. No donations in kind.*

*Members **may not** claim the expense of a Sponsorship. (Note that Member may purchase non-partisan advertising team programs. If there is any benefit indicated, such as a free ticket(s) provided with the placement of an ad, then it would be viewed as sponsorship and would not be allowed.)*

- e. sporting events, meal charges for service club meetings, social tickets, wedding gifts, gifts for staff, entertainment books, car rentals for parades.

***No meals at sporting events (e.g. meal at golf tournament).**  
**No expenses related to Toastmasters.***

4. That, if there are any disputes over whether a representation expense is allowable under the heading in this paper, **Representation**, the expense item may be submitted for adjudication to the previous, independent MLA Pay and Allowances Commissioner.

*The process for these appeals is the same as an appeal to LAMC with the Adjudicator substituted for LAMC. Members' Allowances Office has a template for an appeal document and will explain what is required by the Member for the appeal process. Completed appeals will be forwarded from the Members' Allowances Office to the previous, independent MLA Pay and Allowances Commissioner for adjudication.*

## **VI. TRAVEL ALLOWANCE**

### **Private Vehicle**

1. That, effective November 1, 2009, a log be kept for all private mileage. Claims must include the date on which the travel took place, the starting point, destination and total distance. The destination is defined as city or town for travel outside Winnipeg and the street for travel inside Winnipeg. A completed travel claim form with per trip information regarding the date on which the travel took place, the starting point, destination and total distance would be a satisfactory substitute for a formal log book. Members are encouraged to begin this practice immediately.

*Note that "street" is just the name of the street and not the street address. The street must be provided for Winnipeg and Brandon – ie, for travel inside cities that have more than one constituency (Winnipeg and Brandon).*

### **Meals**

2. LAMC recommends that, effective immediately, Members agree on an interim basis to provide dates and locations for all meals and per diems claimed under the Travel Allowance. The location is defined as the city or town where the meal was purchased or the per diem incurred.
3. LAMC recommends that, effective immediately, Members agree that original detailed restaurant receipts are required for all meals claimed.

*Members may claim meals at the civil service rates without receipt but still need to indicate the date and location.*

### **Taxi/Parking**

4. LAMC recommends that, effective immediately, Members agree that claims for taxi and parking be supported by original receipts.

5. Where no receipts are provided by the supplier of the parking service, such as meter parking, a statutory declaration may be used.

**Travel Outside Constituency**

6. LAMC recommends that, effective November 1, 2009, Members agree on an interim basis to provide the purpose of each trip outside a Member's own constituency. Members are encouraged to begin this practice immediately.

*Note that trip "purpose" can be identified as either "legislative" or "constituency".*

**Airfare**

7. LAMC recommends, effective immediately, that Members agree on an interim basis to provide a boarding pass as well as the purchase information for all claims for airfare. If a boarding pass is not available, other proof of payment can be submitted.

*Members' Allowances Office will accept one boarding pass for a return trip. If it is a charter flight, other proof of payment may be provided such as a list of passengers that identifies the Member as a passenger.*

**Other**

8. LAMC recommends that, effective immediately, Members agree that passports are not an eligible expense.

**VII. LIVING ALLOWANCE**

1. LAMC recommends that, effective November 1, 2009, Members agree on an interim basis to provide the date and location for all meal per diems under the temporary Residence and Living Expenses Allowance. Members are encouraged to begin this practice immediately.
2. LAMC recommends that, effective immediately, Members agree that only services that are included in the rent or normally part of renting such as parking at the rental unit or washing facilities are eligible expenses.

**VIII. PRINTING ALLOWANCE**

1. That, effective immediately, Members submit copies of the printed material with their claims.