



HOUSE OF ASSEMBLY

Members' Compensation Review Committee

*Review of:
MHA Salaries, Allowances,
Severance Payments and Pensions*

Report

October 2009

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October 30, 2009

To:
Honourable Roger Fitzgerald
Speaker of the House of Assembly, Newfoundland and Labrador
Confederation Building
St. John's, NL

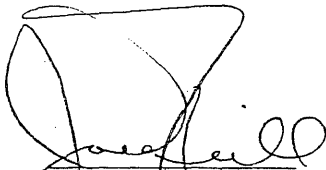
Honourable Speaker:

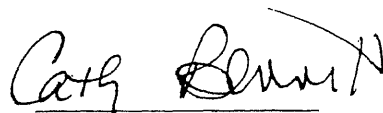
We have the honour to present herewith the report of the Members' Compensation Review Committee appointed to inquire into and report on the salaries, allowances, severance payments and pensions to be paid to Members of the House of Assembly.

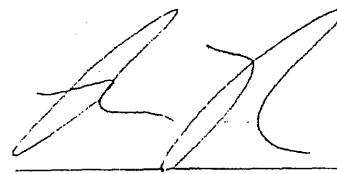
We wish to thank the Honourable House of Assembly for bestowing on us the honour and the privilege of conducting this inquiry. We sincerely hope the report and recommendations contained within it will assist and guide your deliberations on these matters in the future.

In keeping with our responsibility pursuant to the legislation governing our appointment, we will remain available to the House of Assembly Management Commission for a period of 6 months following the delivery of this report.

Respectfully submitted,


Joe O'Neill
Chair


Cathy Bennett
Member


Brian Barry
Member

TERMS OF REFERENCE

Subsection 16(1) of the *House of Assembly Accountability, Integrity and Administration Act*, states:

“Inquiry re: salaries

16. (1) Beginning with the Forty-Sixth General Assembly, the House of Assembly shall, at least once during each General Assembly, by resolution appoint, upon those terms and conditions that are set out in the resolution, an independent committee, to be called a members' compensation review committee, of not more than 3 persons, none of whom shall be a member, to conduct an inquiry and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to members.”

Pursuant to subsection 16(1) the House of Assembly on May 28, 2009 resolved as follows:

“WHEREAS subsection 16(1) of the *House of Assembly Accountability, Integrity and Administration Act* requires that an independent committee, called the Members' Compensation Review Committee, be appointed at least once during each General Assembly; and

WHEREAS, in accordance with subsection 16(2) of the *House of Assembly Accountability, Integrity and Administration Act*, the Speaker has consulted with all House leaders on the appointment of the said Committee; and

WHEREAS all House leaders have agreed with the introduction of this Resolution; and

WHEREAS, under subsection 16(4) of the *House of Assembly Accountability, Integrity and Administration Act*, a Members' Compensation Review Committee appointed under this resolution must report to the Speaker on its recommendations within 120 days of its appointment;

BE IT RESOLVED THAT Joe O'Neill, Cathy Bennett and Brian Barry be appointed to the Members' Compensation Review Committee, with the appointment to be effective on July 6, 2009; and

BE IT FURTHER RESOLVED THAT the Members' Compensation Review Committee inquire into and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to Members of the House of Assembly; and

BE IT FURTHER RESOLVED THAT the Members' Compensation Review Committee, as part of its inquiries, include consultations with appropriate persons who can assist the Committee with respect to its required duties; and

BE IT FURTHER REOLVED THAT the Members' Compensation Review Committee deliver its report to the Speaker on or before October 31, 2009; and

BE IT FURTHER RESOLVED THAT the House of Assembly Service conclude the contractual arrangements required to carry out the intent of this Resolution.”

COMPOSITION OF THE COMMITTEE

MEMBERS

Joe O'Neill, Chair, prior to his retirement in 2007 to pursue a career in private business was CEO of the Workplace Health, Safety and Compensation Commission. Mr. O'Neill spent in excess of 35 years in the provincial public service where he held a number of senior executive positions including Deputy Minister of Labour and CEO of the Labour Relations Agency. He also served on numerous boards and commissions including the Premier's Task Force on Collective Bargaining in the Fishing Industry in 1997. Mr. O'Neill currently chairs the provincial Standing Fish Price-Setting Panel. Mr. O'Neill has represented the Government of Canada on many occasions at the International Labour Organization in Geneva Switzerland, a position for which he received a merit award for exceptional and distinguished service. Mr. O'Neill is also a recipient of the Public Service Award of Excellence and the Queen's Jubilee Medal.

Brian Barry is currently VP-Central of the NL Region for Steers Insurance Ltd. with whom he has been employed since 1987. He is Past President of the Exploits Regional Chamber of Commerce and currently sits on the Executive as its Secretary. Mr. Barry is also Past President of the Exploits Valley YMCA and is a volunteer with the CNIB and with the South & Central Health Foundation. He was born and raised in Grand Falls-Windsor where he now resides with his wife Nancy and daughter Emily.

Cathy Bennett is the Owner/Operator of nine McDonald's Restaurants in the St. John's area and CEO of the Bennett Group of Companies. Her portfolio includes the positions of Director, Atlantic Provinces Economic Council; Director, Business Coalition of Newfoundland and Labrador; Vice Chair, Ronald McDonald House NL; and Committee Member of the Labour Market Sub-Committee of the Strategic Partnership Council, Newfoundland and Labrador. Ms. Bennett also sits on the Board of Directors of Newfoundland and Labrador Hydro as well as NALCOR and the Bull Arm Site Corporation.

Acknowledgements

The mandate of the Members' Compensation Review Committee to inquire into and report on salaries, allowances, severance and pensions for members of the House of Assembly required a tremendous amount of work and effort in a short period of time. The Members' Compensation Review Committee would not have been able to complete its work, either in the time frame or in the manner set out in this report, without the very capable assistance of the staff of the House of Assembly. We want to thank the entire staff of the House of Assembly for their co-operation and their patience throughout the period of this review.

We want to recognize and publicly thank the staff of the Pensions Division of the Department of Finance for their expert guidance on matters involving the highly complex issues surrounding pension plans.

We want to thank the MHAs who accepted the invitation of the Committee to meet with it during the course of its deliberations to provide information and clarification on the matters coming within its mandate, particularly those in relation to the new *Members' Resources and Allowances Rules*.

We want to acknowledge and thank the members of the general public who came forward formally and informally, either in person or by written and oral submission, with their views on the issues under review by the Committee. We also want to acknowledge the many individuals who took the time to express their views through other media such as editorials and blogs, and through radio and television. All those individuals and organizations clearly demonstrated their passion for the province as well as their genuine interest in the public affairs of the province.

Finally, we want to acknowledge the tremendous amount of time and effort that our Administrative Assistant, Ann Olford devoted to this project. Ann coordinated all the work of the Committee including the setting up of an office, the arrangements for the public meetings around the province, the gathering and compilation of research documents and public presentations, and the preparation of this report. We are extremely grateful to Ann for her hard work and dedication to this project.

Executive Summary

The appointment of an independent committee called the Members' Compensation Review Committee at least once during each General Assembly to inquire into and prepare a report on the salaries, allowances, severance payments and pensions to be paid to MHAs is an integral component of the *House of Assembly Accountability, Integrity and Administration Act*.

This Members' Compensation Review Committee was appointed by resolution of the House of Assembly on May 28, 2009 with a requirement that its report be delivered to the Speaker of the House of Assembly on or before October 31, 2009.

The Members' Compensation Review Committee officially commenced its work on July 06, 2009. Throughout the course of its mandate the Committee held public meetings in various areas of the province, conducted research on compensation and allowances for elected officials on a national and international level, met with a number of sitting MHAs and staff of the House of Assembly and with the Pensions Division of the Department of Finance.

The Members' Compensation Review Committee also researched a number of previous reports conducted on MHA/MLA compensation issues both in this province and in other Canadian jurisdictions. Throughout the course of its work the Members' Compensation Review Committee frequently referenced the 2007 Report of the Review Commission on Constituency Allowances and Related Matters led by the Honourable J. Derek Green (Green Report).

Notices and details of the public meetings were carried in the province's largest newspaper, The Telegram, on four separate occasions. The Western Star, The Labradorian, the Advertiser and The Packet published the times and locations of the public meetings as well. In addition a number of radio and television reports and interviews were conducted with respect to the appointment of the Members' Compensation Review Committee and its mandate. While there was an abundant amount of media attention paid to the mandate of the Committee, public participation in the meetings was at first somewhat disappointing. An analysis of similar reviews in other jurisdictions revealed much the same experience in terms of public participation at meetings. The Members' Compensation Review Committee did however receive a number of briefs and written submissions containing recommendations based on individual research into the issues coming within the scope of the Members' Compensation Review Committee's mandate.

The mandate of the Members' Compensation Review Committee was to deal with four issues, salaries, allowances, pensions and severance for MHAs. Despite this, the vast majority of attention was centered on MHA salaries. There were recommendations for a freeze in compensation as well as for a reduction or elimination of additional allowances. Some presenters felt that the current number of 48 MHAs was too great and that MHAs were overpaid when compared to their Canadian counterparts based on the level of constituent representation.

A small number of presenters addressed the MHA pension plan suggesting it was too generous and was in need of changes to align it more closely with other public service pension plans in the province.

Public submissions on MHA severance pay, as with pensions, were few. Those who did comment on MHA severance pay felt that it should be one week for each year of service instead of the current one month, to make it more in line with other severance payment provisions in the province.

There were no public representations made to this Members' Compensation Review Committee on MHA Allowances. This was somewhat surprising since it was this very issue that gave rise to the current criminal charges before the courts which arose from what is now publicly known as the House of Assembly spending scandal. The information which the Committee received on this important part of our mandate came from our meetings with MHAs, House of Assembly staff, the research we conducted through the Green Report and the current legislation respecting Allowances.

Following the conclusion of public meetings in mid September and the receipt of written submissions the Committee began the process of analyzing all the documentation it had received during the course of this inquiry. This included information gathered through the public presentations, the written and oral submissions and the meetings with MHAs, staff of the House of Assembly and the Pensions Division of the Department of Finance. The committee also analyzed the information it had collected in its national and international research on compensation and allowances for MHAs/MLAs.

The Members' Compensation Review Committee's research and analysis revealed that at current levels, Newfoundland and Labrador MHA salaries are in the top range of their Canadian counterparts and generally on par with salaries in the researched international jurisdictions. There was very little division in public opinion on MHA compensation. The vast majority recommended at best a wage freeze. Some recommended a rollback. Still others recommended an elimination of the additional compensation provided to MHAs for other duties such as serving on committees of the House of Assembly.

Public opinion on the current pension plan in place for MHAs was similarly negative. While very few submissions addressed MHA pensions, those that did recommended reforms to better reflect the pensions of other public sector pension plans in the province. Research on defined benefit pension plans demonstrated a wide gap between the Newfoundland and Labrador MHA plan and other MHA/MLA plans in two key areas:

- annual accrual rate; and
- eligibility criteria.

This was also the case when provincial public sector plans were compared to the MHA plan. There were two areas where the Newfoundland and Labrador MHA pension plan was not on par with other MHA/MLA defined benefit plans. These are:

- indexing; and
- CPP integration.

Most of the MHA/MLA plans in place have an indexing formula and provide for CPP stacking as opposed to CPP integration. The Newfoundland and Labrador MHA plan does not have an indexing formula or stacking of benefits with CPP.

All jurisdictions in Canada as well as those in the researched international jurisdictions provide some severance benefit for elected officials. The benefit generally exceeds that in the public service. It was asserted that the more generous benefit accounts for the relatively brief and insecure tenure expected for elected officials when compared to public employees. While there are unique provisions in place in some jurisdictions, the prevailing benefit is typically one month of pay for each year served as an elected official, usually with a minimum and a maximum limit. Severance provisions for employees in the Newfoundland and Labrador public service are relatively standard, providing one week of pay for each year of service to a maximum 20 weeks following 9 years of continuous service. Employees are eligible for this benefit upon resignation, retirement or termination.

The allowances for MHAs to cover costs for serving their constituents attracted very little public attention. The information received by the Members' Compensation Review Committee came from House of Assembly staff and MHAs. As well, the Members' Compensation Review Committee accessed the House of Assembly website to review and analyze the Member Accountability and Disclosure Reports of all MHAs for the fiscal year 2008/09. The new allowance structure outlines specific categories and amounts where MHAs may claim expenditures with acceptable receipts. It also mandates accountability and transparency in the expenditure of public money. This new allowance structure has been in effect since the adoption of the legislation in 2007. As expected, it will take some time for MHAs to become accustomed to these new allowances and the Rules within which they can be reimbursed. In the meantime, staff of the House of Assembly and MHAs can expect to experience challenges in the application and administration of the new Rules. This eventuality was contemplated by the Green Report when it made its recommendations. The legislation adopted from the recommendations vests authority in the House of Assembly Management Commission to establish rules allowing for distinctions between constituencies, taking into account geographic, social and economic differences. It also provides authority for the commission to issue directives to, among other things, interpret, clarify or amplify the rules.

The recommendations in this report are based on the analysis of our research and our observations and findings from the public representations, meetings with House of Assembly staff, government officials and MHAs. It is our belief that the recommendations, if implemented will result in reduced costs and will be fair to the MHAs and the public who cover the costs of the Legislative Branch of government.

During the course of its work the Members' Compensation Review Committee also heard from the public on a number of other issues that were not directly related to the four issues coming within the scope of its mandate. The Members' Compensation Review Committee felt that although not directly related, those "other issues" may have an indirect impact on MHA allowances and compensation. Accordingly, we felt it appropriate and hopefully informative to comment on each of them.

The Members' Compensation Review Committee sincerely hopes the recommendations made in this report will contribute to the workings of the House of Assembly and further advance the realities of the new regime of accountability and transparency now demanded of our elected officials.

Introduction

The appointment of the Members' Compensation Review Committee, (the Committee) was made pursuant to subsection 16(1) of the *House of Assembly Accountability, Integrity and Administration Act* (the Act). In accordance with that subsection the Committee must conduct an inquiry and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to Members of the House of Assembly (MHAs).

The Committee was appointed effective July 06, 2009 with a mandate to have its report delivered to the Honourable the Speaker of the House of Assembly on or before October 31, 2009.

The appointment of the Committee marked the first such appointment of an independent committee following the Honourable J. Derek Green's 2007 Report of the "*Review Commission on Constituency Allowances and Related Matters*" (Green Report). It is worth noting that this is the first time since Confederation that a process of public consultation on MHA compensation has been mandated by legislation to be done on a regular basis by an independent committee.

In conducting its review the Committee resolved that it would be guided by the following set of principles:

1. We have a responsibility to strike a balance between the obligation to be fair to provincial taxpayers who cover the costs of public service with the need for our elected representatives to be fairly compensated in order to attract high quality candidates.
2. The standard of accountability and transparency demanded since the implementation of the Green Report recommendations is the cornerstone for rebuilding public confidence and trust. The Committee will outline the dramatic shift in MHA accountability and transparency since 2007 by demonstrating the areas where this dramatic shift has occurred.
3. Greater public awareness of MHA compensation, constituency district funding and working conditions is a crucial tool in the effort to further advance the work of the Green Report in rebuilding confidence in the political process. The Committee will attempt to foster this greater awareness and understanding.
4. For continued enhancement of transparency and accountability the recommendations of the Committee are such that they can be easily communicated and understood by the general public of the province and the MHAs.

During the conduct of this review it was important that the Committee gather as much information as possible on the issues coming within the scope of its mandate. It was decided after reviewing best practices of similar processes across the country that the Committee would:

1. Conduct a series of public meetings around the province to provide an opportunity for any member of the public to address the four issues coming within the scope of the Committee's review.

2. Accommodate all requests for public input should the public meetings be inconvenient to anyone wishing to make a representation.
3. Invite written or oral submissions from any person or organization wishing to share its views on the issues.
4. Invite current members of the House of Assembly to meet with the Committee to help it gain a greater understanding of the application of the new rules governing the House of Assembly and any impact those rules may be having on an MHA's role in serving his or her constituents.
5. Conduct a national jurisdictional review of the current provisions in place in each of the provinces and territories with respect to salaries, allowances, severance payments and pensions.
6. For comparative purposes conduct a review of certain international jurisdictions with respect to areas coming within the scope of the Committee's mandate, particularly those within the British Commonwealth.
7. Meet with House of Assembly staff to review details and confirm information both at the beginning and at the end of the process.

Following the issuance of a press release by the House of Assembly on July 17, 2009 announcing the appointment of the Committee, a Notice of Public Meetings was released on July 21, 2009 outlining the areas where meetings were to be held in the province. This notice was carried in daily and weekly newspapers around the province and was broadcast on various radio and television stations in the province throughout the period of the public meetings.

The Committee held public sessions in Clarendville, Grand Falls – Windsor, Corner Brook, Goose Bay and scheduled two public sessions in St. John's. The Committee extended its public sessions to a third day in St. John's to accommodate requests for presentations. The Committee also accommodated requests from some individuals for private meetings. A total of 17 MHAs responded to the Committee's request to meet and share their views on the issues and to answer questions from the Committee. (**Appendix "E"**)

Public response to the Committee invitation to attend the public meetings initially was disappointing. The final public meeting in St. John's on September 17, 2009 however was well attended, so well attended that the Committee had to schedule three additional presentations for the following morning. At the conclusion of the public meetings a total of 16 people had made public presentations to the Committee. The Committee also received 10 written submissions and 2 telephone submissions. These presentations can be found in the annex to this report. The Committee is extremely grateful to all those individuals and organizations who took the time to prepare and deliver enlightening presentations in a public forum. In addition, the written and telephone submissions and the meetings with MHAs provided the Committee with the benefit of public debate and discussion on its mandate and the process. We have reviewed numerous editorials, letters to the media, blogs and other forms of communication where the general public have had an opportunity to express their views. We appreciate all points of view. Public debate on such issues of critical importance to the province is helpful and informative.

Throughout the course of the Committee's work it was observed that the timing for conducting the first members' compensation review since the release of the Green Report may have been ill conceived given the matters of alleged abuse of public funds currently being addressed by the legal system. The Committee understood that the public reporting of the issues currently before the courts could add to a potentially negative perception of MHA compensation. It is important to note that this process of appointing an independent committee is required by legislation adopted following the Green Report. As the Green Report stated "*It is time to return to a more principle-based system. The need to rebuild public confidence requires it. As has been stressed many times throughout this report, transparency and accountability are essential to the maintenance of public confidence.*"¹

For many years, with some notable exceptions, the public image of politicians has been less than desirable. The issues uncovered by the Auditor General a few years ago have further added to an already dim view of politicians. This public perception is by no means unique to Newfoundland and Labrador. A recent investigation into the abuse of the expenses system of members of the British Parliament has, according to The Sunday Telegraph of London, "*led to widespread revulsion against Britain's political class.*"²

In conducting our work we had to be mindful of the possibility that past actions of a small number of MHAs could cloud our perspective on the issues and affect our independent judgment in reviewing the matters before us and in making recommendations. The fact that criminal charges have been laid against a small percentage of the total number of MHAs who serve in the House of Assembly, is no justification for wide spread revulsion.

As an independent committee we had an obligation and responsibility to ensure that our analysis of the issues coming within the scope of our mandate was based purely on the facts as we found them. By extension, our recommendations also had to be based on the facts. It is only in this way that we could be fair to the public and to the elected officials who serve them.

¹ Green Report, pgs 9-44

² The Sunday Telegraph, London, August 30, 2009

THE NEW POLITICAL REALITY

There is no doubt that political accountability and transparency in this province has dramatically changed since the completion of the Green Report in June 2007. The accountability and transparency now required by MHAs as a direct result of the legislation adopted following the recommendations in the Green Report rival any this committee has analyzed in its research nationally and internationally. Every expenditure incurred by an MHA now must be accounted for in a manner acceptable to the House of Assembly Management Commission. No longer is there a “block” of funding which an MHA can access in serving his or her constituents. There are very strict rules around the amount and types of expenditures in the various allowable funding categories. MHAs must submit proof of payment for all expenditures. Member Accountability and Disclosure Reports are posted on the House of Assembly website for any member of the public to review.

The recommendations in the Green Report and their subsequent adoption into legislation by the legislature have resulted in a new era in Newfoundland and Labrador political accountability and transparency.

ACCOUNTABILITY AND TRANSPARENCY:

“The most important political office is that of the private citizen”³ – Louis Brandeis

The Act was officially proclaimed into law on June 14, 2007, just one week following the receipt of the Green Report. This new legislation clearly sets out the law which applies to all elected officials in the House of Assembly. It also defines the actual amounts of expenditure, by category that each MHA is legally permitted to avail of in serving his or her constituency. It outlines in clear detail the salaries, allowances and other remuneration received by MHAs. It also mandates public disclosure of the expenditures of all 48 elected members.

Any member of the public can currently access the Accountability and Disclosure reports for each individual MHA. These reports summarize the actual expense limit by category as well as the amount spent by each MHA during the fiscal year. This is the first time in Newfoundland and Labrador’s history that this type and amount of information has been accessible to the people of the province.

While there has been a significant shift in the realities of accountability and transparency at the House of Assembly, that reality has outpaced public perception which continues to be influenced by the ongoing criminal proceedings that are so very present, particularly during the course of our work. During our consultations we were frequently reminded by presenters of the damage in confidence of the electorate. Comments from presenters included:

³ Louis Brandeis

“the public’s perception of the role of an MHA has not changed since Green”.
“greed has transcended the place”.
“they appear to be more arrogant the longer they are in office”.
“reached a low level of credibility”.
“no increase – no way”

Perhaps the most telling example of public perception was this comment:

“there is a lack of favourable profile of our politicians by the populace and by the media”.

During the course of our review the Committee received a number of submissions in which the role of an MHA, both past and current was discussed. One presenter questioned whether the understanding and expectations of constituents in the province has changed as a result of the new rules in place for MHA spending. For example, are MHAs still expected to attend numerous functions throughout their respective districts regardless of the limits on their available funding to attend these events? Do we still expect MHAs to make contributions to events and purchase certain items despite the fact that the law explicitly prohibits them from doing so?

In one particular submission it was suggested that this issue is clearly “the elephant in the room” and that it is deserving of much more attention than it has been receiving. This is particularly true given the fact that the rules respecting MHA activity have so drastically changed since the implementation of the Green Report recommendations. As stated earlier, the legislation implemented following the Green Report details a clear regime to which elected officials must adhere. One particular example where this regime occurs is found in the section of the *Members’ Resources and Allowances Rules* (the Rules) made under the Act dealing with the spending of the annual \$3,000.00 Constituency Allowance. Section 46 of those Rules states:

46. (1) *A member is entitled to be reimbursed for his or her constituency expenses necessarily incurred by that member to carry out his or her constituency business.*
- (2) *The maximum amount in respect of each electoral district for which the member from that electoral district may be reimbursed from the constituency allowance in each fiscal year shall not exceed \$3000.*
- (3) *The following expenses necessarily incurred by a member to carry out his or her constituency business may be reimbursed:*
- (a) *meals or the bulk purchase of food, non-alcoholic beverages and other supplies for meetings with constituents or other members of the public in relation to constituency business, and meals and non-alcoholic beverages on other constituency related occasions;*
 - (b) *memberships in community or other organizations;*
 - (c) *equipment not provided by the House;*
 - (d) *magazine, newspaper and journal subscriptions;*
 - (e) *travel, accommodations, meals and registration fees for conferences and training courses for the member or Constituency Assistant if approved by the speaker;*

(f) expenses associated with attending at meetings and hearings involving advocacy on behalf of a constituent; and
(g) other categories of items as directed by the commission.

(4) The following types of expenses shall not be reimbursed:

- (a) the acquisition, creation or distribution of anything that uses or includes a word, initial, or device that identifies a political party;*
- (b) artwork including paintings, prints, sculptures, carvings and crafts;*
- (c) alcoholic beverages, either individually or in bulk;*
- (d) sponsorship of individuals or groups;*
- (e) donations;*
- (f) raffle tickets;*
- (g) hospitality, except for meetings referred to in paragraph (3)(a);*
- (h) gifts;*
- (i) items, services or activities of a personal nature, including clothing and laundry expenses;*
- (j) travel costs for constituents;*
- (k) travel costs for spouses or dependants;*
- (l) financial assistance for constituents; and*
- (m) those other items directed by the commission.*

(5) A member, in his or her capacity as a member, shall not make a donation or gift, whether of a charitable nature or not, to any person, group or community except as may be contemplated by subsection (3) and section 27.

(6) Where a member makes a donation or gift, whether of a charitable nature or not, in a personal capacity, the member shall, in making the donation or gift, stipulate that any acknowledgment of the donation or gift shall not identify him or her as a member.

This section of the Rules is absolutely clear on the types of expenditures that are acceptable and non-acceptable for reimbursement to an MHA. This is again a first for the Newfoundland and Labrador political process. Undoubtedly the realization of this new regime and the impact it will have on the ability of MHAs to respond to the traditional demands of their constituents will take some time. The Rules are in place, however, and based on our review of the Member Accountability and Disclosure Reports, they are being adhered to by all 48 MHAs of the House of Assembly.

The realities of the life of an MHA

Over the course of our work we became acutely aware of some of the challenges MHAs face in doing their jobs. In meetings with MHAs we heard comments like:

“No one in my family will ever enter politics”.

“I haven’t had a holiday since I was elected”.

“My grocery shopping takes me 4 times longer because everyone wants to stop me and have a chat so I can fix their problem”.

“Family members ask me why I stay at it”.

“I’ve asked my kids if they are getting hassled in school – luckily to this point they aren’t”.

“No longer is a Saturday a Saturday”.

One particular presentation from a retired MHA said anyone entering politics can “kiss their privacy goodbye, kiss goodbye to their marriage or a happy one and kiss goodbye to their good reputation”.

It is ironic that during the course of the work of this Committee two MHAs resigned stating that politics has put a tremendous strain on their families and personal lives.

“The worst part of this is the toll that it takes on your family”, Taylor said. “The rest of it you can take.”

While these examples are individual comments only and do not reflect the comments and views of the group, put together they clearly point to the challenges of public life.

The reports reviewed by this Committee during the course of its work revealed practically a universal belief, despite the cynicism, that the job of an MHA is highly responsible and difficult work. The following quotation was taken from a research paper obtained from the South Australian Parliament Research Library.

“When asked in surveys, members of the general public are happy to recognize their individual member’s hard work in a difficult job, but media coverage of Members’ salary increases was usually negative.”⁴

⁴ South Australian Parliament Research Library, Research Paper #6155, Titled: Salary Arrangements for Members of the South Australian Parliament.

SALARIES

“If we want good and effective government and decisions that affect our daily lives to be made by well qualified and competent men and women, we must be prepared to pay for it.”- Morgan Commission 1989.⁵

Inviting public input on the issue of MHA salaries will stir debate at the best of times. Doing so at the same time that former MHAs are appearing before the courts to answer to allegations of fraud and misuse of public funds will undoubtedly increase that level of public discussion. The views expressed by the public were reflective of the matters currently before the courts. They were also reflective of the public perspective given to many other independent compensation tribunals in the jurisdictions researched by the Committee. This raises a concern as to whether or not there is a distorted view of the duties and responsibilities held by elected officials. While much was said about the level of MHA salaries, there was unfortunately little debate on their duties and responsibilities and correspondingly the level of compensation that should be applied to fairly reflect those duties and responsibilities.

During the course of our work a tremendous amount of attention was given to this area of our mandate, despite the fact that the mandate was to inquire into and report on pensions, severance and allowances as well as salaries. The issue of MHA salaries became the main focal point for the media and the general public and was portrayed as MHAs seeking a salary increase. This was unfortunate as it translated into a large majority of the representations made to the Committee concentrating on this one issue. The Committee would have appreciated and benefited from the perspectives of the public on the other issues coming within the scope of its mandate.

It is important to clarify that the appointment of this Committee did not result from a request from MHAs for a raise in their current level of compensation. MHAs in this province can no longer determine their level of compensation. As earlier pointed out in this report the appointment of a Members' Compensation Review Committee is now a mandatory requirement pursuant to section 16 of the Act. This section requires that a Members' Compensation Review Committee conduct an inquiry and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to MHAs.

WHAT WE HAVE:

Chapter 9 of the Green Report outlines in specific detail the history of MHA compensation dating back to 1989. We do not propose to replicate all the information contained in the Green Report. We do recommend however, that for those with an interest in the developments surrounding annual compensation for MHAs in the province they take the time to read the report which can be accessed on the House of Assembly website (www.assembly.nl.ca).

With respect to actual compensation, prior to the establishment of the review commission led by Chief Justice Green, MHAs received an annual indemnity of \$48,657 as well as an annual non-taxable allowance of \$24,328 as of July 01, 2006.

⁵ Morgan Report, p 34.

The changes emanating from the recommendations in the Green Report resulted in the combining of the annual indemnity as well as the “grossed up” amount of the non-taxable allowance of an MHA. The result of combining the annual indemnity with the “grossed up” non-taxable allowance was an annual salary for an MHA of \$92,580 as of July 01, 2007. By combining these two amounts the annual salary of an MHA could now be more readily understood and as the Green Report stated: “... *easily compared by members of the public with their own levels of income and the income of others.*”⁶

The Green Report further recommended that until the next review of salary levels, interim cost-of-living adjustments continue to be made on an annual basis based on annual changes in the executive pay plan of government. This recommendation became law and has resulted in the actual current salary of \$102,984 for an MHA as of July 01, 2009.

WHAT WE FOUND:

The vast majority of representations and submissions to the Committee on the issue of MHA salaries advised that the MHAs are currently well paid for the role they serve.

Public presentations, both written and oral, recommended that:

- There be no increase in salary at this time. Further, there is a strong case to be made for a reduction from current levels.
- Salaries for MHAs in Newfoundland and Labrador should be aligned with their counterparts in other provinces.
- Salaries should be frozen for three years.
- There be a reduction of the current salary level of MHAs who are elected for the first time to serve in the House of Assembly. This lower starting salary would account for the fact that they have no experience in their new role and as such should not receive the same level of salary as a more experienced MHA. The case was made that most professions provide a probationary period wherein the salary of the incumbent is a percentage of the full salary for the profession.
- The allowances being received by MHAs for additional duties and responsibilities should be reduced by 1/3 of their current levels.
- The allowances for additional duties and responsibilities should be eliminated completely. Additional duties should be a natural extension of the duties expected of an elected MHA.

⁶ *Green Report*, Chapter 9, p 16

A number of recommendations were made on the methods to be used to address future increases in MHA salaries. They included:

- Set the base wage rate on a provincially based reference such as the official Statistics Canada average wage of persons in managerial occupations and eliminate the tax free allowance.
- Increase salaries for MHAs on the basis of the average of the annual increase for MHAs in the other provincial jurisdictions, specifically those of the Atlantic region. Any increase above this average should only occur when the average salary of NL citizens is above the average for citizens of Canada.
- Tie annual salary increases to the Consumer Price Index for the province.
- Make salary increases on a per capita basis and eliminate salary supplements for the performance of other duties.
- Make salaries no higher than the average of the total compensation package across the country taking into account the population and size of electoral districts.

In addition to analyzing the recommendations of the public in regard to salary levels and the formula for annual adjustments, the Committee also conducted a review of current Newfoundland and Labrador MHA salary levels as compared to those of MHAs/MLAs in other Canadian and international jurisdictions.

The Canadian jurisdictional research revealed that the current salary level of Newfoundland and Labrador MHAs ranks 3rd among provinces' and territories in Canada, behind Ontario and the Northwest Territories. (**Appendix "F"**)

The international research conducted revealed that salary levels for MHAs in other Commonwealth Countries is on average, equal to, or greater than those in Newfoundland and Labrador. For example, the average basic salary for parliamentarians in the states and territories of Australia exceeded \$125,000 Australian dollars annually. The basic pay of an MP in the United Kingdom was 64,766 pounds. In the Scottish Parliament the basic annual salary is set at 87.5% of that of members of the Westminster Parliament (currently 56,671 pounds).

As earlier stated the vast majority of what we heard during the course of our consultations related to MHA salaries. In addition to the presentations the Committee has had the benefit of both national and international research on the current level of MHA/MLA salaries across Canada and in selected Commonwealth countries.

The recommendations being made by the Committee with respect to an appropriate level of annual compensation for an MHA serving in the House of Assembly, as well as the method for determining future annual increases are the result of the consideration of a number of factors:

1. The review of salaries for MHAs in this province in comparison to their counterparts in other provinces and territories places our MHAs at the 3rd highest, taking into account the total level of annual compensation and annual tax free allowances. Adjusting the comparison to include so called “like jurisdictions”, that is, the Atlantic and Prairie Provinces, our MHAs rank 1st among those jurisdictions. It should be noted that in the Green Report in 2007 it was suggested that this “peer group” was an appropriate method for comparison to Newfoundland and Labrador.
2. Considering that MHA salaries have traditionally been aligned with increases in salaries for senior public employees, the Committee compared the salary levels of Assistant Deputy Ministers and Deputy Ministers across Canada. The research showed that current 2009 salary levels for those groups place Newfoundland and Labrador senior public employees among the lowest paid of all Canadian jurisdictions. Adjusting the comparison for the same “like jurisdictions” as we did in the case of MHA salaries the Committee found that Newfoundland and Labrador Assistant Deputy Ministers rank last for a starting salary and fourth lowest for a maximum salary. The Deputy Minister level in Newfoundland and Labrador rank’s fourth lowest for both a starting and a maximum salary ahead of Saskatchewan, Nova Scotia and New Brunswick.
3. The effect of combining MHA salaries with a “grossed up” tax free allowance to produce an annual salary of \$92,580 as of July 01, 2007 with the interim measure of aligning further increases with public sector increases has placed the current salary at \$102,984. Public opinion on this level of remuneration for MHAs was strong. Most individuals who presented to the Committee were adamant that this salary level for MHAs was excessive when compared to their counterparts in other jurisdictions and had to be addressed. Further, there was very strong public reaction to the fact that the recent 8% increase was given following the adoption of the resolution in the House of Assembly appointing the Committee and just 6 days prior to the commencement of its work.
4. The current interim provision in the legislation providing for the same level of increase in MHA salaries as that in the executive pay plan may seem an appropriate measure for future increases. Such an adjustment formula, however, has the potential to be seen as a conflict of interest given the fact that it is the government that has control over executive pay increases.
5. While a great deal of discussion has taken place with regard to the role of an MHA and much has been said about its financial worth, little has been done to date to clearly define that role. This issue has been raised in many previous reviews including the review of this Committee. One of the presentations made to the Committee in a public meeting concentrated solely on this important issue and recommended that it is time for a “full and open discussion” of this matter. When we consider that the current image of an elected politician quite likely comes from a long history of experience which has created a dim view of politics and politicians rather than a consideration of the ever increasing challenges, complexities, and demands of elected officials, there is no doubt the time has come for this discussion. It is only through an open examination of the modern job of an elected official that this issue can be addressed.

6. During the course of our review the Committee became aware of a number of jurisdictions that had implemented wage freezes for MHAs/MLAs.
 - Nova Scotia announced on September 20, 2009, a 2 year freeze on salaries for MLAs, senior civil servants and political staff.
 - In Alberta the Special Standing Committee on Members' Services approved a motion in February 2009 that provides for no salary increases for the fiscal year April 1, 2009 to March 31, 2010. This decision effectively freezes a salary increase that would have amounted to 5.99% for Alberta MLA's in 2009.
 - In Ontario, Bill 162 froze MPP's salaries for the fiscal year 2009/2010.
 - New Brunswick salaries for MLAs generally are adjusted on January 01 each year, however, they have been frozen by the Legislative Assembly until January 01, 2011.
7. The method for salary increases for MHAs/MLAs across Canada while varied, generally follow three methods.
 - i) Follow the increase in the CPI in the preceding 12 months.
 - ii) Follow the increases for senior public employees.
 - iii) Follow the percentage increase or decrease in the average industrial wage for the province or territory and base MHA/MLA increases on that percentage.

COMMITTEE RECOMMENDATIONS - SALARIES:

Based on the above findings of the Committee during the course of its deliberations, with respect to annual salaries to be paid to MHAs of Newfoundland and Labrador the Committee recommends that:

1. The 8% salary increase which commenced on salaries referred to in subsections 11(1) and 12(1) of the Act on July 1, 2009 to be relinquished and the salary for an MHA will be the salary in place on June 30, 2009.
2. The salary referred to in number 1 above be frozen at that level pending the recommendations of the next Members' Compensation Review Committee appointed in accordance with the Act.
3. The changes referred to above are to become effective on the date of the coming into force of the amendments to the Act giving effect to these recommendations.
4. In consideration of the fact that this Committee makes no recommendation on a formula for periodic increases in MHA salaries, the Committee recommends that the next Members' Compensation Review Committee be appointed within 6 months following the date of the election of members to the next General Assembly.

PENSIONS

The current MHA pension plan has been a topic of lively discussion and debate for many years dating back to its introduction in 1976. Therefore, it was somewhat surprising that there was very little public representation to the Committee on this issue. It is interesting to note that this same lack of representation was experienced by the Green Commission in 2007. As Chief Justice Green stated in his report...“*very little was said about pensions during the Commission’s extensive consultations with MHAs or in the submissions received from the public. Neither the specifics of the MHA pension plan, nor the pension plan structure itself were highlighted as contentious issues.*”⁷

The Green report did however, in accordance with its terms of reference, undertake a general review of the MHA pension plan as it existed at that time (See Green Report Chapter 11). As a result of that review the Green Report recommended that the House of Assembly Management Commission develop a proposed new pension structure for MHAs. The recommendation also proposed that the new pension structure apply only to MHAs who have not already been elected to the House and that existing and former MHAs be “*grandfathered*” under the existing system. It is important to note that the Green Report also recommended that the pensionable salary of an MHA as of July 01, 2007 be 81.2% of the highest amount of one salary received by an MHA in any calendar year. This recommendation was made to ensure that the effect of adjusting MHA salaries in 2007 to create one taxable amount would be neutral in its impact on the level of MHA pension entitlements.

As of the date of the appointment of the Committee, there had not been a new pension plan proposed by the House of Assembly Management Commission as recommended in the Green Report. The terms of reference of the Committee specifically requires an inquiry into and report on pensions to be paid to MHAs. Accordingly the Committee has reviewed the current provisions respecting pensions and makes recommendations for the consideration of the House of Assembly Management Commission.

WHAT WE HAVE:

The existing MHA pension plan provides for an annual accrual rate of 5% for the first 10 years and 2.5% from 11 to 20 years for a maximum accrual of 75%. The amount of pension is based on the average of the best three years’ salary. An MHA is entitled to pension benefits when his or her age plus service is equal to 60 provided that the MHA has been elected twice and has served a minimum of 5 years. There is no indexing of MHA pensions nor is there any stacking of CPP benefits. It should be noted that consistent with the recommendation in the Green Report the amount of an MHA pensionable salary shall be defined as 81.2% of that salary.

Of the 115 members who have served in the House of Assembly since 1989, less than 1% have more than 15 years service; 70% have fewer than 10 years service and 39% have fewer than 5 years service for an overall average of 7.5 years of service as an MHA.

According to statistics from the Department of Finance, Pensions Division, access to pension benefits by age of the referred to 115 recipients revealed that 18 received benefits between the ages of 43 and 49; 43 received benefits between the ages of 50 and 54 and the remaining 54 received benefits after age 55.

⁷ Green Report, Ch. p 11-1

WHAT WE FOUND:

As earlier indicated, the Committee received very little representation from the public on MHA pensions. Of the public submissions received there were only two recommendations, that:

- the current pension plan should be replaced with a contribution to an MHA registered retirement savings plan of ½ the annual maximum contribution of 9% of salary; and
- the MHA pension plan should be the same as other public servants.

For the purpose of its inquiry the Committee conducted a comprehensive review of MHA Pension Plans in other provincial jurisdictions. (**Appendix “G”**) The Committee is grateful to the officials in the Pensions Division of the Department of Finance for supplying this information and for their expertise in explaining the many complexities of these and pension plans in general. Based on our jurisdictional comparison of MHA/MLA pension plans across Canada the Committee is satisfied that the pension plan currently in place for Newfoundland and Labrador MHAs is among the best, if not the best, in Canada. Having said that, there are benefits in place in other Canadian jurisdictions that are not found in the Newfoundland and Labrador MHA pension plan. According to a December 2008 survey of MHA/MLA pension plans across Canada, six provinces provide for stacking of the provincial plan with the Canada Pension Plan whereas the NL plan is integrated with the CPP. Seven jurisdictions have indexing provisions built into their plan. Currently Nova Scotia has the highest annual accrual rate at 5% per year for a maximum accumulation of 75% after 15 years. NL is second with an accrual rate of 5% for the first 10 years and 2.5% after 10 years service as an MHA for a maximum accumulation of 75% after 20 years of service.

There are two notable areas where the Newfoundland and Labrador pension plan for MHAs exceeds other provincial MHA plans. The annual accrual rate of 5% per year for the first 10 years and 2.5 % per year for the next 10 years ranks second in the country. The minimum service for pension qualification, of age plus service of 60 years with no penalty, is the best in the country. There are numerous other provisions of MHA pension plans which can be used for comparison purposes. The Committee is, however, of the view that the two above noted plan provisions represent the key elements of the Newfoundland and Labrador plan that differentiates it from pension plans for MHA/MLAs in other provincial jurisdictions and warrant consideration.

The Committee also compared the current provisions of the MHA plan with those of four other public sector plans in the province in a number of key areas, (**Appendix “G”**). This analysis revealed a fairly consistent contribution level across all plans, in the 9% range. The minimum service for pension entitlement was 5 years. In the case of MHAs this meant having to be elected at least twice. Three of the five plans have no maximum on the service that can be credited. In the case of the MHA and Provincial Court Judges’ plan the maximum is 20 years service. The two key areas where there is a significant difference between the MHA plan and other provincial plans are in the benefit formula and the retirement formula. The MHA plan currently provides for a 5% annual accrual rate for the first 10 years of service and 2.5% for the next 10 years for a maximum of 75% after 20 years, whereas the standard rate of accrual for the other plans is 2% per year with no maximum. The effect of this benefit is that an MHA can reach a maximum benefit of 75% after 20 years whereas other public sector employees must work 35 years to reach that same level.

In the course of conducting our research the Committee found that the higher annual accrual rates for MHA/MLA plans account for the fact that the tenure of an elected politician will quite likely be far less than that of a public employee. In Newfoundland and Labrador, for example, all 48 members of the House of Assembly must re-apply for their jobs every four years. While it is a fact that other public employees also face the possibility of dismissal from their jobs, the experience has been that most enjoy a long tenure with their employer leading up to their retirement. This lack of long term job security raises the question as to what level of pension accrual rate should be fairly applied to account for this fact. In other Canadian jurisdictions it seems this fact has been recognized by providing an annual accrual rate, in most cases in excess of the mainstream public service. The prevailing rate is in the 3 to 4.0% range.

The age at which an MHA in Newfoundland and Labrador can access pension benefits is lower than those of other provincial pension plans as well as pension plans of MHAs or MLAs across Canada. The combined age plus service of 60 years with no early retirement penalty is the best in the country. While this is clearly a tremendous benefit for Newfoundland and Labrador MHAs, it is only fitting that it be recognized that the actual amount of pension, with few exceptions, can be low. This is due to the fact that, as earlier indicated, the overall average of MHA service in the province for the past 20 years has been 7.5 years. This translates into an average pension entitlement of 37.5%.

The Committee has taken into consideration the provisions of the existing MHA plan with a view to determining whether recommendations should be made for amending that plan.

COMMITTEE RECOMMENDATIONS – PENSION PLAN

The Committee is obligated to address the MHA Pension Plan in this report. In his 2007 report Chief Justice Green recommended that a new structure for MHA pensions be developed and that it apply to MHAs who have not already been elected to the House of Assembly and that existing and former MHAs be “grandfathered under the existing system.” It is against that backdrop that the Committee recommends that:

1. The current MHA pension plan accrual rate should be reduced from its current level of 5% per year for the first 10 years and 2.5% per year from year 11 to 20, to 3.5 % per year for each year to a maximum of 20 years. The effect of this recommendation will reduce the current maximum pension accrual from 75% to 70%. Currently there is no maximum accrual for the Public Service Pension Plan, Teachers Pension Plan or the Uniformed Services Pension Plan.
2. The current MHA pension plan eligibility criteria be eliminated and replaced with the following:
 - An MHA shall be eligible for pension entitlement at the age of 55 years provided that MHA has at least 5 years service as an MHA and has served in at least two General Assemblies.
 - An MHA may elect to take a pension between the ages of 50 and 55 years with a minimum of 5 years as an MHA and having served in at least two General Assemblies. In this event the MHA pension shall be reduced by 6% for each year less than the age at which the unreduced pension would commence.
3. The changes recommended in numbers 1 and 2 above commence as of the date of the coming into force of the legislation to give effect to those amendments. This would mean that these proposals will apply to MHAs first elected after the commencement of these amendments.

SEVERANCE PAY

Consistent with the experience with pensions, the Committee received very little representation from the public with respect to MHA severance. The principle of severance payment for employees following work is to provide a financial bridge to alternate employment. Severance pay is a standard feature of public sector compensation. Most public sector collective agreements contain some form of severance pay clause entitling employees covered by that agreement to severance pay under certain conditions. The same is true of most collective agreements negotiated in the private sector.

In 2007, the Green Report chose not to examine this matter in great detail. It did not receive substantive submissions either from MHAs or the general public during its review. Accordingly it decided to leave this area for consideration by this Committee. It did, however, gather information on severance/transitional allowances provided to elected officials in Canada in its Provincial Summaries of Members' Compensation & Allowances.

WHAT WE HAVE:

The practice of paying severance to MHAs following the completion of their service was in effect prior to the Morgan Commission in 1989. The amended policy implemented by the Morgan Commission remained in place until it was revoked by the Commission of Internal Economy in 1999 and replaced with the following provisions:

1. Severance payments are made to members of the House of Assembly when they cease to be members for any reason.
2. The amount of the severance payment to be made to MHAs consists of one month's current pay for each year of service and is prorated where there is a partial year of service.
3. The minimum amount of severance is three month's pay and the maximum amount is 12 month's pay.

As for pensions, the Green Report also recommended that "*the amount of severance a retiring MHA will receive will not be greater, in absolute terms, as a result of implementation of a fully taxable salary for MHAs, than it would be under the existing payment arrangement of an indemnity plus a non-taxable allowance.*"⁸ Accordingly, as of 01 July, 2007, severance pay for members has been calculated based on the salary that would have existed without the change to a fully taxable salary; i.e, 81.2% of that amount.

⁸ *Green Report*, Chapter 9, p 43

WHAT WE FOUND:

As indicated, the provision of severance payment was one area of the Committee's mandate that attracted very little attention or discussion. The Committee received a recommendation from one presenter that severance payments be made on the same basis as that for public employees, one week for each year of service.

Research conducted by the Committee demonstrates that all Canadian jurisdictions provide a severance/transition allowance for MHAs/MLAs who no longer serve in their respective legislatures. It was interesting to note that with a few minor exceptions severance is one area where there appears to be a consistent approach across Canada. Most jurisdictions provide a severance package to exiting MHAs/MLAs of one month's pay for each year of service with a specified minimum and maximum annual limit.

When the Committee conducted its analysis of severance payment provisions there was clearly a distinction between those contained in the collective agreement covering public sector employees and those in place for elected officials. This was the case in most jurisdictions in Canada. The vast majority of severance payment provisions covering public sector employees provide for one week's pay for every year of service to a maximum, usually 20 weeks. Also, there is normally a minimum service requirement before severance payment is available. In Newfoundland and Labrador that minimum is 9 years service.

The rationale for the distinction between the MHA and public service provisions relates to the fact that elected officials typically do not enjoy a long tenure. Our research has shown that the tenure of elected officials in Newfoundland and Labrador in the past twenty years has ranged from a low of 1 year to a high of 17 years for an overall average of 7.5 years. Clearly this data shows that the average tenure of an MHA is far lower than that of a public sector employee. It has also been suggested that the prospects for an elected official to obtain employment after politics may be minimal. This is especially the case where an elected official on the government side is defeated at the same time that there is a change in government.

COMMITTEE RECOMMENDATIONS – SEVERANCE PAY

Considering the current provisions for severance payment for MHAs in the House of Assembly, the absence of public representation on this issue and the provisions in place in other Canadian jurisdictions with respect to Severance Pay for MHAs, the Committee recommends:

1. The current provisions for the payment of severance to an MHA remain unchanged.
2. An MHA who voluntarily resigns prior to a general election for reasons other than his or her own serious illness or a serious illness in his or her immediate family shall not be eligible for Severance Pay.

ALLOWANCES

This section of the report deals with the funding allocation provided to MHAs to enable them to carry out their responsibilities to their constituents and to the province.

The term “allowances” refers to the amount of annual funding provided to MHAs to enable them to perform their duties as the elected representatives of the people of the province. This funding is totally separate from the compensation MHAs receive in the form of an annual salary.

During the course of public consultations there appeared to be confusion with respect to members’ allowances. It appears there is still a public perception that MHAs receive a non-taxable allowance in addition to their annual salary. As explained in the section of this report on salaries, this was the case prior to 2007. As a result of combining the annual indemnity with the “grossed up” tax free allowance to provide an annual salary, MHAs currently do not receive any form of allowance related to their annual compensation.

The current system of reimbursement for Constituency Service Expenses bears no resemblance to the model in place prior to the Green Report in 2007. The entire structure of allowances now provided to MHAs to carry out their respective responsibilities has been completely modified as a result of the changes following the recommendations in the Green Report.

The Act and the Rules made under that Act mandate clear requirements which must be adhered to by all MHAs when carrying out their duties as MHAs representing their districts. The actual Rules define in detail the specific amounts of funding which are allocated by category for each of the 48 electoral districts. Given the importance of this major issue of MHA constituency allowance spending which has been at the heart of the spending scandal the Committee felt it would be instructive to attach the new legislation to this report. (**Appendix “J”**) We have also attached, for illustrative purposes, samples of MHA Accountability and Disclosure Reports. These reports are readily accessible to any member of the public on the House of Assembly website. (**Appendix “I”**)

WHAT WE HAVE:

The allowances eligible for reimbursement of expenses incurred by an MHA in the performance of his or her duties are outlined in the Rules and are categorized into the following four main areas:

1. Office Allowances
2. Operational Resources
3. Travel and Living Allowances
4. Constituency Allowances

Office Allowances:

Sections 18 to 24 of the Rules deal with Office Allowances. These sections provide specific amounts by category and stipulate the legitimate expenditures for which the office allowances may be used. There is a maximum of \$7000 allocated for constituency office accommodation to cover the cost of rent, utilities, taxes, insurance, security, cleaning and signage specifically identifying the office as an MHA's constituency office without reference to any political party.

In addition, there is a maximum office operations and supplies allowance of \$15000. This amount is provided to cover constituency office operational costs. Such costs include, office supplies, printing, photocopies, newspapers, answering services, staff professional development, courier services and postage, database maintenance, advertising, greeting and other type cards, and other items as identified and directed by the commission.

Sections 18 to 24 also provide for strict guidelines in the use and reimbursement of those funds.

Operational Resources:

This area of expenditure is covered in sections 25 to 27 of the Rules. It provides for the services of a Constituency Assistant. It also provides for office furniture and equipment, artwork from a government procurement program, telephone and fax services, computer or laptop, personal data communication services, photocopier, printer and scanner services, internet services, and other items that may be identified and approved by the commission.

All the items provided above must be identified by appropriate markings as House assets, be maintained in an inventory report and remain the property of the government.

Travel and Living Allowance:

Sections 28 to 44 of the Rules cover this area of expenditure. It comprises by far the greatest amount of specific detail governing MHA constituency spending. The amounts allocated to this area of expenditure are district specific and are contained in the Schedule to the Rules. It should be noted however that for 10 districts within the area of the Capital Region the allocated amount is consistent at \$7500.

The district specific funding allocations outlined in the Schedule provide for the reimbursement of expenses, with receipts, for an MHA traveling within and outside his or her district on constituency business. Such expenses include travel costs, meals, and accommodations where the MHA is engaged in constituency business and is outside commuting distance (60km) of the MHA's permanent residence. The rules and the specific amounts which can be claimed differ based on four different MHA situations, on the location of an MHA's permanent residence and the location of an MHA's district. The four MHA situations (categories) referred to above are:

1. MHA who resides in the Capital Region and represents a district outside the Capital Region.
2. MHA who resides in his or her district and the district is outside the Capital Region.
3. MHA who resides in the Capital Region and whose district is in the Capital Region.
4. MHA whose residence is not in the Capital Region or in his or her district.

The Member Accountability and Disclosure Reports revealed that none of the MHAs exceeded their budget allocation for the fiscal year 2008/09. The amount of budget actually spent ranged from 0% to 100%. As expected, MHAs serving districts in the capital region generally spent very little of their Travel and Living Allowance.

Constituency Allowance:

This allowance is set at \$3000 annually and the conditions for spending this allowance are addressed in section 46 of the Rules. Section 46 provides specific details on the items which are allowable expenses as well as those types of expenses which are not eligible for re-imburement under the Rules.

It provides for such items as:

- food and non-alcoholic beverages for meetings relating to constituency business, community or organization memberships;
- magazines and newspapers;
- costs associated with conference and training courses;
- meeting and hearing expenses associated with constituency advocacy;
- equipment not provided by the House of Assembly service; and
- other categories as directed by the commission.

Expenses which are not allowed include:

- anything that can be used to identify a political party;
- artwork;
- alcoholic beverages;
- sponsorships of an individual or group;
- donations;
- raffle tickets;
- hospitality;
- gifts;
- items of a personal nature;
- constituent travel costs;
- spouse or dependent travel costs;
- financial assistance for constituents; and
- those other items as directed by the commission.

It is worth noting that the Rules which contain the strict protocols for which expenditures may be made and claimed in each of the expense categories above have as their purpose:

1. Provision of resources to members to assist them in fulfilling their public duties and responsibilities as members of the House for the benefit of the residents of the province;
2. Promotion of accountability in, and transparency with respect to, the expenditure of public funds; and
3. Facilitation of public understanding of the use of public funds in fulfillment of members' obligations.

It is also worth noting that the implementation of strict rules with respect to the spending of the Constituency Allowances has resulted in MHAs having to reject requests from constituents for funding that has traditionally been a normal feature of politics in this province for a long time. Those days are gone. Should an MHA decide to use his or her Constituency Allowance for items other than those specified in the Rules the MHA would in effect be breaking the law.

The Member Accountability and Disclosure Reports for the fiscal year 2008/09 revealed expenditures from a low of 0% to a high of 98.6% of allowable expenditure that were actually used. None of the 48 MHAs exceeded his or her budget in this area.

WHAT WE FOUND:

Following the resolution to appoint this Committee, a meeting was held with senior staff of the House of Assembly to receive a briefing on its mandate and the terms of reference of its inquiry. We were advised that the staff and MHAs have been working in accordance with the new Rules since their adoption. Issues of interpretation and application were arising that could benefit from our review. The result of our briefing on the new system of allowances for members of the House of Assembly led us to the conclusion that in order to carry out our mandate it would be necessary to meet with MHAs to question them on the application of the Act and the new Rules and their impact on serving their constituents. Accordingly, as part of its work, the Committee invited all MHAs in the House of Assembly to meet with it to answer questions associated with the new allowance regime.

MHAs who met with the Committee outlined areas where in their opinion the current system could be reviewed with a view to a more appropriate application to their district and their work as MHAs. For example, in areas where the electoral boundaries have changed, it was suggested that a review of the current specific district allowance amount be undertaken to reflect those changes. Some MHAs asked that a review of the current provisions respecting accommodation for rural MHAs in the capital region be undertaken. The Committee was asked to review the current rules governing MHAs' accommodation while traveling to and from their districts when the House of Assembly was in session. We were also asked to review the Rules governing approvals for certain modes of travel in specific electoral districts.

Public presentations in this area did not address in any detail issues with respect to allowances for MHAs to perform their duties and serve their constituents. The Committee observed from its public meetings that, to date, little attention seems to have been given to this area. From some of the few comments made it was apparent that there is a view that MHAs are still receiving allowances in the form of “block funding”. This type of funding has been eliminated and replaced with specific categories of allowances for expenses.

Research conducted by the Committee revealed that the expense re-imbusement provisions across Canada are as varied as the number of jurisdictions. While there are common areas where reimbursement is applied uniformly, each province/territory has its own set of rules with unique features. The same experience was found in our international research. Elected officials are reimbursed upon presentation of acceptable receipts for expenses they incur in serving their constituents. The amounts vary widely by jurisdiction. Some jurisdictions provide reimbursement for actual expenses for items such as accommodations, meals and transportation regardless of mode of travel. Some jurisdictions still use a “block funding” arrangement where MHAs/MLAs are given an annual lump sum amount to use for specific types of expenditures. They also take into account the individual characteristics of specific regions such as northern and isolated areas where specific additional allowances are provided. In one jurisdiction it was observed that reimbursement for family members for a specific number of trips was allowed. There was also a travel allowance provided for political activities.

It is important to note that the new Rules for MHA expenditures and re-imbusement have been in effect for just one full fiscal year, 2008/09. Any new set of rules, regardless of their application, will require adjustments as they are applied to fact situations. The Rules outlined above apply to 48 different situations if we accept the notion that every district in the province has its own set of unique geographic, social and economic circumstances. From our analysis of the Green Report it was clear that this need for flexibility had to be recognized in the application of the Rules with respect to district funding. The report states: *“Members should have the flexibility to adopt whatever arrangement seems best for their individual circumstances and how they perceive they can best serve their constituents. The travel rules should be flexible enough to accommodate these differing possibilities provided, of course, that controls against abuse are built in.”*⁹ The Green Report goes on to say: *“Where a strong case can be made, in respect of individual districts, that an amount is not adequate or is based on wrong assumptions, it would be open to the Commission on application by a Member, to amend the amounts accordingly in accordance with the procedures governing its operation.”*¹⁰

In our review of the new legislation the Committee observed that it is structured to give authority to the House of Assembly Management Commission to address individual circumstances through the making of rules or issuance of directives with regard to other possible types of expenditures in the various categories. The House of Assembly Management Commission has in fact exercised that authority on specific issues following submissions made to it.

⁹ Green Report, Chapter 10, p 10-34

¹⁰ Green Report, Chapter 10, p 10-35

The Committee has observed that while the need for flexibility was recognized in the Green Report and the legislation is structured to deal with that consequence, the House of Assembly Management Commission, in the opinion of the Committee, has exercised caution in using the authority it has been given. This Committee fully understands the need for a cautious approach. The House of Assembly Management Commission has a tremendous responsibility to ensure that public confidence and trust is developed and maintained through its application of the new Rules. Accordingly the transition to the new Rules and their application will take some time and will not be without bumps along the way. There can be no doubt however that any changes made in future to accommodate individual or group circumstances must be transparent, accountable and care must be taken to ensure there is no room for abuse.

The new expenditure Rules are currently in their second fiscal year of application. There have been a number of particular issues addressed by the House of Assembly Management Commission where Directives have been issued or appropriate amendments have been made to the Rules. While there is no doubt that this ongoing process will continue we were satisfied following our deliberations with staff of the House of Assembly and MHAs that there were a number of areas where this Committee felt it was appropriate and timely to examine the current Rules and recommend amendments.

1. MHAs traveling to and from their districts when the House of Assembly is in session.

The current Rules provide that an MHA is entitled to 1 return trip per week to his or her district to attend to constituency business when the House of Assembly is in session. Currently MHAs are prohibited from being reimbursed for overnight accommodation while on their return trips to their district unless they make a request and receive permission from the Speaker of the House.

For MHAs having to travel long distances from the capital region, this means having to drive long distances after normal working hours, often at night, in less than ideal driving conditions. The Committee was advised that in all the cases where MHAs have made a request to the Speaker, the Speaker has granted permission to the MHA to utilize overnight accommodation. The Committee was also advised that should an MHA decide to remain in the capital region the cost of accommodation in the capital region is reimbursed.

The Committee's review of this matter leads to the following observations:

- There is an issue of safety that bears addressing in this situation.
- It appears inappropriate and unfair to place the Speaker of the House in a position where he or she has to judge from a distance the circumstances for which he or she is being asked to make a decision on the proper use of accommodation by an MHA while travelling to his or her district. What may be an otherwise good day for travelling as seen from within the capital region may be an entirely different scenario hours outside the capital region. How then is the Speaker expected to make that judgment call upon receiving a request from an MHA?

- Considering the fact that an MHA is entitled to be reimbursed should he or she decide to remain in the capital region there should be no issue of additional cost associated with this matter. If an MHA decided to remain in the capital region the House of Assembly would have to reimburse that MHA for the accommodation.

2. Accommodations in the capital region while the House is in session.

This issue generated a great deal of discussion with House of Assembly staff and MHAs who must seek accommodation in the capital region in order to be in attendance in the House of Assembly when the House is in session. Failure to be in the House when the House is in session results in a \$200 per day salary deduction unless that absence is in accordance with the requirements of the Act. Currently an MHA may have his or her expenses covered for staying at a hotel while in the capital region attending the House of Assembly provided those expenses are accompanied with official receipts. An MHA may claim \$53 per day for private accommodation providing the private accommodation is not owned by a child or spouse of the member. An MHA may also claim a prorated daily amount for accommodation in a secondary residence (apartment/condo) based on an estimated annual cost of defined expenses for that secondary residence.

The Committee heard from a number of MHAs who are required to reside in the capital region while the House of Assembly is in session. Those MHAs requested that the Committee review this issue with a view to making recommendations on a more appropriate system of accommodation. The MHAs informed the Committee that the renting of hotel rooms was costly and not a suitable form of accommodation for lengthy periods of time. Hotel accommodation means checking into a hotel on Sunday night and checking out on Thursday every week the House is in session. MHAs would prefer an apartment type arrangement. However the current Rules would mean substantial personal cost to an MHA should he or she choose this option.

The need to ensure that an MHA is reimbursed for costs related to the performance of his or her duties as an MHA without having to incur personal cost was reflected in the Green Report, where it states: *“In incurring legitimate expenses in carrying out public functions, the MHA should not be expected to do so at personal financial sacrifice.”*¹¹

3. Specific district allowance allocation:

Currently each of the 48 MHAs has a specific district allowance allocated toward the cost of servicing his or her respective district. These amounts are listed in the Rules and with the exception of districts in the capital region, vary widely depending on the requirements of the districts to which they are applied. These initial specific district allocations were determined using a certain set of criteria in place at that time. However, circumstances change. Accordingly, any regime must have the flexibility to adapt to those changing circumstances. The amount that may have been estimated to be appropriate in 2007 will likely not apply to the same circumstances in place in 2009.

¹¹ Green Report, Chapter 10, p 10-18

A clear example of where this has occurred is with respect to the electoral boundary changes that have taken place since the determination of the specific district allocation amounts. The Committee was advised that these boundary changes were not reflected in the setting of the original amounts. It is therefore reasonable to assume that in electoral districts where MHAs have been given additional jurisdiction, their district allocation funding, should be adjusted to reflect this responsibility. In areas where an MHA jurisdiction has decreased, as a result of the electoral boundary changes, the district allocation funding should reflect that reduction in level of responsibility.

Another example where changes in the specific district allowance amount may be warranted is in relation to a major event in an MHA's district that could not have been contemplated, Examples include where the occurrence of natural disasters or the closure of a major industry have a dramatic impact on the MHA's district. Such events would necessitate a greater presence of the member in the district.

Our review of the Member Accountability and Disclosure Reports for fiscal year 2008/09 revealed that the percentage amount of allowable funding actually spent, varied widely among districts.

Six of the ten districts in the Capital region, which had a \$7500 allocation, did not avail of any of the allocation. The remaining four districts spent less than 10% of their allocation.

The legislation contemplates these types of events by granting the House of Assembly Management Commission authority to make rules prescribing the types and amounts of expenses to which a member may be entitled. The Rules also provide that the MHA may request changes to the funding allocations where the MHA feels the current level of funding is inadequate.

The important caveat to this however is that a request from an MHA for changes to a funding allocation must be substantiated with facts to support the request.

4. Prior approval of the Speaker for certain means of travel within district.

The current Rules provide for a number of modes of travel by a member in serving his or her district. The Committee was informed of situations where certain MHAs are required to seek the permission of the Speaker prior to using modes of travel not outlined in the Rules. These are cases in which the use of a mode of travel such as a boat, helicopter, snowmobile, etc is required by the MHA to properly serve his or her constituents. The practical application of this requirement means that an MHA must contact the Speaker regardless of the circumstances and obtain permission before engaging in such travel. As with the requirement to seek the Speaker's permission for overnight accommodation while traveling to a district it appears somewhat unfair to expect the Speaker to make a ruling on such a remote matter. It seems more practical that the MHA make the decision on which mode of travel is required to attend to his or her constituents and file a claim for that expenditure in accordance with the rules in place for reimbursement.

5. Automobile allowance for Office of the Speaker, Leader of the Opposition and Leader of the Third Party.

The Committee was requested to review this issue following a determination by the Office of the Comptroller General that the above noted office-holders were no longer eligible to receive this allowance. The Committee was advised that the Comptroller General's decision is based on the word "non-accountable" used to describe an allowance in subsection 15(1) of the Act. It is the understanding of this Committee that the opinion of the Comptroller General is that subsection 15(1) of the Act does not provide for this non-accountable allowance unless the process outlined in subsection 15(1) is followed. That process relates to a recommendation of a Members' Compensation Review Committee and the introduction of an amending Bill in the House of Assembly.

The Committee was informed by the Clerk of the House of Assembly that for many years the Offices of the Speaker, Leader of the Opposition and more recently, the Leader of the Third Party were in receipt of an automobile allowance in the same manner as Ministers prior to the coming into force of the Act. The Office of the Comptroller General also noted this fact and also acknowledged the Clerk's understanding that the probable intent of the Act was not to deny this benefit which has been in existence for some time.

The Committee has reviewed correspondence from the Clerk of the House of Assembly, the Comptroller General, the Act and the sections of the Green Report applicable to this matter. Based on our review the Committee is satisfied that the use of the term "non-accountable" in subsection 15(1) of the Act was not meant to refer to automobile allowances applicable to the Speaker, Leader of the Opposition and Leader of the Third Party as office holders of the House of Assembly but rather to allowances of the type and nature previously given to MHAs as a supplement to their annual indemnity. Automobile allowances for the positions referred to above are provided in recognition of the nature of the commitment required of those offices that is ancillary to work as an MHA. In other words those three offices have responsibilities in accordance with the Legislative Branch of government that are additional to their role as MHAs carrying out work for their constituencies in a similar manner as Ministers' responsibility in the Executive Branch of government.

As earlier stated the Committee frequently referenced the Green Report in its deliberations on the issues before it. We did this because of the clarity on issues we found in that Report. We believe that if it was intended that the automobile allowance for these offices be discontinued, it would have been expressly stated in the Report.

COMMITTEE RECOMMENDATIONS: ALLOWANCES

For the reasons outlined above the Committee makes the following recommendations on amendments to the Rules.

1. An MHA whose district is in excess of 4 hours driving time from the capital region by the most direct route shall be entitled to one night accommodation while enroute to his/her district while the House is in session.
2. The allowable expense for an MHA for accommodation in a secondary residence should be fixed at \$53 per night for each night the MHA is required to be in the capital region attending to constituency business.
3. The specific district allowance allocation amount in the Schedule to the Rules should be reviewed on an annual basis. Changes to the specific amounts in each of the 48 districts outlined in the Rules, should be considered by the House of Assembly Management Commission on the basis of:
 - a) A submission made by the respective MHA outlining the rationale for requesting the change.
 - b) Any changes of an unforeseen nature that may have occurred in a specific district that is likely to have a significant impact on the district and its constituents.
 - c) The appropriateness of the existing specific district allocation based on the experience of MHA expenditure in the previous year.
4. MHAs whose districts require the use of modes of travel other than those expressly outlined in the Rules should be permitted to use those modes of travel without having to seek the prior approval of the Speaker provided the necessary funding exists in the MHA's budget. Reimbursement for the use of such modes of travel will be made following the submission of acceptable receipts in accordance with the Rules.
5. The necessary steps should be undertaken to confirm the automobile allowance that was in place for the Office of the Speaker of the House of Assembly, the Leader of the Opposition and the Leader of the Third Party before 2007.

We felt it was fitting to conclude this section of our report with a quote from the Green Report which in our opinion places this whole matter in perspective.

“If any allowance regime is to have any hope of finding public acceptance and confidence, it will have to be one that is understandable by both the public and the MHAs involved, operates in a transparent manner and is seen to be fair, both for the MHA and the public treasury, in the way it allows for access to public money. To design this is a significant challenge. Particularly challenging is not getting so immersed in detailed rules that the ultimate purpose of the whole project – service to constituents-is not obscured.”¹²

¹² Green Report, Chapter 10, p 10-2

OTHER ISSUES

It is not uncommon for commissions and boards of inquiry that have been appointed with a specific mandate to be unable to resist the temptation to delve into other issues ancillary to their mandate. In filing our report the Committee felt it would be remiss if it did not reflect on other issues brought to our attention through public meetings that did not directly come within the scope of our mandate. We believe the following issues that were raised are relevant to the area of MHA compensation and allowances.

1. Number of MHA'S

In a number of public presentations and written submissions the current number of MHAs in the House of Assembly was raised. Some presenters tabled information from Statistics Canada (April 2009) showing comparisons of MHA/MLA representation by province across Canada. The statistics showed that based on population and number of seats in the legislature, Newfoundland and Labrador MHAs represent the second lowest number of constituents among those provinces.

This issue of constituent representation was also tabled as one of the reasons MHAs' current level of compensation should be reviewed with a view to a freeze and reduction in salary.

The Committee makes no recommendation on the number of MHAs in the House of Assembly. It has provided this information solely because it was the topic of a number of public presentations, written and oral and is clearly in the minds of those of the electorate who made their views known to the committee.

Figure 1

Province	Population*	Provincial Legislature		House of Commons	
		# Members	Constituents (mean)	# MPs	Constituents (mean)
ON	13,014,018	107	121,626	106	122,774
QU	7,799,372	125	62,395	75	103,992
BC	4,435,344	85	52,181	36	123,204
<i>All</i>	<i>33,484,534</i>	<i>697</i>	<i>48,041</i>	<i>305</i>	<i>109,785</i>
AB	3,653,840	83	44,022	28	130,494
MB	1,217,163	57	21,354	14	86,940
NS	939,475	52	18,067	11	85,407
SK	1,027,092	58	17,708	14	73,364
NB	748,866	55	13,616	10	74,887
NL	508,726	48	10,598	7	72,675
PEI	140,638	27	5,209	4	35,160

*as of April 1, 2009 (source: Statistics Canada)

Note: does not include Territories

2. MHA information available and accessible to the public.

Throughout the course of our work this Committee was constantly reminded of the importance of Accountability and Transparency in the activities of elected officials. This was the case not only for the elected officials of the Newfoundland and Labrador House of Assembly. It is the case in practically every jurisdiction that the Committee researched. In Nova Scotia, for example, information accessible to the general public includes MLA annual basic Indemnities and Indemnities for additional duties, such as Ministers, Speaker, and Leader of the Opposition etc.

The public image of elected officials nationally and internationally as referenced elsewhere in this report has been for a long time well down the list of professions that are seen as reliable and trustworthy. Despite this image, very few of the electorate would dispute the important responsibility of those positions and the impact that their performance or lack thereof has on the people of the province. This Committee firmly believes that steps must be taken to address this very serious matter in our society. A relationship of trust and respect must be restored between our elected officials and the people they serve.

We believe the Green Report provided the solid foundation for that process to commence to occur. MHAs have an opportunity and, we suggest, an obligation to advance the work of the Green Report by making their work, their activities, their compensation and their expenditures totally open and accessible to the people of the province. As voters, we have an obligation to gather the facts and hold our elected officials accountable for their performance. We must judge them by that performance and resist the temptation to judge them based on the actions of others. We know the process of accountability and transparency has begun with the information that is currently available on the House of Assembly website. More needs to be done. Accordingly the committee recommends:

- A.** The following information should be placed on the House of Assembly website;
 - The MHAs' total annual compensation including amounts received for performing additional duties on committees etc.
 - A copy of the MHAs' declaration of attendance in the House of Assembly as required by subsection 13(5) of the Act.
 - The current Member Accountability and Disclosure Reports be continued with detailed notes ensuring the expenditures are easily understood by the electorate.
- B.** This information should be readily accessible for any member of the public who wishes to view it at his or her convenience.
- C.** The information except as otherwise stated should be updated on a quarterly basis.

3. Renaming of Constituency Allowances.

The legislation governing the amount of money allocated for MHAs to spend in serving the needs of their constituents has for years been referred to as an allowance. In the salaries section of this report the Committee discussed the confusion it felt existed in the minds of some of the public presenters over this issue. There appeared to be an understanding that MHAs were still in receipt of the tax free allowance as was the case prior to 2007. This is no longer the case. The fact that the funding provided to reimburse an MHA for such things as the cost of a constituency office, a constituency assistant, travel cost, meals and accommodations required for the performance of his or her duties as an MHA is still referred to as an “Allowance” adds to that confusion. In certain other jurisdictions this funding is referred to as:

- Reimbursement of expenses
- Constituency service expenses
- Travel and Accommodation expenses

The term allowance is reserved in other jurisdictions for the monies MHAs receive in the form of payment for the performance of duties additional to their role as an MHA/MLA.

The Committee recommends that the title of Constituency Allowances be renamed to be “Reimbursement of Expenses”. This title will avoid confusion among the electorate and will more accurately reflect the current Rules structure.

4. Time for Appointment of the next Members’ Compensation Review Committee.

The appointment of this first Members’ Compensation Review Committee was made approximately two years following the coming into force of the Act. The House of Assembly staff, Management Commission and MHAs have had just two years experience working with the new Rules. This meant the Committee had just two years experience on which to base its analysis and make recommendations. The next review committee will have the benefit of the House of Assembly staff, Management Commission and MHAs having had more practical experience working with the new Rules.

While it would normally be expected that the next review committee will be appointed in four years, we recommend consideration be given to the appointment of that committee within two years from the date of the report of this Committee. We make this recommendation because we believe the benefit of two more years experience will greatly assist that committee in its review while at the same time ensuring any difficult issues that may arise during that period are addressed in a timely manner.

CONCLUSION

MHAs in Newfoundland and Labrador, regardless of political affiliation, are bearing the burden of the spending scandal uncovered a few years ago. The highly publicized court proceedings following the spending scandal and an already skeptical view of elected officials are combining to create an unprecedented public backlash.

This is most unfortunate particularly in light of the massive changes that have taken place with respect to MHA accountability and transparency since the uncovering of the spending scandal. The changes that have been made within the House of Assembly following the Act and implementation of the recommendations contained in the Green Report assure that as long as the Rules remain in place and are strictly applied this situation can never again take place in Newfoundland and Labrador politics.

This public backlash was also at the forefront of the deliberations of this Committee on MHA salaries, allowances, pensions and severance. Despite this, the Committee, as stated in the introduction to its report, very much appreciated the many viewpoints on the issues. Public input and debate during these processes is both necessary and informative.

We hope that as a result of this process and the amount of public attention it received in the mainstream media in the past four months there will be a greater understanding throughout the province of the current system of political accountability and transparency. A realization and acknowledgement of the facts surrounding these issues will translate into this greater understanding and will hopefully help to rebuild public confidence and trust in our political system.

SUMMARY OF RECOMMENDATIONS

Salaries

1. The 8% salary increase which commenced on salaries referred to in subsections 11(1) and 12(1) of the Act on July 1, 2009 are to be withdrawn and the salary for an MHA will be the salary in place on June 30, 2009.
2. The salary referred to in number 1 above be frozen at that level pending the recommendations of the next Members' Compensation Review Committee appointed in accordance with the Act.
3. The changes referred to above are to become effective on the date of the coming into force of the amendments to the Act giving effect to these recommendations.
4. In consideration of the fact that this Committee makes no recommendation on a formula for periodic increases in MHA salaries, the Committee recommends that the next Members' Compensation Review Committee be appointed within 6 months following the date of the election of members to the next General Assembly.

Pensions

1. The current MHA pension plan accrual rate should be reduced from its current level of 5% per year for the first 10 years and 2.5% per year from year 11 to 20, to 3.5 % per year for each year to a maximum of 20 years. The effect of this recommendation will reduce the current maximum pension accrual from 75% to 70%. Currently there is no maximum accrual for the Public Service Pension Plan, Teachers Pension Plan or the Uniformed Services Pension Plan.
2. The current MHA pension plan eligibility criteria be eliminated and replaced with the following:
 - An MHA shall be eligible for pension entitlement at the age of 55 years provided that MHA has at least 5 years service as an MHA and has served in at least two General Assemblies.
 - An MHA may elect to take a pension between the ages of 50 and 55 years with a minimum of 5 years as an MHA and having served in at least two General Assemblies. In this event the MHA pension shall be reduced by 6% for each year less than the age at which the unreduced pension would commence.
3. The changes recommended in numbers 1 and 2 above commence as of the date of the coming into force of the legislation to give effect to those amendments. This would mean that these proposals will apply to MHAs first elected after the commencement of these amendments.

Severance Pay

- 1 The current provisions for the payment of severance to an MHA remain unchanged.
- 2 An MHA who voluntarily resigns prior to a general election for reasons other than his or her own serious illness or a serious illness in his or her immediate family shall not be eligible for Severance Pay.

Allowances

1. An MHA whose district is in excess of 4 hours driving time from the capital region by the most direct route shall be entitled to one night accommodation while enroute to his/her district while the House is in session.
2. The allowable expense for an MHA for accommodation in a secondary residence should be fixed at \$53 per night for each night the MHA is required to be in the capital region attending to constituency business.
3. The specific district allowance allocation amount in the Schedule to the Rules should be reviewed on an annual basis. Changes to the specific amounts in each of the 48 districts outlined in the Rules, should be considered by the House of Assembly Management Commission on the basis of:
 - a) A submission made by the respective MHA outlining the rationale for requesting the change.
 - b) Any changes of an unforeseen nature that may have occurred in a specific district that is likely to have a significant impact on the district and its constituents.
 - c) The appropriateness of the existing specific district allocation based on the experience of MHA expenditure in the previous year.
4. MHAs, whose districts require the use of modes of travel other than those expressly outlined in the Rules should be permitted to use those modes of travel without having to seek prior approval of the Speaker, provided the necessary funding exists in the MHA's budget. Reimbursement for the use of such modes of travel will be made following the submission of acceptable receipts in accordance with the Rules.
5. The necessary steps should be undertaken to confirm the automobile allowance that was in place for the Office of the Speaker of the House of Assembly, the Leader of the Opposition and the Leader of the Third Party before 2007.

Other Recommendations

MHA information available and accessible to the public.

- A. The following information should be placed on the House of Assembly website;
- The MHAs' total annual compensation including amounts received for performing additional duties on committees etc.
 - A copy of the MHAs' declaration of attendance in the House of Assembly as required by subsection 13(5) of the Act.
 - The current Member Accountability and Disclosure Reports be continued with detailed notes ensuring the expenditures are easily understood by the electorate.
- B. This information should be readily accessible for any member of the public who wishes to view it at his or her convenience.
- C. The information except as otherwise stated should be updated on a quarterly basis.

Renaming of Constituency Allowances

The Committee recommends that the title of Constituency Allowances be renamed to be "Reimbursement of Expenses". This title will avoid confusion among the electorate and will more accurately reflect the current Rules structure.

Time for Appointment of the next Members' Compensation Review Committee.

While it would normally be expected that the next review committee will be appointed in four years, we recommend consideration be given to the appointment of that committee within two years from the date of the report of this Committee. We make this recommendation because we believe the benefit of two more years experience will greatly assist that committee in its review while at the same time ensuring any difficult issues that may arise during that period are addressed in a timely manner.

Appendix “A”

NEWS RELEASE

House of Assembly
July 17, 2009

Members’ Compensation Review Committee Appointed

The Honourable Roger Fitzgerald, Speaker of the House of Assembly, announced today that the Members’ Compensation Review Committee was appointed by resolution of the House of Assembly on May 28, 2009 with an effective date of July 6, 2009. The committee is chaired by Mr. Joe O’Neill. The other committee members are Mr. Brian Barry and Ms. Cathy Bennett.

The appointment of the committee is in accordance with subsection 16(1) of the *House of Assembly Accountability, Integrity and Administration Act*, the legislation which resulted from the Green report on Rebuilding Confidence – Report of the Review Commission on Constituency Allowances and Related Matters. The legislation requires that such a committee be appointed once during each General Assembly.

The committee’s mandate is to inquire into and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to Members of the House of Assembly. The report must be delivered to the Speaker of the House of Assembly no later than October 31, 2009.

The recommendations of the report will be brought to the House of Assembly Management Commission for review. The commission will have the power to modify the recommendations but only in a manner that does not exceed the maximum amounts recommended by the committee.

The committee expects to begin their consultations in the next few weeks.

Appendix “B”

NEWS RELEASE

House of Assembly
July 21, 2009

The following is being distributed at the request of the Members' Compensation Review Committee:

Public Advisory: Notice of Public Meetings

The Members' Compensation Review Committee appointed to inquire into and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to Members of the House of Assembly will be conducting public meetings at the following times and locations throughout the province.

<u>LOCATION</u>	<u>DATE</u>	<u>TIME</u>	<u>PLACE</u>
Clareville	July 29	2:00-5:00	St. Jude's Hotel
Grand Falls-Windsor	August 5	2:00-5:00	Mount Peyton Hotel
Corner Brook	August 6	2:00-5:00	Glynmill Inn
St. John's	August 18	2:00-5:00	Capital Hotel
Happy Valley-Goose Bay	August 31	2:00-5:00	Hotel North 2
St. John's	September 17	2:00-5:00	Capital Hotel

The appointment of this committee, in accordance with subsection 16(1) of the *House of Assembly Accountability, Integrity and Administration Act*, was adopted by Resolution of the Honourable the House of Assembly on May 28, 2009.

The appointment of the committee became effective on July 6 and it must deliver its report to the Speaker of the House of Assembly on or before October 31, 2009.

Any person wishing to appear before the committee is encouraged to contact the committee prior to the meeting either by phone, mail or e-mail at:

Members' Compensation Review Committee
P.O. Box 8700, St. John's, NL A1B 4J6
Attention: Ann Olford, Administrative Assistant
709-729-7372
E-mail: mcrc@gov.nl.ca

The committee is also accepting written submissions. Any person or organization wishing to submit a written brief is encouraged to forward their submission to the committee by no later than Friday, August 28, 2009.

-30-

Media contact:
Joe O'Neill, Chair
Members' Compensation Review Committee
709-729-7372
2009 07 21

12:05 p.m.

Appendix “C”

Public Hearing Notice
Newspaper Advertisements

Appearing In

Date of Edition

The Telegram	July 25, 2009
The Packet (Clarenville)	July 27, 2009
The Advertiser (Grand Falls)	July 30, 2009
The Western Star (Corner Brook)	July 31, 2009
The Telegram	August 8, 2009
The Labradorian	August 17, 2009
The Telegram	September 5, 2009

Appendix “D”

Public Presentations (Individuals)

<i>Presenter</i>	<i>Forum</i>
Mr. Ern Warren	St. Jude’s Hotel, Clarenville
Mr. Wilfred Bartlett	Mount Peyton Hotel, Grand Falls-Windsor
Mr. Mark Watton	Glynmill Inn, Corner Brook
Mr. Norm Mercer	Capital Hotel, St. John’s
Mr. Gerald Dyson	Hotel North 2, Goose Bay
Mr. Rick Bouzan	Capital Hotel, St. John’s
Mr. Bill Shallow	Capital Hotel, St. John’s
Mr. Terry Burry	Capital Hotel, St. John’s
Mr. David Prior	Capital Hotel, St. John’s
Mr. Jeremiah Perry	Capital Hotel, St. John’s
Mr. Don Blackmore	Capital Hotel, St. John’s
Mr. Tom Hickey	Capital Hotel, St. John’s

Public Presentations (Groups/Organizations)

<i>Presenter</i>	<i>Forum</i>
Newfoundland & Labrador Public Service Pensioners’ Association	Capital Hotel, St. John’s
Canadian Federation of Independent Business	Capital Hotel, St. John’s
Home Care Workers	Capital Hotel, St. John’s
Burin/Marystown Community Training and Employment Board	Capital Hotel, St. John’s

Written Submissions

Ms. Janice Eisenhauer
Mr. Sid Small
Mr. Doug Smith
Mr. Jeff Tulk
Mr. John Reade
Mr. John Gibbons
Mr. Ken O’Brien
Mr. Joseph F. Downey
Mr. Geoffrey Peters
Memorial University, Department of Political Science

Appendix “E”

MHAs appearing before the Committee

Harry Harding	Bonavista North
Clayton Forsey	Exploits
Wade Verge	Lewisporte
Tracey Perry	Fortune Bay-Cape La Hune
Ray Hunter	Grand Falls-Windsor-Green Bay South
Wally Young	St. Barbe
Calvin Peach	Bellevue
Ed Buckingham	St. John’s East
Terry Loder	Bay of Islands
Bob Ridgley	St. John’s North
Lorraine Michaels	Signal Hill-Quidi Vidi
Steve Kent	Mount Pearl North
Darin King	Grand Bank
Jerome Kennedy	Carbonear-Harbour Grace
Kevin Parsons	Cape St. Francis
Felix Collins	Placentia-St. Mary’s
Yvonne Jones	Cartwright-L’Anse Au Clair

Appendix “F”

Jurisdictional Comparison of Members Salaries 2009

<i>Annual Salary Breakdown</i>			
Jurisdiction	Annual Salary		
	Basic Compensation	Tax-free Allowance	Total Compensation
House of Commons	\$157,731	N/A	\$157,731
Ontario	\$116,550	N/A	\$116,550
Northwest Territories	\$94,331	\$20,391 ¹	\$114,722
Newfoundland and Labrador	\$102,984	N/A	\$102,984
British Columbia	\$101,859	N/A	\$101,859
Quebec	\$85,388	\$14,983	\$100,371
Saskatchewan	\$87,195	N/A	\$87,195
Nova Scotia	\$86,619	N/A	\$86,619
Manitoba	\$85,564	N/A	\$85,564
New Brunswick	\$85,000	N/A	\$85,000
Alberta	\$52,092	\$26,046	\$78,138
Nunavut	\$73,827 ²	N/A	\$73,827
Yukon	\$67,891	N/A	\$67,891
Prince Edward Island	\$63,750 ²	N/A	\$63,750

¹Northwest Territories - \$6,797 if residing in capital, \$13,594 if residing outside capital.

²Nunavut and Prince Edward Island – figures based on 2008 data.

Appendix “G”

Jurisdictional Comparison of Public Sector Pension Plans and MHA/MLA Pension Plans as at December 31, 2008

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
British Columbia	Benefit Formula (X Service)	Prior to age 65: 2% x best 5 year avg. salary (HAS) x years of pensionable service On and After age 65: 2% x HAS x years of pensionable service MINUS .65% x lesser of HAS or previous year's YMPE x years of pensionable service after Jan 1/66.	3.5% x 3 year highest average salary x years of pensionable service.
	Minimum Service for Pension	2 years contributory service	Age 60; 6 years of legislative service.
	Maximum Service Credited	35 years pensionable service	20 years
	Retirement without Penalty (Age and Service)	Age 65 with any service Age 60 with 2 years contributory service Age 55 and contributory service = 85	Age 60; 6 years of legislative service.
	Earliest Possible Retirement Age (% Reduction)	Age 55 – 3% reduction rate/year, prorated for partial years to a max of 15% short of 60 or 85. Age 55 – 5% reduction rate/year, prorated for partial years to a max of 25% short of 60 or 85 where the member terminated prior to July 1/94, or was less than age 50 at termination, or accrued less than 10+ years of contributory service.	Age 60 with a reduction of 3% per year to age 65 (maximum 15%).
	Disability Benefits	Must be under pensionable age (60), 2 years contributory service, at least 2 physicians declare disabled, and not entitled for coverage under the public service LTD plan, and not have received a lump sum payment instead of a monthly income benefit under a group disability plan.	N/A

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
British Columbia cont...	Survivors Allowances (Employee/Retiree)	EE Vested (2+ years) and under age 55 - spouse has option of commuted value payout or a pension for life EE Vested and 55+ - spouse receives lifetime pension (100% joint life) Retiree – minimum 60% survivor pension unless waived	<i>Death in service –</i> If MLA is less than 60: (i) spouse receives a commuted value payment or a pension based on the commuted value amount; or (ii) beneficiary (if no spouse) receives a commuted value. If MLA is 60 or older: (i) spouse receives a pension; or (ii) beneficiary (if no spouse) receives a commuted value. <i>Death after retirement –</i> Spouse receives 60% or 100% of the MLA's pension (depending on the survivor option chosen at retirement) or beneficiary receives any remaining payments in the guarantee period.
Alberta	Benefit Formula (X Service)	<i>Public Sector Employees:</i> 1.4% x avg. of best 5 consecutive years salary up to YMPE x years of service plus 2% on salary over YMPE x years of service <i>Management Employees:</i> 2% x avg. of best 5 consecutive years salary x years of service	Discontinued plan effective June 15, 1993 retroactive to March 1989.
	Minimum Service for Pension	<i>Public Sector Employees:</i> 2 years <i>Management Employees:</i> 5 years	
	Maximum Service Credited	<i>Public Sector Employees:</i> 35 years <i>Management Employees:</i> 35 years	
	Retirement without Penalty (Age and Service)	<i>Public Sector Employees:</i> Age 55 + service = 85 or more OR age 65 <i>Management Employees:</i> Age 55 + service = 80 or more OR age 60	
	Earliest Possible Retirement Age (% Reduction)	<i>Public Sector Employees:</i> Age 55 - 3% reduction/year short of 65 or 85 <i>Management Employees:</i> Age 55 - 3% reduction/year short of 60 or 80	
	Disability Benefits	<i>Public Sector Employees:</i> Total - no reduction Partial - 3% reduction/year short of 65 or 85 <i>Management Employees:</i> Total - no reduction Partial - 3% reduction/year short of 60 or 80	

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Alberta cont....	Survivors Allowances (Employee/Retiree)	<p><i>Public Sector Employees:</i> As EE-if <2 years service - lump sum of contributions and interest If >2 years service - lifetime pension to spouse or CV plus excess, if any</p> <p><i>Management Employees:</i> As EE-if <5 years service - lump sum of contributions and interest If >5 years service - lifetime pension to spouse</p>	
Saskatchewan	Benefit Formula (X Service)	Annuity, LIRA, prescribed RRIF, Variable Pension Benefit	MLA pension plan repealed effective September 1, 2002 and MLA's will contribute to Public Employees Pension Plan and a SERP will provide offside benefits (primarily contributions above \$22,000 for 2009).
	Minimum Service for Pension	1 year	
	Maximum Service Credited	N/A	
	Retirement without Penalty (Age and Service)	Age 50	
	Earliest Possible Retirement Age (% Reduction)	Age 50	
	Disability Benefits	N/A	
Survivors Allowances (Employee/Retiree)	Annuity – 60% survivor benefit, can elect up to 100% Variable Pension Benefit – specified or other beneficiary receives 100% of the remaining account		
Manitoba	Benefit Formula (X Service)	1.6% x best 5 yrs average salary up to YMPE x yrs of service plus 2% x best 5 yr average salary over YMPE x yrs of service	2% of best five-year average salary for each year of pensionable service.
	Minimum Service for Pension	10 years at age 55 OR 1 year at age 65	Age 55 with 1 year as an MLA
	Maximum Service Credited	No maximum	35 years
	Retirement without Penalty (Age and Service)	Age 55, age + service = 80 or more OR age 60 (assumes 10 years service) Correctional Officers: Age 50, age and service = 75 or more	Age 55 with 1 year as an MLA.

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Manitoba cont...	Earliest Possible Retirement Age (% Reduction)	Age 55 w 10 years service - 3/4%/year prior to Jan. 1/92 and 3%/year after Jan.1/92 for each year under age 60 or age plus service = 80, whichever occurs first Bridging (for post 1991 service only), difference between 3/4% and 3% reduction paid to age 65	N/A
	Disability Benefits	If 10+ years service and under age 60 or age + service do not equal 80 (min age 55), and Totally and Permanently Disabled – pension payable immediately, no penalty applied Partially and Permanently Disabled – pension payable immediately, penalty applied	N/A
	Survivors Allowances (Employee/Retiree)	EE - 2-10 years - lifetime annuity to spouse based on Commuted Value; 10 + years – minimum 60% lifetime pension to spouse (spouse includes common-law partner) Retiree -2/3 to spouse (unless waived by spouse), last survivor full, 1/2 to spouse, lifetime, or 10/15 Yr. Guar.	<i>Death in service</i> – Pension to spouse or partner based on commuted value. <i>Death after retirement</i> – Pension depends on option selected by member at retirement.
Ontario	Benefit Formula (X Service)	Prior to age 65: 2% x best 5 years avg. salary (if pre '66 credit, best 3 yr) x credit (max 35 yrs pre '92) On and After age 65: 2% x best 5 years avg. salary x credit (max 35 yrs pre '92) MINUS .7% x lesser of 5 year avg. salary or 3 year avg. YMPE x credit after 1965 (max 35 yrs) if pre '66 credit, min guarantee may be payable	Pension Plan converted to a money purchase plan in 1996. Benefits prior to June 8, 1995 were commuted into the new plan or paid into personal locked-in retirement accounts. For service on or after June 8, 1995, the Ontario Government contributes 5% of the member's remuneration. Pension is payable at age 55 with a 5 year service requirement.
	Minimum Service for Pension	Pre 1987 - 10 yrs credit or 10 yrs membership or 10 yrs service and at least age 45 Post 1986 - 2 yrs membership or credit	If member elects to purchase an immediate or deferred annuity, the following survivor benefits apply:
	Maximum Service Credited	Pre 1992 - 35 years Post 1991 – no max	
	Retirement without Penalty (Age and Service)	NRA 65 (if pre '66 credit, NRA 60) Factor 90 (Age and credit) 60/20 (Age and credit) 50/30 (Age and credit) – OPP Factor 80 (Age and credit, if surplus, ended Mar 31/2006) but may continue for some bargaining agents.	<i>Death in service</i> – Accumulated capital, tax deferrable per the ITA. <i>Death after retirement</i> – 60% survivor unless waived per Ontario Pension Benefits Act.
	Earliest Possible Retirement Age (% Reduction)	If member has credit before 1966: age 50 with 50% reduction. If no credit before 1966: Age 55 with 50% reduction	

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Ontario cont...	Disability Benefits	After 10 years credit, immediate unreduced pension, If under 10 years credit, lump sum payment.	
	Survivors Allowances (Employee/Retiree)	60% survivor benefit with reduction unless waived to 50% survivor benefit, can elect up to 75% with applicable reduction.	
Quebec	Benefit Formula (X Service)	<p><i>Government and Public Employees:</i> Prior to age 65: 2% x best 5 years avg. x service On and After age 65: 1.3%/year up to YMPE and 2% /year after</p> <p><i>Management Employees:</i> Prior to age 65: 2% x best 3 years avg. x service On and After age 65: 1.3%/year up to YMPE and 2% /year after</p>	No average salary is used. Members acquire a pension credit each year corresponding to a percentage (4%) of their indemnity (salary). Each year's credit accrues according to the CPI every January 1 st until payment begins.
	Minimum Service for Pension	Nil	Age 60; no service requirement.
	Maximum Service Credited	35	Following January 1, 1983, 25 years of service
	Retirement without Penalty (Age and Service)	<p><i>Government and Public Employees:</i> 60 years of age 35 years of service <i>Management Employees:</i> 60 years of age 35 years of service 88 factor and 55 years of age</p>	Age 60; no service requirement.
	Earliest Possible Retirement Age (% Reduction)	<p>- 55 years of age or earlier if 35 years of service - reduction - 4%/year (3% /year reduction for Management Employees)</p>	Reduction of 1% per year between age 55 and 60, 2% per year between age 50 and 55 and 3% per year before age 50.
	Disability Benefits	Transfer in LIRA	No benefits. Official is exempted from contributing as long as he receives salary insurance payments up to age 60 when the pension payments start.

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Quebec cont...	Survivors Allowances (Employee/Retiree)	-entitled to pension-50% annuity (60% optional) -entitled to def. annuity -value of the def. annuity -otherwise: Contributions and interest	Payable to the spouse: 60% of the pension in payment or of the pension that would have been payable + 10% for each child; if no spouse, a refund of twice the contributions plus interest less the pension payments received, if any.
New Brunswick	Benefit Formula (X Service)	Prior to age 65: 2% x best consecutive 5 years avg. earnings x years of service On and After age 65: 2% x best consecutive 5 years avg. earnings x years of service MINUS .7% x lower of (best consecutive 5 yrs avg earnings or 3 yr avg YMPE (in year of retirement and 2 previous years)) x year of service as of Sept 1/66	Registered Component: 2% per session Supplementary Component: 2.5% Total: 4.5% of best 3 year average indemnity x number of sessions
	Minimum Service for Pension	5 years service	8 sessions and age 60.
	Maximum Service Credited	No maximum	No limit
	Retirement without Penalty (Age and Service)	Age 60 with 5 years service	8 sessions and age 60.
	Earliest Possible Retirement Age (% Reduction)	Age 55 with actuarial reduction of 3% per year to age 60.	5% per year reduction prior to age 60
	Disability Benefits	No disability pension provision. Service accrual with no contributions while in receipt of LTD.	N/A
	Survivors Allowances (Employee/Retiree)	5 years service; 50% of unreduced integrated pension payable to spouse.	<i>Death in service</i> – Refund of contributions + interest or 50% of unreduced pension amount if 8 sessions or more of service. <i>Death after retirement</i> – 50% of member's pension.
Prince Edward Island	Benefit Formula (X Service)	Prior to age 65: 2% x best 3 years avg. x service On and After age 65: 1.3%/year up to YMPE and 2%/year above YMPE x best 3 years avg. x service	Basic: 25% of employee's contributions Supplemental: 25% of employee's contributions Average salary not needed; benefit is derived from % of contributions.
	Minimum Service for Pension	5 years and 55 years of age	Basic: age 60; rule of 80. Supplemental: age 55; rule of 70
	Maximum Service Credited	No maximum	No limit

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Prince Edward Island cont...	Retirement without Penalty (Age and Service)	Age 60 and 2 years service or minimum age 55 and minimum 30 years of service	Basic: age 60; rule of 80 Supplemental: age 55; rule of 70.
	Earliest Possible Retirement Age (% Reduction)	Lessor of: age 55 with penalty of 3% per each year prior to age 60 or age 55 with penalty of 3% for each year prior to 30 years of service	Basic: age 50 with 30% reduction Supplemental: age 50 with 30% reduction
	Disability Benefits	No disability provision under pension plan	N/A
	Survivors Allowances (Employee/Retiree)	60% of employees pension	<i>Death in service</i> – 60% to spouse. <i>Death after retirement</i> – 60% to spouse.
Nova Scotia	Benefit Formula (X Service)	Prior to age 65: 2% x best 5 yrs avg. salary x yrs of service (max 35 years) On and After age 65: 2% x best 5 yrs avg. salary x service (max 35 years) MINUS .7% x avg. annual salary to avg. YMPE x service since Jan 1/66 (max 35 years)	Pension Formula: 5% x years & months of service to a maximum of 15 years. Average Salary: Indemnity & expense allowance – last 3 years; Executive Council Salary – highest 3 years. NOTE: The portion of the pension attributable to the expense will effectively be phased out by the end of 2008.
	Minimum Service for Pension	2 years	Age 55; must have service as an MLA for at least 5 years during at least 2 General Assemblies.
	Maximum Service Credited	35 years	15 years
	Retirement without Penalty (Age and Service)	Age 60 plus 2 years service Or Age 50 and service = 80	Age 55; must have service as an MLA for at least 5 years during at least 2 General Assemblies.
	Earliest Possible Retirement Age (% Reduction)	Age equal to at least 55 and years of pensionable service equal to at least 2	Age 45 minus ½% reduction for every month prior to age 55 (the resulting pension cannot be less than 50% of the unreduced pension). Must be elected twice and served a minimum of 5 years.
	Disability Benefits	None	NS Public Service LTD Plan Trust Fund.

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Nova Scotia cont..	Survivors Allowances (Employee/Retiree)	5 Year Guar. - First 5 years after earlier of death or retirement (if applicable) - spouse receives 100% of what member entitled to, less children's allowance. After the first 5 years, spouse then receives 66.6%, children receive 33.3% (10% per child, to a maximum total of 33.3%) Provision for two surviving spouses.	<i>Death in service</i> – 66 2/3% to spouse. <i>Death after retirement</i> – 66 2/3% to spouse.
Newfoundland and Labrador	Benefit Formula (X Service)	Prior to age 65: 2% x best 5 years avg. x service On and After age 65: 2% x best 5 years avg. x service MINUS .6% x avg. annual salary to avg. YMPE x service from Apr 1/67	If first elected February 1999 or after: 5% for first 10 years service; 2.5% for next 10 x average best 3 years salary x years of service. 183 days is a year; <183 days does not count (not applicable if elected for the first time after the 45 th General Assembly). If first elected prior to February 1999: 5% for first 10 years service; 4% for next 5; 2.5% for next 2 x average best 3 years salary x years of service. CPP reduction at age 65 – 0.6% average annual salary to average YMPE x years of service
	Minimum Service for Pension	5 years	Age plus service = 60 (55 for Premier), 2 General Assemblies and served as Member for not less than 5 years.
	Maximum Service Credited	No maximum	If first elected February 1999 or after: 20 years If first elected prior to February 1999: 17 years

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Newfoundland and Labrador cont...	Retirement without Penalty (Age and Service)	- Minimum age 55 with not less than 30 years service - Age 60 with 5 years service	Age plus service = 60 (55 for Premier), 2 General Assemblies and served as a Member for not less than 5 years.
	Earliest Possible Retirement Age (% Reduction)	Age 50 with at least 30 years service and \geq age 55 when age and service \geq 85. Reduction 6% per year for each year less than age at which unreduced pension would start.	N/A
	Disability Benefits	Medically certifiable disability with at least 5 years service	Immediate accrued benefit if determined disabled by adjudicator.
	Survivors Allowances (Employee/Retiree)	<i>Death in service</i> – 60% of pension entitlement of employee who dies in service or 100% of commuted value <i>Death after retirement</i> - 60% of pensioners benefit	<i>Death in service</i> – Spouse has the option of 60% survivor pension or a refund of the greater of the commuted value of the 60% spousal pension or the commuted value of the accrued pension. <i>Death after retirement</i> – 60% to spouse.
Government of Canada	Benefit Formula (X Service)	Prior to age 65: 2% x best 5 consecutive years avg. salary x pensionable service On or after age 65: Same as above minus .007 x lesser of AMPE or avg salary x service from Jan 1, 1966.	3% of best five-year average salary for each year of pensionable service.
	Minimum Service for Pension	Vesting at 2 years of service	Age 55 and six year of service as a member.
	Maximum Service Credited	35 years of service	Under the registered plan portion of the pension arrangement, 25 years. No limit on accrual under RCA portion.
	Retirement without Penalty (Age and Service)	-Age 60 and 2 or more years of service -Age 55 and 30 years of service	Age 55 and six years of service as a member.
	Earliest Possible Retirement Age (% Reduction)	Age 50 and 2 years of service Reduction: 5% for each year prior to age 60; special formula for EE leaving at age 50 + 25 years	N/A

Jurisdiction	Plan Provision	Public Sector Plan	MHA/MLA Plan
Government of Canada cont...	Disability Benefits	Under age 60 with 2 or more years of service	<p>Prior to age 55 – a deferred temporary compensation allowance that becomes an immediate temporary allowance.</p> <p>Age 55 but not 65 – there is no formal disability benefit in this case and the parliamentarians or pensioners are entitled to receive the retirement allowance that is immediately payable.</p> <p>Age 65 – a disability allowance equal to 70% of the annual salaries and allowances in accordance with the <i>Parliament of Canada Act</i>.</p>
	Survivors Allowances (Employee/Retiree)	50% of unreduced employee's pension is payable for life of spouse	In case of death before or after retirement, the survivor of a member with at least six years of service as a member receives an allowance equal to 60% of the allowance that was or would have been payable to the member.

Revised September 24, 2009

Appendix “H”

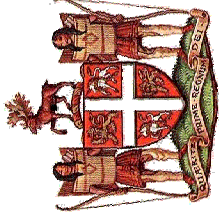
Severance Payments/Transition Allowances Jurisdictional Review

Jurisdiction	Comments
British Columbia	MLAs not returning or defeated in a general election are eligible for transitional assistance of a minimum of 4 months basic compensation, and continues to the date of re-employment, receives pension or a maximum of 15 months. In addition an MLA would be re-imbursed for career counseling, education and training costs up to \$9,000 upon presentation of receipts.
Alberta	MLAs receive a Transition Allowance whether they resign, are defeated or do not stand for re-election. The amount of allowance is the average monthly salary multiplied by the number of years service times three.
Saskatchewan	A Transition Allowance is provided if a member is defeated, does not stand for re-election or resigns due to personal illness. The amount is one months pay for each year of service up to a maximum of 12 months pay.
Manitoba	MLAs elected before April 25, 1995 receives severance pay based on one month salary for each year of service. There is a 3 month minimum and a 12 month maximum. Newly elected MLA's as of April 25, 1995 are eligible for a Transition Allowance. Members who choose not to run again or are defeated in the nomination process are eligible for a minimum of 6 months pay. Members defeated in an election are eligible for 12 months pay. If a member resigns voluntarily before an election, unless for serious medical problems, he/she are not eligible for Transition Allowance.
Ontario	An MPP who leaves office through resignation, retirement or defeat is eligible for a Transitional Allowance of \$7,000. This amount can be used for such things as professional assistance on starting a business, financial counseling, retirement counseling and courses directly related to employment. In addition MPP's are eligible for Severance Pay in accordance with the following formula: <ol style="list-style-type: none"> 1. Less than 4 years service ----- 6 months average annual salary 2. 4 years to 8 years service ----- 12 months average annual salary 3. More than 8 years service ----- 18 months average annual salary
Quebec	A member of the National Assembly who resigns, is defeated or serves out his/her term and does not run is entitled to a Transition Allowance equal to twice the Member's monthly salary for each year of service. In no case will the allowance be less than four times the monthly salary or greater than 12 times the monthly salary.
New Brunswick	MLAs who do not for any reason become a member of the next Legislative Assembly will receive severance pay equal to one month of the annual indemnity to a maximum of 6 months the annual indemnity. They may also be reimbursed a maximum of \$5,000 for expenses incurred with respect to career counseling or retraining.
Nova Scotia	An MLA who ceases to be a member of the House of Assembly shall be paid a Transition allowance and shall be paid the product of the number of year's service by 0.067 of the annual indemnity and allowance in place before the MLA ceased to be a member. The allowance will be no less than 25% or greater than 100% of the annual indemnity and allowance.

**Severance Payments/Transition Allowances
Jurisdictional Review**

Jurisdiction	Comments
PEI	An MLA who resigns or who does not stand for re-election is eligible for a severance allowance equal to one month's current pay for each year of service to a maximum of 12 months pay.
NL	An MHA who resigns, is defeated or who does not stand for re-election will receive one month's pay for each year of service to a maximum of twelve months pay. Currently the annual compensation is calculated at 81.2% of annual compensation.
Yukon	A member of the Legislative Assembly is eligible for 25% of the aggregate of the salary, indemnity and expense allowance received by that member in the preceding year.
NWT	Members are entitled to a, Transition Allowance of one twelfth the annual indemnity for each consecutive year of service to a maximum of twelve months pay.
Nunavut	Members are entitled to Severance/Transitional pay based on 6 weeks pay per year of service to the maximum annual indemnity.

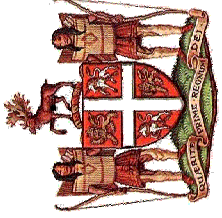
Appendix 'I'



House of Assembly
Newfoundland and Labrador
Member Accountability and Disclosure Report
Expenditures Summarized by Category
01-MAR-09 to 31-MAR-09

Sample: Rural MHA

Expenditure Category	Expense Limit for Fiscal 2008/09 (Net of HST)	Expenditures Processed During the Month (Net of HST)	Expenditures Processed to Date (Net of HST)	Funds Available (Net of HST)	Percent Expended to Date
Office Allowances					
Office Accommodations	9,230.00	769.00	9,228.00	2.00	100.0%
Rental of Short-term Accommodations	660.00	0.00	25.00	635.00	3.8%
Office Start-up Costs	285.00	17.50	269.80	15.20	94.7%
Office Operations	13,270.00	6,118.03	12,178.88	1,091.12	91.8%
Total Office Allowance	-	6,904.53	21,710.68	-	-
Operational Resources					
Operational Resources	-	865.26	9,252.50	-	-
Total Operational Resources	-	865.26	9,252.50	-	-
Travel & Living Allowances					
House in Session		1,400.75	10,557.85		
House Not in Session		2,083.82	7,487.40		
Intra & Extra-Constituency Travel	52,740.00	5,784.60	16,192.83	36,547.17	30.7%
Total Travel & Living Allowance		9,269.17	34,238.08	-	-
Constituency Allowance					
Constituency Allowance	2,660.00	983.48	1,855.10	804.90	69.7%
Total Constituency Allowance		983.48	1,855.10	-	-
Total Expenditures		18,022.44	67,047.36		



House of Assembly
Newfoundland and Labrador
Member Accountability and Disclosure Report
Expenditures Summarized by Category
01-MAR-09 to 31-MAR-09

Sample: Urban MHA

Page: 1 of 1

Expenditure Category	Expense Limit for Fiscal 2008/09 (Net of HST)	Expenditures Processed During the Month (Net of HST)	Expenditures Processed to Date (Net of HST)	Funds Available (Net of HST)	Percent Expended to Date
Office Allowances					
Office Accommodations	6,200.00	0.00	0.00	6,200.00	0.0%
Rental of Short-term Accommodations	660.00	0.00	0.00	660.00	0.0%
Office Start-up Costs	715.00	0.00	68.79	646.21	9.6%
Office Operations	13,270.00	2,093.00	9,128.73	4,141.27	68.8%
Total Office Allowance	-	2,903.00	9,197.52	-	-
Operational Resources					
Operational Resources	-	750.24	4,801.35	-	-
Total Operational Resources	-	750.24	4,801.35	-	-
Travel & Living Allowances					
House in Session		0.00	0.00		
House Not in Session		0.00	0.00		
Intra & Extra-Constituency Travel	6,640.00	58.26	466.77	6,193.23	6.7%
Total Travel & Living Allowance		58.26	466.77	-	-
Constituency Allowance					
Constituency Allowance	2,660.00	35.00	508.42	2,151.58	19.1%
Total Constituency Allowance		35.00	508.42	-	-
Total Expenditures		2,936.50	14,954.06		

Appendix “J”

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SNL2007 CHAPTER H-10.1

HOUSE OF ASSEMBLY ACCOUNTABILITY, INTEGRITY AND ADMINISTRATION ACT

Amended:

2008 c26; 2008 c58

CHAPTER H-10.1

**AN ACT RESPECTING THE EFFECTIVE ADMINISTRATION OF THE
HOUSE OF ASSEMBLY, THE STANDARDS OF CONDUCT OF ELECTED
MEMBERS, AND THEIR ETHICAL AND ACCOUNTABLE BEHAVIOUR**

(Assented to June 14, 2007)

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[Schedule](#) Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows:

Short title

1. This Act may be cited as the *House of Assembly Accountability, Integrity and Administration Act* .

[2007 cH-10.1 s1](#)

Definitions

2. In this Act
- (a) "audit" means an examination of the accounts of public money and other records relating to the House of Assembly, statutory offices and a member that may be conducted by an auditor under this Act or another law of the province;
 - (b) "audit committee" means the audit committee established under section 23 ;
 - (c) "auditor general" means the auditor general as defined in the *Auditor General Act* ;
 - (d) "caucus" means a group of 2 or more members who belong to the same registered political party;
 - (e) "clerk" means the Clerk of the House of Assembly;
 - (f) "commission", unless the context indicates otherwise, means the House of Assembly Management Commission continued under section 18 ;
 - (g) "commissioner ", unless the context indicates otherwise, means the Commissioner for Legislative Standards appointed under the *House of Assembly Act* ;
 - (h) "compliance audit" means an audit referred to in subsection 43 (9);
 - (i) "financial audit" means an audit referred to in subsection 43 (6);
 - (j) "fiscal year" means fiscal year as defined in the *Financial Administration Act* ;

- (k) "House of Assembly service" means the House of Assembly Service referred to in section 25 ;
- (l) "manual" means a manual referred to in section 50 ;
- (m) "member", unless the context indicates otherwise, means a member of the House of Assembly;
- (n) "minister" means a minister appointed under the *Executive Council Act* ;
- (o) "registered political party" means an organization formed for the purpose of contesting an election of members to the House of Assembly and which is registered in the register of political parties under section 278 of the *Elections Act, 1991* ;
- (p) "rules" means rules made by the commission under this Act;
- (q) "speaker" means the Speaker of the House of Assembly;
- (r) "statutory office" means the office and administrative staff directly serving the
 - (i) Chief Electoral Officer,
 - (ii) Commissioner for Members' Interests,
 - (iii) Child and Youth Advocate,
 - (iv) Information and Privacy Commissioner,
 Citizens' Representative, and
 - (vi) other offices of the House of Assembly, with the exception of the office of the Auditor General, that may be established under an Act; and
- (s) "third party" means the second largest party sitting in the House of Assembly in opposition to the government.

[2007 cH-10.1 s2; 2008 c58 s1](#)

Purpose

- 3. The purpose of this Act is to
 - (a) establish an administrative framework for the House of Assembly that is transparent and accountable;
 - (b) place responsibility with individual members to conduct their public and private affairs so as to promote public confidence in the integrity of each member, while maintaining the dignity and independence of the House of Assembly;
 - (c) promote the equitable treatment of each member of the House of Assembly;
 - (d) establish clear rules with respect to salary, allowances and resources for members and to provide for mandatory review of them at regular intervals;
 - (e) provide for clear and timely disclosure in relation to operations of the House of Assembly and statutory offices, including members' salaries, pensions, allowances, resources and severance payments, that is consistent with the public interest;
 - (f) create an environment for members in which full-time devotion to one's duties is encouraged; and
 - (g) establish standards of conduct for members and for those charged with responsibility for the administration of operations of the House of Assembly service and the statutory offices.

[2007 cH-10.1 s3; 2008 c58 s2](#)

PART I
HOUSE OF ASSEMBLY

Composition of House of Assembly

4. The House of Assembly consists of those persons elected in accordance with the *Elections Act, 1991* as members to represent the districts set out in section 5 of the *House of Assembly Act*.

[2007 cH-10.1 s4](#)

Oath or affirmation of member

5. Before being permitted to take his or her place and vote in the House of Assembly, a member shall take and subscribe before the Lieutenant-Governor or a person designated by the Lieutenant-Governor an oath of allegiance in the following form:

I, _____, do swear (or affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law (in the case where the oath is taken, add "So help me God").

and also an oath of office in the following form:

I, _____, do swear (or affirm) that

- (a) I am fully qualified to hold the office of Member for the District of _____ to which I have been elected;
- (b) I have not knowingly contravened the *Elections Act, 1991* respecting any matter in relation to my election;
- (c) I will faithfully, to the best of my ability, perform the duties and responsibilities of my office and will not allow any direct or indirect monetary or other personal or private interest to influence my conduct or affect my duties in public matters; and
- (d) I affirm, ascribe to and agree to follow the Code of Conduct of Members adopted by the House of Assembly (in the case where the oath is taken, add "So help me God").

[2007 cH-10.1 s5](#)

Speaker term of office

6. For the purpose of this Act, the speaker in office immediately before the dissolution of the House of Assembly is considered to be speaker until a new speaker is chosen by the House of Assembly.

[2007 cH-10.1 s6; 2008 c58 s3](#)

House officers

7. (1) Upon nomination by the House of Assembly, the Lieutenant-Governor in Council shall, by Commission under the Great Seal, appoint the following officers:

- (a) the Clerk of the House of Assembly;
- (b) the Clerk Assistant of the House of Assembly;
- (c) the Law Clerk; and
- (d) the Sergeant-at-Arms of the House of Assembly.

(2) Before a nomination is made under subsection (1), the speaker shall consult with the commission, the Clerk of the Executive Council and the chairperson of the Public Service Commission to determine an appropriate process for recruitment of suitable candidates for appointment.

[2007 cH-10.1 s7](#)

Oath of clerk

- 8. (1) The clerk shall, when appointed, take
 - (a) the oath of allegiance provided by the *Oaths of Office Act*; and

(b) the oath of office as provided in subsection (2) before the speaker.

(2) The oath of office of the clerk shall be as follows:

I, _____, swear [affirm] that I will well and truly serve Her Majesty the Queen in, and will diligently, faithfully and impartially discharge the duties of, the office of Clerk of the House of Assembly and I will make true entries, memoranda and journals of the things done and passed in the Assembly. I will faithfully manage and supervise the financial management and administration of the House of Assembly service (in the case where an oath is taken add "So help me God").

[2007 cH-10.1 s8](#)

Oath of clerk assistant

9. (1) The clerk assistant shall, when appointed, take

(a) the oath of allegiance provided by the *Oaths of Office Act*; and

(b) the oath of office as provided in subsection (2) before the speaker.

(2) The oath of office of the clerk assistant shall be as follows:

I, _____, swear [affirm] that I will diligently, faithfully and impartially discharge the duties of clerk assistant to the House of Assembly, to the best of my knowledge and ability (in the case where an oath is taken add "So help me God").

[2007 cH-10.1 s9](#)

Inability of clerk to act

10. Whenever the clerk is absent or unable to act, or the office of clerk is vacant,

(a) the clerk assistant shall perform the duties of the clerk as procedural advisor; and

(b) the chief financial officer shall perform the duties of the clerk as accounting officer.

[2007 cH-10.1 s10](#)

PART II PAYMENTS TO MEMBERS

Salaries, expenses, severance and pensions

11. (1) A member is entitled, effective July 1, 2007, to be paid an annual salary of \$92,580 payable in 26 equal installments, in arrears.

(2) A member is entitled, subject to those conditions and limitations that may be prescribed by rules of the commission, to be reimbursed or have payment made on his or her behalf for reasonable and legitimate expenses incurred by the member in carrying out his or her duties as a member.

(3) Upon ceasing to be a member, the member is entitled to

(a) a severance allowance, upon the conditions, in amounts and in accordance with the formula that may be determined by a directive of the commission; and

(b) a pension determined in accordance with the *Members of the House of Assembly Retiring Allowances Act*.

(4) Where prescribing the types and amounts of expenses to which a member may be entitled under subsection (2), the commission may, by rules,

(a) make distinctions between constituencies with respect to the amounts and manner of entitlement of members, taking into

account geographic, social and economic differences; and

(b) prescribe a maximum daily amount for meals and a basic amount per kilometre to be paid to a member in place of providing for reimbursement of actual expenses for food and vehicle travel.

[2007 cH-10.1 s11](#); [2008 c58 s4](#)

Other remuneration

12. (1) A member who also holds one of the following positions shall be paid an additional salary, effective July 1 2007 , as follows:

- (a) speaker, \$52,497;
- (b) deputy speaker and chair of committees, \$26,246;
- (c) deputy chair of committees, \$13,123;
- (d) leader of the opposition, \$52,497;
- (e) opposition house leader, \$26,246;
- (f) deputy opposition house leader, \$17,919;
- (g) leader of a third party, \$18,367;
- (h) party whip, \$13,123;
- (i) caucus chairperson, \$13,123;
- (j) chairperson, public accounts committee, \$13,123; and
- (k) vice chairperson, public accounts committee, \$10,032.

(2) The salaries referred to in subsection (1) shall be payable in 26 equal installments, in arrears.

(3) A member who sits on a committee of the House of Assembly, the commission or a committee of the commission may be paid, subject to the conditions and limitations prescribed by the commission, a daily amount of not more than \$200 for attendance at meetings plus reimbursement of reasonable expenses in relation to that attendance when the House is not in session.

(4) With the exception of the reimbursement of expenses, subsection (3) does not apply to a minister or the holder of a position referred to in subsection (1).

(5) Where a member who holds a position referred to in paragraph (1)(a), (b), or (c) is, due to illness or disability, absent and unable to carry out the duties of his or her position for a period of more than 10 consecutive sitting days of the House of Assembly,

(a) a member referred to in paragraph (1)(b) or (c) who carries out the duties of a member referred to in paragraph (1)(a) or (b);
or

(b) another member appointed to carry out the duties of a member referred to in paragraph (1)(c),

is , after the expiration of those 10 days, and until the return to duties of the absent member or the appointment of a new member to the absent member's position, entitled to a salary referred to in subsection (1) for the position he or she replaces, without affecting the salary of the absent member.

[2007 cH-10.1 s12](#); [2008 c26 s1](#); [2008 c58 s5](#)

Time at duties

13. (1) On a day when the House of Assembly is sitting, a member shall attend that sitting.

(2) A deduction shall be made from the salary payable to a member under subsection 11 (1) in the amount of \$200 for each day

on which the member is absent from a sitting of the House of Assembly for a reason other than one set out in subsection (3).

(3) Where a member is absent from a sitting of the House of Assembly because of

(a) the sickness of the member;

(a.1) adoption, pregnancy or parental leave as established by directive;

(b) a serious illness related to the member's family;

(c) bereavement;

(d) attendance at a meeting of a committee of the House of Assembly, the commission or a committee of the commission;

(e) attendance to duties as a member of a caucus or attendance to constituency business, where the member remains within the precincts of the House of Assembly as determined under section 19.2 of the *House of Assembly Act*;

(f) attendance to ministerial duties, where that member is a minister; or

(g) other circumstances that may be approved by the speaker,

a deduction shall not be made under subsection (2).

(3.1) Notwithstanding paragraph (3)(e), the speaker may, under paragraph (3)(g), approve the absence of a member to attend to constituency duties within his or her constituency where the speaker is of the opinion that the absence is necessary and in accordance with directives of the commission.

(4) Subsection (2) does not apply to the Premier, the leader of the official opposition and the leader of a third party.

(5) Before February 1 in a year, a member shall file with the clerk a declaration under oath or affirmation of his or her attendance while the House of Assembly was sitting in the previous year together with the dates of absences and an explanation for those absences.

(6) Where a member fails to file the declaration required by subsection (5) or files a declaration disclosing that a deduction is required under subsection (2), the clerk shall

(a) in the case of failure to file the declaration, withhold payment to the member of the member's salary; or

(b) in the case where a deduction is warranted, withhold from the member's salary or adjust payments to or claim a refund from the member with respect to the appropriate amount required to be deducted under subsection (2).

(7) When the House of Assembly is not sitting, a member shall devote his or her time primarily to the discharge of his or her duties and responsibilities as a member, while making allowance for

(a) reasonable personal and family commitments;

(b) the need for reasonable rest and vacation time;

(c) ministerial duties, if the member is appointed as a minister; and

(d) parliamentary secretary's or assistant's duties, if the member is appointed as a parliamentary secretary or an assistant.

(8) Nothing in this Act prevents a member who is not appointed as a minister from

(a) engaging in employment or the practice of a profession; or

(b) carrying on a business,

so long as the member, notwithstanding the activity, is able to fulfill, and is fulfilling his or her obligations as a member under subsections (1) and (7).

(9) Where the speaker becomes aware of circumstances that indicate that, by virtue of engaging in activity referred to in subsection (8) or for some other cause, a member may not be discharging his or her primary obligations under subsection (7), the speaker shall refer the matter to the appropriate committee of the House of Assembly for investigation and report.

Commencement and termination dates

14. (1) For the purpose of entitlement to the payments provided for in subsections 11 (1), (2) and (4), a person is a member from the date of his or her election until his or her seat is vacated or until the day immediately before the date of the next following election, whichever first occurs.

(2) Notwithstanding subsection (1), a member shall not claim reimbursement of expenses under subsection 11(2) from the date an election is called until the date of his or her reelection as a member.

Adjustments to salaries, expenses and severance

15. (1) An adjustment to salaries under subsections 11 (1) and 12 (1) shall not be made and an additional non-accountable allowance shall not be created or provided for except

(a) in response to a recommendation of a members' compensation review committee constituted under section 16 ; and

(b) by introduction of an amending Bill in the House of Assembly with votes on first, second and third readings being taken on separate days.

(2) Notwithstanding subsection (1), the salary of a member under subsection 11 (1) and the salaries for the positions referred to in subsection 12 (1) shall be adjusted annually on July 1 by a percentage equivalent to the annual increase given in the previous year in the executive pay plan of the government until the next members' compensation review committee appointed under section 16 reports, and amendments are made under subsection (1) in response to the recommendations of that committee.

(3) Subsection (2) shall cease to have effect following the submission of the next members' compensation review committee, and the appropriateness and manner of providing for periodic increases in a member's salary during the period between the appointments of subsequent committees shall be dealt with by those committees.

(4) The commission may only exercise its power to prescribe reimbursement or payment of expenses under subsection 11 (2) or compensation or reimbursement or payment of expenses under subsection 12 (3) by making rules.

(5) Where the commission proposes to amend or add to the levels of or provisions respecting reimbursement or payment of expenses of members, it shall follow the following procedure:

(a) a draft containing the amendment shall be prepared and tabled at a meeting of the commission;

(b) notice of the tabling of the draft rule shall be given by the speaker to and read at the House of Assembly if it is in session, or given to every member if it is not in session, and in any case shall be posted on the website maintained by the House of Assembly; and

(c) the draft rule shall not be voted on except at a subsequent meeting of the commission.

Inquiry re: salaries

16. (1) Beginning with the Forty-Sixth General Assembly, the House of Assembly shall, at least once during each General Assembly, by resolution appoint, upon those terms and conditions that are set out in the resolution, an independent committee, to be called a members' compensation review committee, of not more than 3 persons, none of whom shall be a member, to conduct an inquiry and prepare a report respecting the salaries, allowances, severance payments and pensions to be paid to members.

(2) Before the appointments are made under subsection (1), the speaker shall consult with the government house leader, the opposition house leader and the leader of a third party having one or more members in the House and report the results of those consultations to the House.

(3) The persons appointed under subsection (1) shall have and may exercise all the powers, privileges and immunities of persons appointed as commissioners under the *Public Inquiries Act, 2006* .

(4) The persons appointed under subsection (1) shall complete their inquiry and deliver their report containing recommendations to the speaker within 120 days of the committee's appointment.

(5) The speaker, upon receipt of the report containing the recommendations of the members' compensation review committee, shall refer the recommendations to the commission as soon as possible and the commission, after consideration of the recommendations, shall

accept or modify them and

(a) submit the recommendations, as accepted or modified, relating to salaries and non-taxable allowances and other matters that may be necessary to be implemented by legislation, to the Minister of Finance or Justice, or other appropriate minister, for the preparation of a Bill to amend this Act or another Act accordingly; and

(b) place the remaining recommendations, as accepted or modified, on the agenda of a subsequent meeting of the commission, for the adoption of appropriate rules implementing those recommendations.

(6) A modification of the recommendations of a members' compensation review committee which may be made by the commission with respect to salaries, non-taxable allowances or other amounts for which a member may be entitled to claim reimbursement or payment on his or her behalf for reasonable and legitimate expenses, shall not exceed the maximums recommended by the committee in that regard.

(7) A members' compensation review committee shall make itself available for consultation with the commission for 6 months after delivering its report to the speaker.

[2007 cH-10.1 s16](#)

Payment from CRF

17. All salaries, allowances and expenses payable under this Act shall be paid out of the Consolidated Revenue Fund.

[2007 cH-10.1 s17](#)

PART III HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

House of Assembly Management Commission

18. (1) The Commission of Internal Economy of the House of Assembly established under the *Internal Economy Commission Act* is continued under the name of the House of Assembly Management Commission.

(2) The speaker, or in his or her absence, the deputy speaker, shall preside over the commission and when presiding, shall vote in the case of a tie .

(3) The commission shall consist of

(a) the speaker, or, in his or her absence, the deputy speaker, who shall be the chairperson;

(b) the clerk, who shall be the secretary and shall not vote;

(c) the government house leader;

(d) the official opposition house leader;

(e) 2 members who are members of the government caucus, only one of whom may be a member of the Executive Council;

(f) one member who is a member of the official opposition caucus; and

(g) one member, if any, from a third party that is a registered political party and has at least one member elected to the House of Assembly.

(4) Where there is no third party, the member chosen for the purposes of paragraph (3)(g) shall be an additional member from the official opposition caucus.

(5) A member of the commission shall not also serve concurrently as a member of the Public Accounts Committee of the House of Assembly.

(5.1) Notwithstanding subsection (5), where the number of members sitting in the House of Assembly in opposition to the government is insufficient to allow the appointment of 3 of those members to the Public Accounts Committee and still comply with that subsection, a member of the commission may serve concurrently as a member of the commission and a member of the Public Accounts Committee of the House of Assembly.

(6) The deputy speaker, when not acting in the place of the speaker, may nevertheless attend meetings of the commission in a

non-voting capacity.

(7) Members referred to in paragraphs (3)(e) to (g) and subsection (4) shall be chosen by their respective caucuses except that the member of the Executive Council referred to in paragraph (e) shall be appointed by the Lieutenant-Governor in Council.

(8) A quorum of the commission shall be 50% of its members, but

- (a) one member representing the government;
- (b) one member representing a party in opposition to the government; and
- (c) the speaker or the deputy speaker

shall be present during a meeting of the commission.

(9) In the second week of every session of the House of Assembly and as the need arises, the speaker shall inform the House of Assembly of the appointments made to the commission.

(10) In the absence of the clerk, the clerk assistant shall be the secretary to the commission.

(11) Upon the dissolution of the House of Assembly, the commission members shall, until the members of the commission are replaced, be considered to remain in office as commission members as if there had been no dissolution.

[2007 cH-10.1 s18](#); [2008 c26 s2](#); [2008 c58 s8](#)

Proceedings of the commission

19. (1) All proceedings of the commission excepting

- (a) personnel matters relating to officers and employees of the House of Assembly, political staff as defined in paragraph 2(1)(e) of the *Conflict of Interest Act, 1995* and statutory offices;
- (b) legal matters, including actual or potential litigation;
- (c) matters protected by privacy and data protection laws; and
- (d) budget deliberations involving the preparation of the annual estimates of expenditure of the House of Assembly and the statutory offices

shall be open to the public.

(2) Where a matter referred to in subsection (1) is raised, the speaker shall clear the public from the place of the meeting and the commission shall proceed to discuss the matter in private.

(3) The commission shall adopt rules with respect to the circulation and preparation of agendas and briefing material to members of the commission and for the orderly conduct of business of the commission.

(4) The substance of all decisions of the commission, including the decisions made following debate on matters in private referred to in subsection (1) shall be recorded and shall form a part of the public record.

(5) A copy of the minutes containing the substance of all decisions of the commission made at each meeting shall, following approval by the commission at its next meeting, be

- (a) tabled in the House of Assembly by the speaker no later than 5 days after that approval if the House of Assembly is sitting or, if it is not sitting, then not later than 5 days after it next sits;
- (b) provided by the clerk to each member within 15 days of their approval by the commission; and
- (c) placed by the clerk on a website maintained for the House of Assembly for inspection by the public.

(6) All public meetings of the commission may be electronically accessed by the media in accordance with the methods and equipment existing in the House of Assembly.

(7) Recordings of the proceedings of the commission shall be made and transcribed by the Hansard office and the broadcast

centre of the House of Assembly, in the same manner as are proceedings of the House of Assembly .

[2007 cH-10.1 s19](#)

Duties and responsibilities of commission

20. (1) The commission is responsible for the financial stewardship of all public money, within the meaning of the *Financial Administration Act*, that may be voted by the House of Assembly for the use and operation of the House of Assembly and statutory offices, and for all matters of financial and administrative policy affecting the House of Assembly, its members, offices and staff and in connection with them and, in particular, the commission shall

- (a) oversee the finances of the House of Assembly including its budget, revenues, expenses, assets and liabilities;
- (b) review and approve the administrative, financial and human resource and management policies of the House of Assembly service and statutory offices;
- (c) implement and periodically review and update financial and management policies applicable to the House of Assembly service and statutory offices;
- (d) give directions with respect to matters that the commission considers necessary for the efficient and effective operation of the House of Assembly service and statutory offices;
- (e) make and keep current rules respecting the proper administration of allowances for members and reimbursement and payment of their expenditures in implementation of subsection 11 (2) of this Act;
- (f) annually report, in writing, to the House of Assembly, through the speaker, with respect to its decisions and activities in accordance with section 51 ; and
- (g) exercise other powers given to the commission and to perform other duties imposed on the commission under this or another Act.

(2) The commission may at any time report to the House of Assembly on matters referred to in this section or in another Act relating to the House of Assembly.

(3) Notwithstanding paragraph (1)(c), where a financial or management policy has not been established by the commission for the House of Assembly and statutory offices, the financial and management policies of the government shall apply.

(4) The commission may, by directive, delegate a power or duty to the speaker or the clerk and, where that delegation is made,

- (a) the commission shall establish outcome measurements and accountability recording of measurements that enable that proper oversight and recording be maintained;
 - (b) the exercise of that power or the performance of that duty shall be considered to have been carried out by the commission;
- and
- (c) the commission shall remain accountable for decisions as if it had made them.

(5) In carrying out its duties under subsection (1), the commission shall

- (a) regularly, and at least quarterly, review the financial performance of the House of Assembly as well as the actual expenditures of members compared with approved allocations;
- (b) ensure that an annual financial audit is completed of the accounts of the House of Assembly and the statutory offices in accordance with section 43 before September 1 immediately following the fiscal year to which that audit relates ;
- (c) ensure that a compliance audit is completed of the accounts of the House of Assembly and the statutory offices in accordance with section 43 at least once every General Assembly and reported on before September 1 immediately following the last fiscal year to which that audit relates;
- (d) ensure that full and plain disclosure of the accounts and operations of the House of Assembly and statutory offices is made to the auditor appointed under section 43 ;
- (e) consider and address on a timely basis recommendations of the auditor appointed under section 43 ; and
- (f) report, in writing, annually to the House of Assembly, or a committee established by it, the results of an audit and the steps

taken or to be taken to address matters of concern raised by an audit.

- (6) In carrying out its duties, the commission may
 - (a) make rules of general application respecting
 - (i) the amounts which members may claim for reimbursement or payment for reasonable and legitimate expenses under subsection 11 (4) and the manner in which those allowances shall be calculated, claimed, substantiated and paid,
 - (ii) the engagement by a member and the amount and method of payment and other terms of engagement of constituency assistants and the reimbursement of reasonable expenses incurred by those assistants in carrying out their duties,
 - (iii) subject to the requirements of the *Financial Administration Act* , the form of documentation required to make a claim under this Act,
 - (iv) the financial accountability of members,
 - (v) the duties and responsibilities of the clerk with respect to the financial administration of the House of Assembly and the statutory offices, and
 - (vi) those other matters that may be necessary to give effect to the purpose of this Act;
 - (b) issue directives
 - (i) interpreting, clarifying or amplifying the rules,
 - (ii) establishing policies for the guidance of members, the clerk and staff of the House of Assembly service and statutory offices,
 - (iii) in accordance with this Act and rules calling for the issuing of directives, and
 - (iv) altering, on appeal, rulings of the speaker as to the application of the rules to particular cases where advance rulings have been sought under section 24 ; and
 - (c) make decisions
 - (i) on individual cases or appeals brought to the commission for decision, and
 - (ii) on all other matters that call for action or decision of the commission in relation to the House of Assembly.
- (7) A change shall not be made to the level of amounts of allowances and resources provided to members except in accordance with a rule and, notwithstanding section 64 , that rule shall not be effective unless first laid before the House of Assembly and a resolution adopting it has been passed.
- (8) A directive issued or decision made by the commission
 - (a) is effective on the date specified in that directive or decision; and
 - (b) shall not be issued or made if it is inconsistent with this Act or the rules.

[2007 cH-10.1 s20; 2008 c58 s9](#)

Individual duties of commission members

- 21. (1) A member of the commission, in exercising his or her powers and discharging his or her duties, shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- (2) A member of the commission shall not be considered to be in breach of the duty in subsection (1) if he or she acts prudently and on a reasonably informed basis.
- (3) A member of the commission shall act honestly and in good faith on the basis of adequate information in arriving at decisions of the commission, and shall

- (a) attend meetings of the commission unless unable to do so for good reason;
- (b) spend sufficient time on the affairs of the commission to comply with his or her duties and responsibilities; and
- (c) consider and advocate policies that promote compliance with this Act and rules.

[2007 cH-10.1 s21](#)

Orientation and training

22. (1) The speaker, assisted by the clerk, shall develop and offer appropriate orientation and training programs for
- (a) members;
 - (b) members of the commission; and
 - (c) officers and staff of the House of Assembly service and statutory offices,

to assist them in understanding their respective duties and responsibilities and, in particular, in applying and complying with rules and directives of the commission relating to claims for allowances and expenses and policies and procedures respecting financial management.

- (2) Within 30 days of a member's election for the first time to the House of Assembly, the speaker shall ensure that an appropriate orientation program is given to the member respecting
- (a) the types of services offered to members by the House of Assembly service and how those services may be accessed;
 - (b) the proper procedures to be followed in making claims for reimbursement or payment for proper expenses incurred by the member in carrying out his or her duties;
 - (c) recommendations for proper systems to be employed in operating a constituency office and employing a constituency assistant; and
 - (d) other matters that the speaker considers appropriate to assist the member in carrying out his or her duties.
- (3) Within 30 days of a member's election for the first time to the House of Assembly, the speaker shall ensure the delivery of the following to the member:
- (a) this Act;
 - (b) the rules;
 - (c) directives of the commission pertaining to members;
 - (d) written policies of the House of Assembly service that may affect the member;
 - (e) the code of conduct for members and for officers and staff of the House of Assembly service; and
 - (f) the manual.

[2007 cH-10.1 s22](#)

Audit committee

23. (1) There is established a committee of the commission, to be known as the audit committee.
- (2) The audit committee shall consist of
- (a) 2 members of the commission chosen by the commission, at least one of whom shall not be a member of the government party; and
 - (b) 2 persons, chosen by the Chief Justice of the province, who are not members but who are resident in the province, and have demonstrated knowledge and experience in financial matters and are suitable to represent the public interest.

- (3) The commission shall designate the chair of the audit committee from among the members of the committee.
- (4) A person appointed under paragraph (2)(b) shall serve for a term of not more than 4 years but may be reappointed for one additional term of not more than 4 years.
- (5) The clerk assistant shall act as secretary of the audit committee.
- (6) The commission shall fix and direct the level of compensation and reimbursement of expenses to be paid to persons appointed under paragraph (2)(b).
- (7) The audit committee shall
 - (a) provide assistance to the commission in fulfilling its oversight responsibility to the House of Assembly and the public with respect to stewardship of public money;
 - (b) make recommendations to the commission respecting the choice of and terms of engagement and compensation of the auditor appointed under section 43 ;
 - (c) review the audit plans of the auditor appointed under section 43 , including the general approach, scope and areas subject to risk of material misstatement;
 - (d) review the financial statements, audit report and recommendations of the auditor and give advice about them to the commission, including, where the committee considers it appropriate, recommending that the commission approve and sign the financial statements;
 - (e) review the compliance report issued and recommendations, if any, provided by the auditor general as a result of a compliance audit conducted under subsection 43 (9) and give advice on that report and those recommendations to the commission;
 - (f) review internal audit reports and make recommendations to the commission as required in respect of matters arising from those reports and generally make recommendations with respect to internal audit procedures of the House of Assembly and statutory offices;
 - (g) review with the clerk the effectiveness of internal control and other financial matters, as well as compliance with legal requirements respecting accountability, record-keeping, tendering and conflict of interest in the House of Assembly service and the statutory offices;
 - (h) review the code of conduct applicable to the clerk and staff of the House of Assembly service and statutory offices, and make recommendations for improvements to the commission;
 - (i) establish procedures for the receipt and treatment of complaints regarding accounting and internal controls, and the confidential submission by staff of the House of Assembly service and the statutory offices and by members of the public service of concerns regarding questionable accounting or auditing matters;
 - (j) use reasonable efforts to satisfy themselves as to the integrity of the House of Assembly and statutory office's financial information systems and the competence of accounting personnel and senior financial management responsible for accounting and financial reporting;
 - (k) review disclosure practices of the commission to ensure full, plain and timely disclosure of its decisions respecting financial matters;
 - (l) advise the clerk with respect to the exercise of his or her responsibilities as accounting officer; and
 - (m) act on , advise and report on other matters relating to the financial affairs of the House of Assembly and statutory offices as may be required by the commission.
- (8) The audit committee shall
 - (a) meet at least 4 times a year or more often as required;
 - (b) meet separately and periodically with the clerk, the personnel responsible for the internal audit function and the auditor appointed under section 43 ; and
 - (c) report regularly to the commission with respect to its activities.
- (9) The substance of the reports, advice and recommendations made by the audit committee to the commission shall be tabled at meetings of the commission and recorded in the minutes.
- (10) Where there is disagreement among members of the audit committee as to the report, advice or recommendations to be

made to the commission on a matter, and the 2 members of the committee appointed under paragraph (2)(b) are in disagreement with the other members of the committee or disagree with each other on that matter, that fact shall be recorded in the report, advice or recommendations and in the minutes of the commission.

[2007 cH-10.1 s23; 2008 c58 s10](#)

Advance rulings on allowance use

24. (1) Where a member incurs an expense and a claim for reimbursement or payment has been rejected by an officer or staff member of the House of Assembly service, or the member is unsure as to whether an expense, if incurred, will qualify for reimbursement or payment, he or she may request a ruling from the speaker.

(2) Upon receipt of a request in writing for a ruling under subsection (1), the speaker shall, as soon as reasonably possible, review the matter and, after giving the member an opportunity to make a submission, provide a ruling in writing to the member as to whether the expenditure complies with or would comply with this Act, the rules and directives of the commission.

(3) Before making a ruling the speaker may request further information or clarification from the member as to the nature and purpose of the expenditure in question.

(4) Where the speaker rules that the expenditure complies with, or the proposed expenditure will comply with, this Act, the rules and directives of the commission, the speaker shall

- (a) inform the member of the ruling; and
- (b) provide a copy of the ruling to the commission.

(5) Where the speaker rules that the expenditure complies with or would comply with the Act, the rules and directives of the commission, and the commission does not reject or vary the speaker's ruling in accordance with subsection (7), the ruling is binding and the member may claim reimbursement or payment.

(6) Where the commission takes issue with the speaker's ruling, the member shall be notified by the commission and given the opportunity to make a submission to the commission outlining why the expenditure complies with the Act and the rules and directives of the commission.

(7) The commission may, within 30 days of receipt of the speaker's ruling reverse that ruling and substitute another or approve that ruling, and the decision of the commission is final.

(8) Where the ruling of the speaker is that the expenditure does not comply with the rules and directives of the commission, the member may appeal that ruling to the commission and, after giving the member an opportunity to make a submission in writing in support of the appeal, the commission may decide to reverse, uphold or modify the ruling of the speaker, and the decision of the commission is final.

(9) Notwithstanding that an expense claim has been denied by an officer, staff member or the speaker, in accordance with the rules, where there is an appeal to the commission under this section and the commission determines that that claimed expense amount

- (a) has been incurred by the member; and
- (b) is a permitted expense under the Act and rules; and
- (c) does not exceed an expense amount or allowance allocation permitted under the rules,

and a denial of payment of the expense amount would, in the opinion of the commission, be unjust, the commission may approve the expenditure for the claimed expense to the extent that the commission considers to be just and the decision of the commission is final.

[2007 cH-10.1 s24; 2008 c58 s11](#)

PART IV HOUSE OF ASSEMBLY OPERATIONS

House of Assembly service

25. (1) The House of Assembly service consists of operations established, whether by law or otherwise, for the purpose of supporting the functioning of the House of Assembly, its committees and members, and includes

- (a) the speaker;

- (b) the office of the clerk and other officers of the House of Assembly;
- (c) the law clerk;
- (d) the financial and administrative services;
- (e) the legislative library;
- (f) the office of Hansard;
- (g) the broadcast centre; and
- (h) other divisions that may be assigned by law or designated and provided for by the commission.

(2) For the purpose of this Act, the House of Assembly service does not include a statutory office, the office of the auditor general, or staff employed for political purposes to assist a member or a caucus.

(3) The law clerk appointed under section 7 shall provide legal services to the House of Assembly service, including but not limited to

- (a) advice to the clerk and speaker on parliamentary matters; and
- (b) general legal advice and services.

[2007 cH-10.1 s25](#)

Estimates

26. (1) An estimate of the amounts required to be provided by the House of Assembly for the payment of expenses of the House of Assembly, including salaries, allowances and expenses of members, during each fiscal year shall be prepared annually by the clerk.

(2) Estimates of the amounts required to be provided by the House of Assembly for the operation of each statutory office shall be prepared annually by the officer responsible for the statutory office.

(3) The estimates prepared by the clerk and the officer responsible for each statutory office shall be submitted to the commission for its approval and may be altered by the commission.

(4) Before the commission makes a decision on the estimate of the statutory offices submitted under subsection (2), the commission shall request the clerk to provide analysis and commentary to the commission on each of those estimate requests.

(5) Before the commission makes a decision on an estimate submitted under this section, it may submit the estimate to the budget division of the Department of Finance for analysis and commentary.

(6) The estimates as approved or altered by the commission shall be submitted to the Minister of Finance and laid before the House of Assembly with the other estimates for the year.

[2007 cH-10.1 s26](#)

Payment

27. All amounts of money voted by the Legislature with respect to the estimates submitted under section 26 shall, subject to the *Financial Administration Act*, be paid out of the Consolidated Revenue Fund on the order of the commission to defray the expenses of the House of Assembly, statutory offices and the office of the auditor general.

[2007 cH-10.1 s27](#)

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Clerk

28. (1) The clerk is the chief officer of the House of Assembly with the status equivalent to a deputy minister in the public service and in that capacity the clerk is

- (a) the chief parliamentary advisor to the speaker; and
 - (b) the chief administrative and financial officer of the House of Assembly responsible to the speaker and through the speaker to the commission for the management of the operations of the House of Assembly service and the administration of the statutory offices.
- (2) In his or her capacity as chief parliamentary advisor, the clerk is responsible for
- (a) advising the speaker, deputy speaker, committee chairpersons and members on procedural matters concerning the rules, privileges and proceedings of the House of Assembly;
 - (b) directing and coordinating the provision of procedural services by the clerk assistant, sergeant-at-arms and other officers of the House of Assembly;
 - (c) coordinating all official parliamentary ceremonies and other events involving the House of Assembly;
 - (d) custody of and safe-keeping of the records of the House of Assembly and all bills, petitions and documents presented to or laid on the table of the House, and shall produce them when required by the speaker or by his or her order on motion of a member;
 - (e) recording and carrying out all recorded votes of the House of Assembly; and
 - (f) ensuring and controlling public access to the proceedings of the House of Assembly through the production and distribution of Hansard and the facilitation of electronic access to proceedings by the media.
- (3) In his or her capacity as chief administrative and financial officer, the clerk is responsible for
- (a) the provision of administrative, financial and other support services to the House of Assembly, its members, and statutory offices;
 - (b) direction and supervision of the clerks, officers and staff employed in the House of Assembly service and for the establishment of general administrative policies of the statutory offices;
 - (c) acting as secretary of the commission and has custody of all records and minutes of the commission;
 - (d) ensuring that disclosure, as required by law, of the proceedings of the commission and the financial matters pertaining to members and the House of Assembly service is provided for;
 - (e) the preparation of the estimates of the House of Assembly as required by section 26 and analysis and commentary, to the commission, on the budget submissions of the statutory offices and the office of the auditor general;
 - (f) administration of all services and payments to members;
 - (g) the orderly safekeeping of the records of the House of Assembly service;
 - (h) authorizing and recording all financial commitments entered into on behalf of the House of Assembly and statutory offices;
 - (i) reporting regularly to the commission and informing the secretary of the Treasury Board regarding the financial and budgetary performance of the House of Assembly and statutory offices;
 - (j) reporting to the commission and the audit committee on the status of audits of the House of Assembly and the statutory offices and, specifically, reporting if in his or her opinion the audit is not being conducted on a timely basis;
 - (k) maintaining and periodically assessing the effectiveness of internal controls in the House of Assembly and statutory offices and reporting on that assessment and effectiveness to the commission; and
 - (l) certifying to the commission as required that the House of Assembly and statutory offices have in place appropriate systems of internal control and that those systems are operating effectively.
- (4) Paragraph (3)(1) shall not come into force until August 31, 2008 .

[2007 cH-10.1 s28](#)

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Financial administration of allowances and expenses

29. (1) The clerk shall ensure that

(a) all allowances allocated to a member are allocated directly to a separate account for that member, which shall be maintained by the financial officer designated by the clerk;

(b) all expenses of a member are charged to and paid out of the member's account as a debit from funds allocated under paragraph (a); and

(c) expenses reimbursed to or paid on behalf of a member do not exceed prescribed maximums and otherwise comply with limitations on their payment.

(2) The clerk shall ensure that quarterly or more frequently, as he or she considers necessary or as may be directed by the commission, statements of the status of a member's account are provided to the member and the commission.

(3) The clerk shall annually certify in the report required under section 51 that

(a) he or she has reviewed the accounts of members and that they are an accurate reflection of the transactions related to those accounts for the previous fiscal year; and

(b) the minutes of the proceedings of the commission are an accurate reflection of the decisions made at those proceedings.

[2007 cH-10.1 s29](#)

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General duties of clerk

30. The general duties of the clerk of the House of Assembly, where no special provision is made, shall be similar to those of the clerk of the House of Commons of the Parliament of the United Kingdom according to the practice of Parliament, or that may be provided by resolution of the House of Assembly.

[2007 cH-10.1 s30](#)

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Clerk to account to Public Accounts Committee

31. (1) The clerk, as an accounting officer, shall be directly accountable before the Public Accounts Committee of the House of Assembly for the authorities and responsibilities assigned by law or delegated to him or her by the commission, including for the

(a) measures taken to organize the resources of the House of Assembly service to deliver the programs in compliance with established policies and procedures;

(b) measures taken to implement appropriate financial management policies;

(c) measures taken to maintain effective systems of internal control;

(d) certifications that are made under section 29 ; and

(e) performance of other specific duties assigned to him or her by or under this or another Act in relation to the administration of the House of Assembly service and the statutory offices.

(2) The clerk shall appear before the Public Accounts Committee and answer questions put to him or her by members of the committee in respect of the carrying out of the responsibilities and the performance of the duties referred to in subsection (1).

(3) Except where section 24 applies, where the speaker or the commission are unable to agree with the clerk on the interpretation or application of a rule, directive, policy or standard applicable to a member, the House of Assembly service or the statutory offices, the clerk shall seek guidance in writing on the matter from the comptroller general or the Deputy Attorney General.

(4) Where guidance is provided under subsection (3) but the matter remains unresolved, and the speaker or commission, in writing, requests action by the clerk in accordance with their direction, the clerk shall comply with the direction but shall immediately notify the auditor general, the comptroller general and the Attorney General of the direction and his or her disagreement with that direction.

(5) A punishment or retaliation shall not be taken against the clerk for actions taken by him or her in good faith under this

section.

[2007 cH-10.1 s31](#)

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Subordinate offices

32. (1) The commission may appoint those employees, other than those appointed under section 7 , that it considers necessary for the conduct of the business of the House of Assembly service.

- (2) The commission may, in accordance with
 - (a) subsection 10(1) of the *Citizens' Representative Act*;
 - (b) subsection 11(1) of the *Child and Youth Advocate Act*;
 - (c) subsection 42.7(1) of the *Access to Information and Protection of Privacy Act* ;
 - (d) subsection 34(6) of the *House of Assembly Act* ; and
 - (e) subsection 7(1) of the *Elections Act, 1991*,

approve the proposed appointments of officers, clerks, assistants and employees of the statutory offices.

(3) Personnel and administrative policies respecting the public service, including policies with respect to the reimbursement of expenses, apply to persons employed in the House of Assembly service, except where varied by a directive of the commission.

(4) Policies relating to deputy ministers, including policies with respect to the reimbursement of expenses, apply to the clerk and persons appointed to preside over a statutory office, except where varied by a directive of the commission.

(5) The employee benefits applicable to the public service of the province apply to persons employed in the House of Assembly service, except where varied by a directive of the commission.

(6) The *Public Service Commission Act* , except for section 11 with respect to appointments, applies to the House of Assembly and the statutory offices, except where varied by a directive of the commission.

(7) The commission may, with the approval of the applicable minister or agency head, second employees from a department of government or agency to work on a temporary basis in the House of Assembly service and while working, those persons shall report to and be answerable to the clerk or other person who may be designated by the clerk and, upon return of those persons to work in a government or agency, service while employed in the House of Assembly service shall be counted as service in the public service.

[2007 cH-10.1 s32; 2008 c58 s12](#)

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Reporting of proceedings

33. The commission may make arrangements for the reporting and publishing of the proceedings of the House of Assembly.

[2007 cH-10.1 s33](#)

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Suspension of employees

34. (1) The speaker may inquire into the conduct or fitness of a person employed by the House of Assembly upon a complaint made to the speaker of misconduct or unfitness of that person.

(2) Where it appears to the speaker following an inquiry under subsection (1) that an employee has been guilty of misconduct or is unfit to continue his or her employment, the speaker may suspend the employee and shall report the suspension

(a) to the Lieutenant-Governor in Council in the case of a person appointed by the Crown; or

(b) to the commission where the person has not been appointed by the Crown.

[2007 cH-10.1 s34](#)

PART V
ETHICS AND ACCOUNTABILITY

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Codes of conduct

35. (1) The speaker shall, immediately after the coming into force of this Act, refer to the standing committee of the House of Assembly on Privileges and Elections the responsibility of developing and proposing to the House of Assembly the adoption, by resolution, of a code of conduct for members to assist members in the discharge of their obligations to the House of Assembly, their constituents and the public at large that

(a) provides guidance on the standards of conduct expected of members in discharging their legislative and public duties; and

(b) provides the openness and accountability necessary to reinforce public confidence in the manner in which members perform those duties.

(2) The code of conduct adopted under subsection (1) shall be

(a) treated as a standard against which the actions of a member may be judged for the purpose of censure by the House of Assembly and by the public; and

(b) in addition to other standards of duty and responsibility imposed on members by this Act and any other law.

(3) The commission shall, within 90 days of the coming into force of this Act, develop and adopt a code of conduct applicable to the officers and other persons employed in the House of Assembly service and in the statutory offices.

[2007 cH-10.1 s35; 2008 c58 s13](#)

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Request for opinion

36. (1) A member who has reasonable grounds to believe that another member is in contravention of the code of conduct adopted under subsection 35 (1) may, by application in writing setting out the grounds for the belief and the nature of the alleged contravention, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of the code of conduct.

(2) The commissioner, on his or her own initiative, may conduct an inquiry to determine whether a member has failed to fulfil an obligation under the code of conduct where in the opinion of the commissioner it is in the public interest to do so.

(3) The House of Assembly may, by resolution, request that the commissioner give an opinion on a matter respecting the compliance of a member with the code of conduct.

(4) The Premier may request that the commissioner give an opinion on a matter respecting the compliance of a member with the code of conduct.

(5) Where a matter has been referred to the commissioner under subsection (1) or (3), the House of Assembly or a committee of the House of Assembly shall not conduct an inquiry into the matter until the commissioner has completed his or her work.

[2007 cH-10.1 s36](#)

Inquiry

37. (1) Upon receiving a request under subsection 36 (1), (3) or (4), or where the commissioner decides to conduct an inquiry under subsection 36 (2), and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

(2) Where the commissioner conducts an inquiry under subsection (1), he or she shall give the member to whom the inquiry relates a copy of the request and at all appropriate stages throughout the inquiry the commissioner shall give the member reasonable opportunity to

be present and to make representations to the commissioner in writing or in person or by counsel or other representative.

(3) Where the commissioner conducts an inquiry under subsection (1), he or she has all the powers of a commissioner under the *Public Inquiries Act, 2006*.

(4) Where the commissioner determines that the subject-matter of an inquiry conducted by him or her is under investigation by police or is the subject-matter of criminal proceedings, the commissioner shall hold the inquiry in abeyance pending final disposition of that investigation or those proceedings if, in his or her opinion, the continuation of the inquiry would inappropriately interfere with the investigation or proceeding.

(5) Where during the course of an inquiry the commissioner determines that there are reasonable grounds to believe that an offence contrary to an Act of the province or the Parliament of Canada has been committed, the commissioner shall immediately refer the matter to the appropriate authorities and hold the inquiry in abeyance pending final disposition of a resulting investigation and proceedings.

[2007 cH-10.1 s37; 2008 c58 s14](#)

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Report

38. (1) Where a request for an opinion is made under subsection 36 (1) or (3), or where the commissioner conducts an inquiry under subsection 36 (2), he or she shall report his or her opinion to the commission which shall present the report to the House of Assembly within 15 sitting days of receiving it if it is in session or, if not, within 15 sitting days of the beginning of the next session.

(2) Where the request for an opinion is made under subsection 36 (4), the commissioner shall report his or her opinion to the Premier and the member concerned.

(3) In all cases, the commissioner shall report the results of an inquiry to the member concerned.

(4) The commissioner shall report the results of an inquiry as soon as possible, and in any event no later than 90 days after beginning the inquiry.

[2007 cH-10.1 s38](#)

Penalties

39. Where the commissioner determines that a member has failed to fulfil an obligation under the code of conduct, he or she may recommend in the report under section 38

- (a) that the member be reprimanded;
- (b) that the member make restitution or pay compensation;
- (c) that the member be suspended from the House of Assembly, with or without pay, for a period specified in the report; or
- (d) that the member's seat be declared vacant.

[2007 cH-10.1 s39](#)

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Concurrence of House of Assembly

40. (1) A recommendation in a report of the commissioner shall not take effect unless the report is sent to the commission under subsection 38 (1) and concurred in by resolution of the House of Assembly.

(2) A report tabled in the House of Assembly under subsection 38 (1) shall be taken up and disposed of within 15 sitting days after the day on which it was tabled or within a longer period, not to exceed 6 months, that the House of Assembly may determine.

[2007 cH-10.1 s40](#)

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Suit for compensation allowed

41. (1) Where a report to the House of Assembly under section 38 is adopted and the report recommends the payment of compensation or restitution, the House of Assembly may, in an Act passed for the purpose, order the payment of compensation or restitution.

(2) Compensation ordered to be paid under subsection (1) is a debt due to the person identified in the report as having suffered damage and may be recovered from the member to whom the report relates by that person in a court.

[2007 cH-10.1 s41](#)

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Examination of member

42. (1) Where, after considering a matter under section 37, the commissioner concludes that, having regard to all the circumstances, there was no failure without reasonable justification in the member's fulfilment of an obligation under the code of conduct, then he or she, without providing further information, shall certify to the member in writing and shall give a copy of the certificate to the commission where the inquiry was conducted as a result of a request under subsection 36 (1) or (3) or by the commissioner under subsection 36 (2).

(2) Where the commissioner gives a copy of a certificate to a member under this section, he or she shall, on the request of the member, provide the member with the information and explanations in support of the conclusion referred to in subsection (1) that the commissioner considers appropriate in the circumstances, and the member may publish or otherwise deal with information and explanations so provided as the member sees fit.

[2007 cH-10.1 s42](#)

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Audit

43. (1) Notwithstanding another Act, the accounts of the House of Assembly and statutory offices shall be audited annually by an auditor appointed by the commission under subsection (2).

(2) The commission shall, before the end of each fiscal year, upon the recommendation of the audit committee, appoint an auditor.

(3) The auditor general may act as the auditor appointed under subsection (1) but in that event the audit to be performed shall be of the House of Assembly and statutory offices as a separate body and not as part of the general audit of the accounts of the province with appropriate levels of materiality applied to that entity.

(4) Where the commission does not appoint an auditor as required by subsection (2), the speaker shall report the fact to the House of Assembly.

(5) Where the commission has not appointed an auditor under subsection (2) by the end of the fiscal year, the auditor general shall be the auditor.

(6) The audit provided for in subsection (1) shall consist of

(a) a financial statement audit conducted in accordance with generally accepted auditing standards as determined by the Canadian Institute of Chartered Accountants, expressing an opinion on whether the accounts of the House of Assembly and statutory offices are fairly presented in accordance with accounting policies noted;

(b) the expression of an opinion on whether the expenses incurred by the House of Assembly and statutory offices are in accordance with the policies of the commission and, where applicable, the policies of the executive branch of government; and

(c) the expression of an opinion on whether the clerk's assessment of the effectiveness of internal controls of the House of Assembly and statutory offices is fairly stated and whether the internal controls are operating effectively.

(7) Nothing in this Act precludes the auditor general, after consultation with the audit committee, from conducting at any time and on his or her own motion a separate financial audit of the accounts of the House of Assembly and the statutory offices under the authority conferred on the auditor general by the *Auditor General Act*.

(8) Where a financial audit conducted under this section is conducted by an auditor other than the auditor general, that auditor

shall

(a) deliver to the auditor general after completion of the audit a copy of the auditor's report, his or her recommendations and a copy of the audited financial statements; and

(b) provide to the auditor general as soon as reasonably practicable when so requested, a full explanation of the work performed, tests and examinations made and the results obtained, and other information relating to the audit within the knowledge of the auditor.

(9) In addition to the financial audit required by this section, the auditor general shall perform and complete a compliance audit at least once during every General Assembly to determine and express an opinion on whether

(a) collections of public money

(i) have been effected as required under law and directives and decisions of the commission,

(ii) have been fully accounted for, and

(iii) have been properly reflected in the accounts of the province;

(b) disbursements of public money

(i) have been made in accordance with the authority of a supply vote, or relevant law,

(ii) have complied with regulations, rules, directives and orders applicable to those disbursements,

(iii) have been properly reflected in the accounts, and

(iv) have been made for the purposes for which the money was appropriated and authorized;

(c) accounts have been faithfully and properly kept;

(d) assets acquired, administered or otherwise held by or for the House of Assembly and the statutory offices are adequately safeguarded and accounted for;

(e) accounting systems and management control systems that relate to revenue, disbursements, safeguarding or use of assets or the determination of liabilities are in existence, are adequate and have been complied with;

(f) accountability information with respect to the operations of the House of Assembly and the statutory offices is adequate;

(g) there are factors or circumstances relating to expenditure of public money which in the opinion of the auditor general should be identified and commented on as part of the audit function.

(10) Subsection (9) shall not be construed as entitling the auditor general to question the merits of policy objectives of the House of Assembly, the House of Assembly service, the commission or the statutory offices.

[2007 cH-10.1 s43](#)

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Access to books

44. The auditor general, another auditor appointed under section 43 and the comptroller general shall, for the purposes of

(a) an audit of the accounts of the House of Assembly and statutory offices under this Act; and

(b) the duties of the comptroller general under the *Financial Administration Act*,

have access to all books, documents, accounts and other financial records of the House of Assembly and the statutory offices.

[2007 cH-10.1 s44](#)

Improper retention of public money

45. (1) Where
- (a) during the course of an audit;
 - (b) as a result of a review of an audit report prepared by another auditor employed by the commission; or
 - (c) as a result of an internal audit procedure,

the auditor general becomes aware of an improper retention or misappropriation of public money by a member, the clerk, the clerk assistant or staff of the House of Assembly service or the statutory offices or another activity that may constitute an offence under the *Criminal Code* or another Act of the province or of Canada, the auditor general shall immediately report the improper retention, misappropriation of public money or other activity to

- (d) the speaker;
- (e) the chair of the audit committee;
- (f) the Premier;
- (g) the leader of the political party, if any, with which the person involved may be associated;
- (h) the Attorney General; and
- (i) the Minister of Finance.

(2) In addition to reporting in accordance with subsection (1), the auditor general shall attach to his or her annual report to the House of Assembly a list containing a general description of the incidents referred to in subsection (1) and the dates on which those incidents were reported.

(3) Before making a report under subsection (1), the auditor general shall give to a person involved and who may be ultimately named or identified in the report

- (a) full disclosure of the information of which the auditor general has become aware; and
- (b) a reasonable opportunity to the person to provide further information and an explanation,

and shall take that information and explanation into account in deciding whether to proceed to make a report.

(4) The auditor general shall not make the existence or the contents of a report referred to in subsection (1) known to another person except

- (a) as part of his or her annual report to the House of Assembly;
- (b) in accordance with a judicial proceeding;
- (c) as part of proceedings before the Public Accounts Committee; or
- (d) as a result of a request from the commission.

(5) The auditor general is a compellable witness in any criminal or civil proceeding and in a proceeding before the Public Accounts Committee relating to a matter dealt with in a report made under this section.

(6) Section 19.1 of the *House of Assembly Act* does not apply to a report made under this section.

(7) Section 15 of the *Auditor General Act* does not apply to a member, the clerk, clerk assistant or staff of the House of Assembly service and the statutory offices .

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Financial Administration Act

46. The *Financial Administration Act* applies to public money issued to defray expenses of the House of Assembly including money allocated to defray the salaries, allowances and other expenses of members.

[2007 cH-10.1 s46](#)

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Public Accounts Committee

47. The Public Accounts Committee of the House of Assembly or another committee that may be designated by the House of Assembly shall annually review

- (a) the audited accounts and the report prepared by the speaker under section 51 ;
- (b) the clerk's role as accounting officer under section 31 ; and
- (c) another matter that it considers necessary or advisable with respect to the financial management of the House of Assembly and the statutory offices.

[2007 cH-10.1 s47](#)

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Application of Acts

48. (1) The *Transparency and Accountability Act* shall apply to the House of Assembly service and the statutory offices, with the following exceptions:

- (a) an authority or responsibility given to a minister under that Act shall be exercised by the speaker;
- (b) an authority or responsibility given to the Lieutenant- Governor in Council under that Act shall be exercised by the commission;
- (c) sections 10, 11, 12, 13, subsections 14(2), 19(1), (2), (3) and (4), and section 24 of that Act do not apply;
- (d) subsections 14(2), 19(1), (2) and (4) of that Act apply only to the statutory offices;
- (e) where the *Transparency and Accountability Act* refers to a "governing body" it shall be read as a reference to the commission;
- (f) where the *Transparency and Accountability Act* refers to a "government entity" it shall be read as a reference to the House of Assembly service and statutory offices;
- (g) where the *Transparency and Accountability Act* refers to a "public body" it shall be read as a reference to an office of the House of Assembly service and statutory offices;
- (h) where in sections 5, 6, and 7 of the *Transparency and Accountability Act* reference is made to the "strategic direction of the government" it shall be read as a reference to the strategic direction of the House of Assembly service; and
- (i) where in section 21 of the *Transparency and Accountability Act* a reference is made to a "deputy minister" it shall be read as a reference, in relation to the House of Assembly service, to the clerk.

(2) The *Public Tender Act* and the *Conflict of Interest Act, 1995* shall apply to the House of Assembly and the statutory offices except to the extent that the application may be modified by a rule or directive of the commission putting in place alternative and more appropriate requirements dealing with tendering processes and the conflict of interest of persons employed in the House of Assembly and statutory offices.

[2007 cH-10.1 s48; 2008 c58 s16](#)

Further duties of commission

49. (1) In addition to providing access to information under the *Access to Information and Protection of Privacy Act*, the commission shall
- (a) adopt and maintain a scheme, to be known as a publication scheme, which relates to the publication of information by the commission;
 - (b) publish information in accordance with the publication scheme; and
 - (c) review and update the publication scheme.
- (2) The publication scheme required to be adopted under subsection (1) shall
- (a) include information about the expenditures made by or on behalf of members under subsection 11 (2) and in accordance with the rules;
 - (b) include other classes of information relating to the operation of the House of Assembly which the commission intends to publish, taking into account the appropriateness, with respect to each class, of public access to information concerning that class; and
 - (c) specify the manner, including written or electronic publication on a website, in which it is to be published.

[2007 cH-10.1 s49](#)

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Manual

50. (1) The commission shall, not more than 6 months after the coming into force of this Act, develop a manual of appropriate conduct and policies and procedures for members of the House of Assembly.
- (2) The manual shall be
- (a) tabled in the House of Assembly within 10 days after its completion if the House of Assembly is then sitting and if not, within 10 days of the next ensuing sitting; and
 - (b) distributed to the speaker, clerk and each member of the House of Assembly.
- (3) Where, after a distribution of a manual under subsection (2), a member is newly elected to the House of Assembly, the clerk shall provide a copy of the manual to that member.
- (4) The manual shall be updated as the commission considers necessary and each change to the manual shall be distributed as required under subsections (2) and (3).
- (5) The manual shall contain
- (a) information with respect to allowances available to members;
 - (b) the duties of members with respect to claims for allowances and the management and expenditure of public money;
 - (c) copies of applicable legislation;
 - (d) copies of the rules;
 - (e) directives of the commission issued to members, the speaker and the clerk;
 - (f) information summarizing rulings and determinations made by the speaker and the commission under section 24 and by the speaker and the commissioner under section 52 ;
 - (g) instructions as to the manner in which duties of the members are to be carried out with respect to making claims for allowances and the forms to be used and the documentation to be supplied;

- (h) the code of conduct adopted by the House of Assembly;
- (i) information as to how to organize and operate a constituency office; and
- (j) another matter that the commission believes may be of assistance to members in the performance of their duties.

[2007 cH-10.1 s50](#)

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Annual report of speaker

51. In addition to a report that may be required by the *Transparency and Accountability Act*, the speaker shall, on behalf of the commission, annually prepare and table in the House of Assembly a report containing

- (a) the audited financial statements and accounts and auditor's report prepared by the auditor under section 43 ;
- (b) minutes of the substance of all decisions made at each meeting of the commission prepared in accordance with subsection 19 (4);
- (c) a report on the decisions and activities of the commission for the past year prepared in accordance with paragraph 20 (1)(f);
- (d) a report on recommendations made by the auditor appointed under section 43 and the steps taken or to be taken, if any, to address those recommendations, in accordance with paragraph 20 (5)(e);
- (e) a statement of the total salary, allowances and expenses permitted for each member and a statement of all payments made to or for each member with respect to their salaries, allowances and expenses;
- (f) changes or adjustments to allowances and expenses approved by the commission in the year covered by the report;
- (g) a statement of the clerk certifying that the amounts of salary, allowance and expense reflected in the report as having been paid to or for each member is consistent with the amounts recorded by the comptroller general and reflected in the public accounts; and
- (h) a statement of the substance of rulings made by the speaker, the commission or the commissioner under sections 24 and 52 .

[2007 cH-10.1 s51; 2008 c58 s17](#)

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Review of allowance use

52. (1) At the request of a member or of the clerk on his or her own initiative, the speaker may conduct, in his or her capacity as chair of the commission, a review that the speaker considers necessary to determine whether a member's use of an allowance, disbursement, payment, good, premises or service provided under this Act complies with

- (a) the purposes for which the allowance, disbursement, payment, good, premises or service was provided; or
 - (b) the purpose of this Act, the rules or the directives of the commission.
- (2) The speaker shall inform a member of a review concerning that member as soon as is reasonably possible.
- (3) Where, after a review, the speaker determines that a member's use of an allowance, disbursement, payment, goods, premises or service provided under this Act does or does not comply with the purposes for which it was provided or the purposes of this Act or a rule or directive of the commission, the speaker shall
- (a) inform the member of the determination; and
 - (b) provide a copy of that determination to the commission.
- (4) A member who is the subject of the speaker's determination may, within 10 days of his or her receipt of that determination, inform the speaker that he or she disagrees with the determination and the speaker or that member may request that the commissioner investigate and provide a written opinion.
- (5) Where the commissioner receives a request under subsection (4), he or she may conduct an investigation sufficient to

provide an opinion and shall provide that written opinion to the

- (a) member who was the subject of the investigation;
- (b) commission; and
- (c) speaker.

(6) Where an opinion provided under subsection (5) differs from that provided by the speaker under subsection (3), the commissioner's opinion shall prevail.

(7) Where a member does not disagree in writing within 30 days after receiving the speaker's determination or if he or she does disagree but the commissioner, in the commissioner's written opinion, supports the speaker's determination, the speaker may direct, in writing, that the member

- (a) comply with this Act, the rules or the directives of the commission; and
- (b) pay back the amount of the allowance, disbursement, funding or payment paid or the value of the good, service or use of the premises provided.

(8) The speaker may order that an allowance, disbursement, payment, good, premises or service otherwise payable or to be provided to a member under this Act or a rule or directive of the commission, be withheld from the member where

- (a) the speaker has given the member a written direction under subsection (7); and
- (b) either
 - (i) the speaker determines that the member continues to use an allowance, disbursement, payment, good, premises or service paid or provided in a manner that does not comply with the purpose for which it was provided or with the purpose of this Act or a directive of the commission, or
 - (ii) the speaker is of the opinion that the withholding is necessary to protect the public interest.

(9) An order made under subsection (8) remains in force until

- (a) the speaker is satisfied that the member's proposed use of the allowance, disbursement, payment, good, premises or service complies with the purpose for which it was provided or with the purposes of this Act or directives of the commission; or
- (b) it is revoked by the speaker.

(10) The speaker may impose a term or condition on an order made under subsection (8) that he or she considers appropriate.

(11) Where the request for a review under this section relates to the speaker, the review shall be conducted by the deputy speaker, and the references to speaker in subsections (1) to (10) shall be read as references to the deputy speaker.

[2007 cH-10.1 s52](#)

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Enforcement of Duties

53. (1) Where a person believes in good faith that a member, the speaker, deputy speaker, clerk, clerk assistant or the commission is failing to observe or comply with a duty imposed under this Act, he or she may begin a proceeding in the Trial Division by way of originating application seeking a mandatory order that the duty be complied with, together with consequential or declaratory relief.

(2) The claimant shall make a demand for compliance with the alleged duty on the person or the commission he or she alleges is required to perform that duty and allow a reasonable time for compliance before beginning a proceeding in subsection (1).

(3) A person who begins a proceeding under subsection (1) shall not be denied standing on the basis that he or she has no greater interest in the subject-matter of the application than any other member of the public or that the Attorney General is not named as a party by way of relator proceedings or otherwise.

(4) A person who begins a proceeding under subsection (1) shall serve a copy of the application on the Attorney General and the Attorney General shall have the right to intervene and be heard in the proceeding.

(5) For the purpose of a proceeding against the commission under this section, the commission shall be considered to be a party capable of being sued in its own right.

(6) An order as to costs shall not be made against a person who unsuccessfully commences an application under subsection (1) unless the court determines that the application was not brought in good faith.

[2007 cH-10.1 s53](#)

PART VI
PUBLIC INTEREST DISCLOSURE

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Interpretation

54. (1) In this Part

(a) "disclosure" means a disclosure made in good faith by a member or an employee in accordance with section 55 ;

(b) "employee" means a member of the public service of the province and includes an officer of the House of Assembly and a person employed in the House of Assembly service or a statutory office;

(c) "investigator " means the citizens' representative appointed under the *Citizens' Representative Act* ;

(d) "reprisal " means one or more of the following measures taken against an employee because he or she has, in good faith, sought advice about making a disclosure, made a disclosure or cooperated in an investigation under this Part:

(i) a disciplinary measure,

(ii) a demotion,

(iii) termination of employment,

(iv) a measure that adversely affects his or her employment or working conditions, or

(v) a threat to take a measure referred to in subparagraphs (i) to (iv); and

(e) "wrongdoing", with respect to a member, the speaker, an officer of the House of Assembly and a person employed in the House of Assembly service and the statutory offices, means

(i) an act or omission constituting an offence under this Act,

(ii) gross mismanagement, including of public money under the stewardship of the commission, in violation or suspected violation of a code of conduct,

(iii) failure to disclose information required to be disclosed under this Act, or

(iv) knowingly directing or counseling a person to commit a wrongdoing described in subparagraphs (i) to (iii).

(2) Notwithstanding paragraph (1)(c), where a disclosure relates to the citizens' representative, the commissioner shall be the investigator for the purposes of this Part.

[2007 cH-10.1 s54; 2008 c58 s18](#)

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Disclosure of wrongdoing

55. (1) An employee or a member who reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed may make a disclosure to his or her supervisor, the clerk, a member of the audit committee chosen under paragraph 23 (2)(b), or the investigator.

(2) A disclosure made under this section may be made orally or in writing and shall include, if known,

- (a) a description of the wrongdoing;
- (b) the name of the person alleged to
 - (i) have committed, or
 - (ii) be about to commit

the wrongdoing;

- (c) the date of the wrongdoing; and
- (d) whether the wrongdoing has already been disclosed and a response received.

(3) An employee or a member may make a disclosure even where another Act or regulation prohibits disclosure of that information.

(4) Notwithstanding subsection (3), nothing in this Part authorizes the disclosure of information that is protected by solicitor-client privilege.

(5) Where a disclosure involves personal or confidential information, the employee shall take reasonable precautions to ensure that no more information is disclosed than is necessary to make the disclosure.

[2007 cH-10.1 s55](#)

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Confidentiality of Identity

56. The identity of a person making a disclosure shall be kept confidential to the extent permitted by law and consistent with the need to conduct a proper investigation.

[2007 cH-10.1 s56](#)

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Referral for investigation

57. A person to whom a disclosure is made shall refer the matter to the investigator for investigation.

[2007 cH-10.1 s57](#)

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Investigation

58. (1) The investigator shall carry out investigations of matters related to allegations in a disclosure made under this Part.

(2) Upon receipt of a referral the investigator shall, within 5 days, acknowledge to the person making the disclosure that the referral has been received.

(3) The investigation of an allegation made in a disclosure shall be conducted as informally and expeditiously as possible.

(4) The investigator shall ensure that the right to procedural fairness of all persons involved in an investigation is respected, including a person making a disclosure, witnesses and a person alleged to be responsible for wrongdoings.

(5) An investigator is not required to investigate a disclosure and may cease an investigation where he or she is of the opinion that

- (a) the disclosure reveals allegations that are frivolous or vexatious or the disclosure has not been made in good faith;

(b) the disclosure does not provide adequate particulars about the alleged wrongdoing as required under subsection 55 (2); and

(c) there is another valid reason for not investigating the disclosure.

(6) Where, during an investigation, the investigator has reason to believe that another wrongdoing has been committed, he or she may investigate that wrongdoing in accordance with this Part.

(7) Upon completing an investigation, an investigator shall report, in writing, to the clerk and the speaker on his or her findings and recommendations about the disclosure and the wrongdoing.

(8) Where the matter being investigated involves the clerk, the investigator shall give a copy of the report to the speaker.

(9) Where the matter being investigated involves the speaker, the investigator shall give a copy of the report to the chairperson of the audit committee.

(10) The speaker, or the chairperson of the audit committee shall, if the report recommends corrective action,

(a) refer the report to the auditor general, the Attorney General, the Minister of Finance or other appropriate official to take appropriate action; or

(b) refer the report to the commission.

[2007 cH-10.1 s58](#)

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No reprisal

59. (1) A person shall not take a reprisal against an employee or direct that a reprisal be taken against an employee because the employee has, in good faith,

(a) sought advice about making a disclosure from his or her supervisor, the clerk, the speaker or a member of the audit committee;

(b) made a disclosure; or

(c) cooperated in an investigation under this Part.

(2) An employee or former employee who alleges that a reprisal has been taken against him or her may file a written complaint with the Labour Relations Board established under the *Labour Relations Act* and that Act shall apply, with the necessary changes, to the hearing and determination with respect to that complaint.

[2007 cH-10.1 s59](#)

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Misleading statements and obstruction

60. (1) A person shall not

(a) in making a disclosure; or

(b) during an investigation,

orally or in writing, knowingly make a false or misleading statement to a person to whom a disclosure has been made or to the investigator.

(2) A person shall not wilfully obstruct a supervisor, the clerk, the speaker, the investigator or another person acting for or on behalf of either of them or under his or her direction in the performance of a duty under this Part.

(3) A person shall not, knowing that a document or thing is likely to be relevant to an investigation under this Part,

(a) destroy, mutilate or alter the document or thing;

- (b) falsify a document or make a false document;
- (c) conceal the document or thing; or
- (d) direct , counsel or cause a person to do a thing mentioned in paragraphs (a) to (c).

[2007 cH-10.1 s60](#)

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Offence

61. (1) A person who contravenes this Part is guilty of an offence and is liable on summary conviction to a fine of not more than \$10,000 or to imprisonment for up to 6 months.

(2) A prosecution under this section shall not be commenced more than 2 years after the date the alleged offence was committed.

[2007 cH-10.1 s61](#)

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Legal advice

62. Where a supervisor, the speaker, the clerk or the investigator is of the opinion that it is necessary to further the purposes of this Part, he or she may, in accordance with the rules, arrange for legal advice to be provided to employees and members involved in a process or proceeding under this Part.

[2007 cH-10.1 s62](#)

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Limitations on civil remedies

63. A civil action or proceeding shall not be brought against an employee, a supervisor, the speaker, the clerk or the investigator or a person acting on behalf of or under the direction of either of them for a thing done or not done in good faith relating to

- (a) the performance or intended performance of a duty under this Part; or
- (b) the exercise or intended exercise of a power under this Part.

[2007 cH-10.1 s63](#)

PART VII RULES

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Rules

- 64.** (1) The commission may make rules
- (a) respecting allowances, reimbursements, allowable expenses and other resources available to members;
 - (b) establishing distinctions between member constituencies with respect to amounts and entitlement;
 - (c) establishing limits and restrictions on amounts related to living, constituency and other expenses, including distance traveled, daily rates, meal rates and other rates payable by way of reimbursement or with respect to a claim of a member;

- (d) respecting reimbursement and payment of member expenses and claims;
- (e) respecting the preparation and circulation of manuals, agendas, codes, briefing and other materials;
- (f) respecting the forms and manner in which reimbursement of claims may be made;
- (g) respecting policies and procedures for proper financial management;
- (h) respecting purposes, presumptions and principles underlying rules enacted by the commission;
- (i) respecting member responsibility for finances, expenses, claims, liability and reimbursements;
- (j) respecting records to be maintained and reports required of members, the commission, speaker, clerk and staff of the House of Assembly service and the statutory offices;
- (k) respecting forms, receipts and other documentation required for monitoring claims, expenses, reimbursements and other payments;
- (l) respecting eligibility for and prohibitions and restrictions related to expenses, claims, reimbursements and other payments;
- (m) respecting allocations of resources for office, employee, administrative and other services for members;
- (n) respecting the manner of engaging, regulating and paying for constituency assistants; and
- (o) respecting another matter that the commission considers necessary or advisable to give effect to the purpose of this Act.
- (2) Rules made under this Act are subordinate legislation within the meaning of the *Statutes and Subordinate Legislation Act*.

[2007 cH-10.1 s64](#)

PART VIII MISCELLANEOUS, CONSEQUENTIAL AMENDMENTS, REPEAL AND COMMENCEMENT

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Construing of Act

65. Unless otherwise expressly provided in this Act, this Act shall not be construed as depriving the House of Assembly, a committee of the House of Assembly or a member of a right, immunity, privilege or power that the House of Assembly, committee or member might, but for this Act, have been entitled to exercise or enjoy.

[2007 cH-10.1 s65](#)

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Offence

66. A person having a duty to document decisions and maintain records of the commission, the speaker, the clerk or staff member of the House of Assembly service and a person who without lawful authority destroys documentation recording decisions of the commission, the speaker or the clerk, or the advice and deliberations leading up to those decisions, is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 or to imprisonment up to 6 months.

[2007 cH-10.1 s66](#)

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SNL2002 cA-1.1 Amdt.

- 67. (1) Paragraph 2(f) of the *Access to Information and Protection of Privacy Act* is amended
- (a) by deleting the word "or" immediately after subparagraph (iii); and

(b) by adding immediately after subparagraph (iii) the following:

(iii.1) in the case of the House of Assembly the speaker and in the case of the statutory offices as defined in the *House of Assembly Accountability, Integrity and Administration Act*, the applicable officer of each statutory office, or

(2) Paragraph 2(p) of the Act is repealed and the following substituted:

(p) "public body" means

(i) a department created under the *Executive Council Act* , or a branch of the executive government of the province,

(ii) a corporation, the ownership of which, or a majority of the shares of which is vested in the Crown,

(iii) a corporation, commission or body, the majority of the members of which, or the majority of members of the board of directors of which are appointed by an Act, the Lieutenant-Governor in Council or a minister,

(iv) a local public body, and

(v) the House of Assembly and statutory offices, as defined in the *House of Assembly Accountability, Integrity and Administration Act*,

and includes a body designated for this purpose in the regulations made under section 73 , but does not include,

(vi) the constituency office of a member of the House of Assembly wherever located,

(vii) the Trial Division, the Court of Appeal or the Provincial Court , or

(viii) a body listed in the Schedule;

(3) Paragraph 5(1)(c) of the Act is repealed and the following substituted:

(c) a personal or constituency record of a member of the House of Assembly, that is in the possession or control of the member;

(c.1) records of a registered political party or caucus as defined in the *House of Assembly Accountability, Integrity and Administration Act*;

(4) The Act is amended by adding immediately after section 30 the following:

Disclosure of House of Assembly service and statutory office records

30.1 The Speaker of the House of Assembly or the officer responsible for a statutory office shall refuse to disclose to an applicant information

(a) where its non-disclosure is required for the purpose of avoiding an infringement of the privileges of the House of Assembly or a member of the House of Assembly;

(b) that is advice or a recommendation given to the speaker or the Clerk of the House of Assembly or the House of Assembly Management Commission established under the *House of Assembly Accountability, Integrity and Administration Act* that is not required by law to be disclosed or placed in the minutes of the House of Assembly Management Commission; and

(c) in the case of a statutory office as defined in the *House of Assembly Accountability, Integrity and Administration Act*, records connected with the investigatory functions of the statutory office.

[2007 cH-10.1 s67](#)

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RSNL1990 cH-10 Amdt.

68. (1) Paragraphs 20(a), (a.1) and (a.2) of the *House of Assembly Act* are repealed and the following substituted:

(a) "code of conduct" means a code of conduct adopted by the House of Assembly under subsection 35(1) of the *House of Assembly Accountability, Integrity and Administration Act* ;

- (a.1) "cohabiting partner" means a person with whom a public office holder is living in a conjugal relationship outside marriage;
- (a.2) "commissioner" means the Commissioner for Legislative Standards referred to in section 34;
- (a.3) "excluded private interest" means
 - (i) an asset, liability or financial interest of less than \$10,000 in value,
 - (ii) a source of income of less than \$10,000 a year,
 - (iii) real property that is used primarily for a residence or for recreation,
 - (iv) personal property used for transportation, household, educational, recreational, social or aesthetic purposes,
 - (v) cash on hand or on deposit with a financial institution that is lawfully entitled to accept deposits,
 - (vi) fixed value securities issued by a government or municipality in Canada or an agency of a government or municipality in Canada ,
 - (vii) a registered retirement savings plan, retirement or pension plan or employee benefit plan, that is not self administered,
 - (viii) an investment in an open-ended mutual fund that has broadly based investments not limited to one industry or one sector of the economy,
 - (ix) a guaranteed investment certificate or similar financial instrument,
 - (x) an annuity, life insurance policy or pension right,
 - (xi) an asset, liability or financial interest that is held
 - (A) as executor, administrator or trustee, or
 - (B) by bequest or inheritance, during the 12 months following the date it devolves, and
 - (xii) an interest certified by the commissioner as being an excluded private interest;
- (2) Subsection 34(1) of the Act is amended by deleting the words "of Members' Interests" and substituting the words "for Legislative Standards".
- (3) Subsection 40(1) of the Act is amended by adding immediately after the word "Part" the words "or of a code of conduct".
- (4) Section 42 of the Act is amended by adding immediately after the word "Part" wherever it occurs the words "or a code of conduct".
- (5) Subsection 45(1) of the Act is amended by adding immediately after the word "Part" the words "or a code of conduct".
- (6) Subsection 48(1) of the Act is amended by adding immediately after the word "Part" the words "or a code of conduct".

[2007 cH-10.1 s68](#)

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RSNL1990 cS-27 Amdt.

69. (1) The *Statutes and Subordinate Legislation Act* is amended by deleting the Part III heading and substituting the following:

PART III
LEGISLATIVE COUNSEL

(2) Section 20 of the Act is repealed.

(3) Subsection 21(2) of the Act is amended by deleting the words "including the duties of law clerk".

(4) Subsection 22(2) of the Act is repealed.

[2007 cH-10.1 s69](#)

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General Amdt.

70. Where an Act refers to the "Commission of Internal Economy" or the "Internal Economy Commission" the references are struck out and replaced by "House of Assembly Management Commission continued under section 18 of the *House of Assembly Accountability, Integrity and Administration Act*".

[2007 cH-10.1 s70](#)

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Repeal

71. (1) The *Clerk of the House of Assembly Act* is repealed.

(2) The *Internal Economy Commission Act* is repealed.

(3) Order 19 of the Standing Orders of the House of Assembly is repealed.

[2007 cH-10.1 s71](#)

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Transitional

72. (1) The rules contained in the Schedule shall be treated for all purposes as if they had been made by the commission under section 64 and, to the extent necessary, to have been adopted by the House of Assembly under subsection 20(7).

(2) Notwithstanding subsection (1), the rules contained in the Schedule may be dealt with by the commission under section 64 as if they had been made by the commission.

[2007 cH-10.1 s72](#)

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Commencement

73. (1) This Act shall come into force on the day the Royal Assent is given.

(2) Notwithstanding subsection (1),

(a) sections 24, 31, 35 to 42, subsection 48(2) with respect to the Office of the Chief Electoral Officer, sections 53 and 67 come into force on October 9, 2007; and

(b) paragraph 28(3)(h) as it applies to a statutory office comes into force on April 1, 2008 .

(c) the Schedule comes into force on October 9, 2007 .

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Schedule

RULES

The Rules form a separate document. See the Index of Subordinate Legislation / Table of Regulations for information regarding amendments. See also the Consolidated Regulations for a current statement of the Rules.

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SNL2007 cH-10.1 Schedule

Members' Resources and Allowances Rules
under the
House of Assembly Accountability, Integrity
and Administration Act

Amended by:

10/08
21/08
67/08
72/08
27/09

SNL2007 cH-10.1 Schedule

Members' Resources and Allowances Rules
under the
House of Assembly Accountability, Integrity
and Administration Act

RULES

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Short title

1. These rules may be cited as the *Members' Resources and Allowances Rules* .

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Definitions

2. In these rules

- (a) " Act" means the *House of Assembly Accountability, Integrity and Administration Act* ;
- (b) "allowance" means a category of allowance referred to in section 14 ;
- (c) "associated person" means
 - (i) a person who is not at arm's length,
 - (ii) a related person, and
 - (iii) an associated corporation,within the meaning of the *Income Tax Act* (Canada);
- (d) "capital region" means the area encompassing the following electoral districts as described and delineated in the *House of Assembly Act* as follows:
 - (i) Cape St. Francis,
 - (ii) Conception Bay East & Bell Island ,
 - (iii) Conception Bay South,
 - (iv) Kilbride,
 - (v) Mount Pearl ,
 - (vi) Ferryland (North of Witless Bay Line),
 - (vii) St. John's Centre,
 - (viii) St. John's East,
 - (ix) St. John's North,
 - (x) St. John's South,
 - (xi) St. John's West,
 - (xii) Signal Hill-Quidi Vidi,
 - (xiii) Topsail,
 - (xiv) Virginia Waters, and
 - (xv) Waterford Valley ;
- (e) "comptroller general" means the Comptroller General of Finance as defined in the *Financial Administration Act* ;
- (f) "constituency business" means an activity directly connected with a member's responsibilities as a member in relation to the ordinary and proper representation of electors and their families and other residents in the constituency, but does not include partisan political activities;
- (g) "direct", "directed" and "directive" mean a direction or directive made by the commission in accordance with the Act; and

that phrase is understood in the *House of Assembly Accountability, Integrity and Administration Act*.

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PART I PURPOSES AND PRINCIPLES

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Purpose

3. The purpose of these rules is
- (a) to provide resources to members to assist them to fulfill their public duties and responsibilities as members of the House, for the benefit of the residents of the province;
 - (b) to promote accountability in, and transparency with respect to, the expenditure of public funds; and
 - (c) to facilitate public understanding of the use of public funds in fulfillment of members' obligations.

[2007 cH-10.1 Sch s3](#)

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Presumptions

4. (1) Where the commission makes a direction or requires an action, that direction or requirement shall be made in writing or evidenced by written minutes of the proceedings or decision of the commission.

(2) The clerk may establish the forms necessary for the purposes of the implementation of these rules.

(3) Notwithstanding subsection (2), the commission may by directive, establish forms necessary for the implementation of these rules.

(4) Where in these rules an expense claim is permitted, that claim shall be made for the time and amount permitted under these rules or as directed or limited by the commission.

(5) Where the clerk or speaker makes a ruling that approves additional expenditures greater than that authorized under these rules the clerk or speaker shall report his or her approval at the next meeting of the commission and a notation of that approval shall be recorded in the minutes of the commission.

[2007 cH-10.1 Sch s4](#)

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Principles

5. (1) All claims and invoices submitted by or on behalf of a member or to provide resources to a member and all payments and reimbursements made under these rules shall

- (a) be submitted and made in accordance with the purpose and intent of the Act and these rules;

- (b) be submitted by or on behalf of a member and made only if and in a manner that does not call into question the integrity of the member and the House;
- (c) be documented and supported in accordance with sound financial management principles;
- (d) not relate to partisan political activities; and
- (e) shall not relate to a personal benefit to a member or an associated person of a member.

(2) The clerk and all staff of the House shall, subject to directives and approval of the commission, develop and maintain proper administrative and financial policies and procedures with respect to documentation to be provided in support of claims and invoices submitted for reimbursement or payment, and the clerk shall include those policies and procedures in the manual.

(3) The commission shall periodically, and at least once every year, review the adequacy of the policies and procedures being applied by the clerk and staff of the House and may direct changes that it considers appropriate to those policies and procedures to improve controls and accountability.

[2007 cH-10.1 Sch s5](#)

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Member responsibility

6. (1) A member making or incurring an expenditure is the person responsible for compliance with requirements for claims, payments and reimbursements of expenses under the Act and these rules.

(2) A member is not relieved of his or her responsibility under subsection (1) either because he or she has delegated that responsibility to a constituency assistant or another person or because a claim has been accepted for payment by an official of the House or has been paid by the comptroller general.

(3) A member may be required to certify to the clerk, the commission or an auditor of the House that an expense that he or she is claiming or has claimed payment or reimbursement for has been actually incurred in compliance with the Act, these rules and directives of the commission.

(4) A member is responsible for maintaining appropriate records, operating his or her constituency office and engaging and training support staff in a manner that will facilitate compliance with the Act, the rules, directives and the manual.

(5) A member who is entitled to claim reimbursement under the Act and these rules for expenses or for daily amounts or mileage in accordance with policies relating to ministers, parliamentary assistants or other officers who,

- (a) engages in activity; or
- (b) travels in circumstances,

where the activity or travel relates both to constituency business and business governed by those policies, shall prorate the claim based on the proportion of time spent on constituency business.

[2007 cH-10.1 Sch s6](#)

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Restrictions on claims

7. (1) Allowances allocated to a member may be expended by that member during a fiscal year.

(2) A claim against an allowance for a payment or reimbursement shall be made in respect of the fiscal year in which the expenditure was made or incurred, and shall be submitted and received by the clerk not more than 30 days after the end of that fiscal year.

(3) An expenditure shall be considered to have been made or incurred when the goods and services to which that expenditure relates have been received.

(4) An unused balance of an allowance of a member at the end of a fiscal year may not be carried over for use in the following fiscal year.

(5) A purported expenditure or commitment to an expenditure by a member that exceeds the maximum allowed for that category of expenditure shall not be carried forward and reimbursed or paid from an allowance available in the next fiscal year unless it amounts to a precommitment of expenditure in a future fiscal year that is authorized by a directive or in accordance with a minute of the proceedings of the commission.

(6) A claim against an allowance for payment or reimbursement shall not be made more than 60 days after the date on which the expenditure was made.

[2007 cH-10.1 Sch s7](#)

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Member personal liability

8. (1) Where a member makes an expenditure or a commitment to an expenditure that exceeds the maximum allowed for that category of expenditure in a fiscal year, he or she shall be personally responsible for payment of that expenditure unless it amounts to a pre-commitment of expenditure in a future fiscal year that is authorized by directive or minute of the commission.

(2) Where through inadvertence or otherwise a claim made by a member is paid from public funds and it is discovered that the claim should not have been paid or honoured because it was in excess of the maximum allowed for that category of expenditure, the member is liable for repayment of that amount to the extent of the excess and shall, upon request by the comptroller general, immediately pay that excess amount to the Consolidated Revenue Fund.

[2007 cH-10.1 Sch s8](#)

PART II RECORDS AND DISCLOSURE

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Records

9. (1) A member shall keep records of all
- (a) expenditures made or committed; and
 - (b) claims made against allowances,

by him or her, together with copies of supporting documents for those expenditures and claims.

(2) A member shall make the records referred to in subsection (1) available for inspection and copying by the speaker, the auditor general, another auditor employed by the commission on behalf of the House and the comptroller general.

[2007 cH-10.1 Sch s9](#)

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Monthly reports

10. (1) Before the twenty-first day of each month, the clerk shall prepare and provide to each member a written report outlining for the preceding month

- (a) reimbursements made to the member; and
- (b) payments made on the member's behalf,

together with

- (c) a statement highlighting the total amount spent by the member during the current fiscal year in each category of allowance; and
- (d) the amount in each category that remains unspent or uncommitted for the current fiscal year.

(2) The clerk shall advise the speaker and a member whenever the amount spent by that member, expressed as a percentage of the total allowable allowance permitted for that year, is an amount that is in excess of more than 10% of the amount permitted for the portion of the fiscal year that has elapsed and the allowance amount permitted for the fiscal year shall be considered to be allocated in equal monthly amounts throughout that year.

(3) An electronic system accessible by a member from which he or she may obtain the information required under subsection (1) shall be considered to satisfy the requirements of that subsection.

[2007 cH-10.1 Sch s10](#)

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Statements

11. (1) Twice in each fiscal year the clerk shall prepare a statement summarizing by category of expenditure the amounts paid in respect of which claims were made and paid against the allowances that each member is entitled to access.

(2) The clerk shall provide each statement prepared under subsection (1) to the member to whom the statement relates for review and approval by that member.

(3) Within 21 days of receipt of a statement under this section, a member shall sign the statement acknowledging its accuracy or may state in writing to the speaker objections that he or she has with respect to its accuracy.

(4) Failure to respond to the statement within the time specified under subsection (3) shall be considered to be an acceptance by the member of its accuracy.

(5) A statement prepared under this section that is sent by ordinary mail shall be considered to have been received 5 days after its date of posting.

[2007 cH-10.1 Sch s11](#)

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Public access to statements

12. (1) After the expiration of 21 days referred to in subsection 11 (3), a member shall

- (a) file a copy of the statement, together with any objection in response and that copy shall be kept on file in his or her constituency office, or in his or her residence in the constituency if the member does not maintain a constituency office; and
- (b) make a copy of the statement and any objection available for inspection by any person within a reasonable time of receiving the request for inspection.

(2) Notwithstanding subsections (1) and 11(1), the clerk may, for the purpose of public access under section 13 , have the name of a payee in respect of whom a claim or payment is made or other information that could reasonably be said to identify a payee, suppressed from a statement where, in the opinion of the speaker, the privacy interest of a person who is not a member outweighs the interest of the public in having full and complete disclosure of a member's use of public funds.

[2007 cH-10.1 Sch s12](#)

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Speaker requirements

13. (1) The clerk shall maintain and file a copy of statements prepared under section 11 , and objections in response, in the office of the speaker and shall make them available for inspection by persons within a reasonable time after the making of the request for inspection.

(2) The clerk shall post for public access and inspection a copy of each statement and objections, on a website maintained and operated by or on behalf of the office of the speaker.

(3) A statement prepared under section 11 need not be maintained by the member or the clerk for public inspection after 5 years following the end of the fiscal year to which the statement relates.

[2007 cH-10.1 Sch s13](#)

PART III ALLOWANCES AND CLAIMS

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Categories of allowances

14. (1) A member may claim from public monies payment or reimbursement against the following categories of allowances:

- (a) office allowances;
- (b) operational resources;
- (c) travel and living allowances; and
- (d) constituency allowances.

(2) Unused portions of an allowance in a fiscal year shall not be transferred to another allowance for use by the member in respect of the type of expenditures contemplated for that other allowance.

the agreement of the *Tax Agreement Act* and other taxes imposed on the sale or use of goods and services by the government of the province or of Canada .

[2007 cH-10.1 Sch s14](#)

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Disagreement with speaker decision

15. (1) Except in circumstances referred to in sections 24 and 52 of the Act, a member who is dissatisfied with a decision of the clerk made under these rules may appeal that decision to the commission.

(2) A decision of the commission with respect to an appeal under subsection (1) shall be made not more than 45 days after receipt of the member's appeal by the commission, is final and the decision and reasons for that decision shall be recorded in the minutes of the commission.

(3) The commission shall determine and direct the procedure to be followed for dealing with an appeal contemplated under this section.

[2007 cH-10.1 Sch s15](#)

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Forms and documentation

16. (1) A member shall claim payment or reimbursement in respect of an allowance in the manner and on the forms prescribed by the clerk or as directed by the commission.

(2) A form prescribed by the commission shall contain a provision whereby the member shall be required personally to certify that the expenses to which the claim relates were actually incurred in compliance with the Act, these rules and applicable directives of the commission.

(3) A member's claim shall not be paid unless, in the opinion of the clerk, there is sufficient documentation supplied verifying that each expenditure of the member was incurred.

(4) A member's claim, except a daily allowance or mileage claim, shall not be paid unless it is supported by the original invoice together with the instrument evidencing payment, such as a credit card voucher or notification, debit card voucher, cancelled cheque or cash receipt.

(5) Where an original document is unavailable, a copy, photocopy, faxed copy or statement itemizing the expenditure may be accepted by the clerk upon provision of an explanation, in writing, for the absence of the original.

[2007 cH-10.1 Sch s16](#)

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Processing of claims

The clerk shall ensure that the processing of member claims, including their acceptance, verification and approval for payment under these rules is undertaken in accordance with proper principles of internal control.

[2007 cH-10.1 Sch s17](#)

OFFICE ALLOWANCES

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Eligibility for office expenses

18. (1) A member may seek reimbursement or have payment made on his or her behalf, for the provision of office expenses in order to conduct his or her constituency business.

(2) The maximum allowance available to a member for each category of office expenses is as follows:

- (a) constituency office accommodation allowance, \$7,000; and
- (b) office operations and supplies allowance, \$15,000.

(3) Notwithstanding the limits imposed under paragraph (2)(a), the speaker may, on application in writing by a member, authorize that member to exceed his or her maximum constituency office accommodation allowance where the speaker determines that suitable accommodation cannot be obtained at a cost equal to or less than the allowed maximum.

(4) Where the speaker makes a decision under subsection (3) to authorize an increased allowance, he or she shall, in writing, report that decision to the next meeting of the commission together with the reasons for that decision and that information shall be recorded in the minutes of the commission meeting.

[2007 cH-10.1 Sch s18](#)

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Eligibility for constituency office accommodation

19. (1) The constituency office accommodation allowance referred to in paragraph 18 (2)(a) includes accommodation expenses related to the rental of permanent or temporary offices such as

- (a) rent;
- (b) utilities;
- (c) taxes;
- (d) insurance;
- (e) security;
- (f) janitorial services; and
- (g) signage identifying the office as the member's constituency office without any reference to a political party.

(2) A member, who is unable to establish and operate an office to adequately serve his or her constituents, may claim expenses for the rental of meeting rooms.

(3) A member shall not use a constituency office to further partisan political activities.

(4) Following a general election or by-election, a new member who was not a member in the preceding session of the House of Assembly is, in addition to the constituency office accommodation allowance, entitled to claim amounts associated with the start-up of the member's office in an amount of not more than \$1,000 to defray expenses as may be specified by the commission.

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Nature and location

20. (1) Office accommodation to which a member is entitled shall consist of space to provide

- (a) a private office for the member;
- (b) space for a constituency assistant; and
- (c) a waiting area for that office.

(2) A member shall be provided with office accommodation in the Confederation Building complex in St. John's in a location that may be determined by the speaker.

(3) The quality and size of office accommodation in the Confederation Building complex for a member of one political party shall not be materially different than that for a member of another political party.

(4) A member who chooses to have his or her constituency assistant work in the Confederation Building complex shall, with respect to the assignment of office accommodation in that complex, be given priority over a member who chooses to have his or her constituency assistant work in an office in the member's constituency.

(5) In addition to choosing office accommodation in the Confederation Building complex, a member may choose office accommodation in one of the following ways:

- (a) office space in the member's constituency;
- (b) instead of an office in a specific location, the rental of shortterm accommodation in one or more locations in the member's constituency from time to time to facilitate the travel of the member throughout the district to meet with residents on constituency issues;
- (c) subject to the limitations in subsection 21 (2), operate an office in his or her residence in, or within commuting distance of the constituency; or
- (d) if he or she is a minister, a parliamentary assistant or a special assistant to a minister, operate a constituency office in the building or department where his or her ministerial or assistant's office is located.

(5.1) Notwithstanding paragraph (5)(a), the Speaker may, upon the written request of a member, approve the locating of that member's constituency office space within a constituency that is not a constituency of that member provided that the requested office space is located in a constituency that is adjacent to the member's constituency.

(6) Notwithstanding paragraph (5)(a) or (d), where a member chooses office accommodation in the member's constituency in a Crown-owned building or in a building where his or her ministerial or assistant's office is located, the member may not access the constituency office accommodation allowance.

(7) A member who represents a constituency that is wholly outside the capital region may rent short-term accommodation in one or more locations in the member's constituency from time to time, up to a maximum of \$750 annually to facilitate the travel of the member throughout the district to meet with residents on constituency issues.

(8) Where choosing office accommodation in a member's constituency under paragraph (5)(a), a member shall

- (a) not make rental or lease commitments without prior approval of the speaker;
- (b) where accommodation, suitable in size, quality and location to the member, can be obtained in a Crown-owned building in the constituency, choose that space; and
- (c) where accommodation referred to in paragraph (b) cannot be obtained, the member shall decide in which community his or her office will be located and the member shall obtain in that community commercial office accommodation in accordance with the tender processes for leasing space under the *Public Tender Act*.

(9) A tender for accommodation under paragraph (8)(c) shall stipulate that the lease shall be terminable at or before the expected date of the next general election.

(9.1) Proposal documentation submitted by a landlord responding to a tender made under paragraph (8)(c) shall include the total monthly cost, including utilities, taxes, insurance, security, janitorial services, signage and snow-clearing.

(10) A lease contract for office accommodation acquired under this section shall be prepared between "Her Majesty in Queen in Right of the Province of Newfoundland and Labrador, represented here by the Honourable the Speaker of the House of Assembly" and the owner of the office space and the cost of that preparation shall, unless stipulated otherwise by the speaker in exceptional cases, be paid directly by the House of Assembly in accordance with the approved office lease.

(11) Notwithstanding section 22, following a by-election, a new member who was not a member in the preceding session of the House shall utilize the previous members' constituency office until the next general election unless that office was in the former member's home or a community in which the new member does not reside.

[2007 cH-10.1 Sch s20; 10/08 s1; 27/09 s1](#)

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Renting from self

21. (1) A lease of office accommodation shall not be entered into with a landlord who is an associated person.

(2) Notwithstanding subsection (1), a member may operate a constituency office from his or her residence in his or her constituency but in that event, is not entitled to claim reimbursement for provision of those accommodation except for the creation and erection of a sign identifying the constituency office.

[2007 cH-10.1 Sch s21](#)

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Changing arrangements

22. Where a member chooses accommodation under subsection 20 (5), he or she may elect to use a different accommodation arrangement provided he or she is able to withdraw from an existing lease arrangement without penalty or cost to the Crown or without having to give more than two month's notice or payment of rent.

[2007 cH-10.1 Sch s22](#)

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Eligibility for space

23. (1) Where a member has chosen office accommodation in the Confederation Building complex, the speaker shall, to the extent possible, group the office accommodations for members of the same political party together in the same area as part of a caucus office.

(2) Where a member has chosen to have his or her constituency assistant work in office accommodation in the member's constituency or in the member's ministerial or parliamentary or special assistant's offices, the speaker shall provide funding to the caucus with which the member is associated to provide shared secretarial assistance in the Confederation Building complex for all members of that caucus in the same circumstances.

(3) The cost of providing shared secretarial assistance, telephone, computer and secretarial services and associated operational costs shall be a part of the estimates of the House of Assembly and paid for out of the funds allocated for its operations.

[2007 cH-10.1 Sch s23](#)

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Office operations, supplies and communications allowance

24. A member may claim against the office operations and supplies allowance for reimbursement to cover operational costs of operating a constituency office including,

- (a) office supplies;
- (b) printing;
- (c) photocopies;
- (d) newspapers;
- (e) answering services;
- (f) staff professional development;
- (g) courier services and postage;
- (h) database maintenance;
- (i) advertising, including constituency office hours, contact telephone numbers for the member, email addresses, notices of constituency meetings, and advertising messages of welcome or congratulation;
- (j) greeting, Christmas, sympathy or other similar cards to be sent to constituents and others relating to the member's constituency work; and
- (k) those other items identified and directed by the commission.

[2007 cH-10.1 Sch s24](#)

PART V MEMBERS OPERATIONAL RESOURCES

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Standard office allocation

25. (1) A member is entitled to office furniture, equipment and services for his or her constituency office based on a standard office allocation approved by directive of the commission and may include

- (a) an office furniture and equipment package;
- (b) artwork from the Government procurement program;
- (c) telephone and facsimile services;
- (d) a computer or laptop computer;
- (e) personal data communication services;
- (f) photocopier, printer and scanner services;
- (g) internet services; and
- (h) other items that may be identified and approved by a directive of the commission.

(2) All purchases within the standard office allocation remain the property of the government of the province and shall be identified by appropriate markings as House assets.

(3) A member shall not personally fund, in whole or in part, the purchase of House assets.

(4) The clerk shall maintain and update an inventory report of all House assets entrusted to each member.

(5) A member is personally responsible for all items in an inventory and shall account on an annual basis or on demand to the speaker for the items listed in his or her inventory report.

(6) A member shall not dispose of or purport to dispose of a House asset.

(7) Where a member wishes to dispose of a House asset or have it written off, he or she shall submit a request to the clerk identifying the item and stating the reason for the request.

(8) The clerk shall consult with the Government Purchasing Agency to determine whether the item should be disposed of or written off and the member having that item shall return it to the House for disposal or otherwise comply with the clerk's directions, at which time the item will be removed from the member's inventory.

(9) A new member shall utilize the furniture, furnishings and equipment provided to the outgoing member for that constituency.

(10) Where a member wishes to have a House asset replaced from the outgoing member's standard office allocation, he or she shall submit a request to the clerk identifying the item and stating the reason for the request and the clerk shall consult with the Government Purchasing Agency to determine whether the asset should be replaced.

(11) Where an asset is to be replaced, the member shall return it to the House for disposal or otherwise comply with the clerk's directions, whereupon he or she shall be provided with a replacement item.

(12) Arrangements for the hook-up of constituency fax lines, telephone lines and telephone directory advertising shall be made by or under the direction of the clerk.

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Support staff

26. (1) A member is entitled to engage the services of one constituency assistant.

(2) The salaries and benefits for constituency assistants shall be set by directive of the commission and, unless otherwise contrary to law or a directive of the commission, the member may set the terms and conditions of employment.

(3) An employment contract of a constituency assistant shall be between the constituency assistant and "Her Majesty the Queen in Right of the Province of Newfoundland and Labrador , represented here by the Honourable the Speaker of the House of Assembly".

(4) Expenses related to constituency assistant salaries and benefits shall be paid directly to constituency employees by the office of the speaker.

(5) Where a member considers it necessary to engage a temporary replacement for a constituency assistant due to vacation, illness or other absence of the regular assistant that the speaker considers acceptable the member may, with the consent of the speaker, engage a temporary replacement, and the costs associated with that engagement shall be reimbursed by the office of the speaker to the member.

[2007 cH-10.1 Sch s26](#)

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Other resources

27. (1) Subject to descriptions, limitations and directions respecting standardization that the commission may direct, a member is entitled to be supplied from the House with the following:

- (a) certificate folders and frames for certificates of recognition to be given by members to their constituents;
- (b) promotional items such as pins and flags for distribution to constituents and others in the course of their duties; and
- (c) stationary for his or her constituency office including business cards, letterhead and other items as directed by the commission.

(2) The clerk shall, in consultation with a member, make resources referred to in this section available to the member as may be required.

(3) The cost of resources in this section shall be made part of the estimates of the House of Assembly and paid for out of the funds allocated for its operations.

[2007 cH-10.1 Sch s27](#)

PART VI TRAVEL AND LIVING ALLOWANCE

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Definitions

28. In this Part

- (a) "commuting distance" means 60 kilometres or less;
- (b) "constituency business" means an activity directly connected with a member's responsibilities as a member in relation to the ordinary and proper representation of electors and their families and other residents in the constituency, but does not include partisan political activities;
- (c) "in session" in relation to the House of Assembly means the period of time between the day prior to the commencement of a sitting of the House of Assembly and the day following an adjournment, where the period of adjournment is greater than 7 days;
- (d) "permanent residence" means the place that a member declares in an affidavit to the speaker is
 - (i) the place where a member in fact resides on a settled basis with his or her family, or
 - (ii) where there is no single place where the member resides on a settled basis, the place that the member otherwise regards as his or her permanent residence,and does not include a seasonal or recreational dwelling or cabin;
- (e) "private accommodation" means accommodation owned or maintained by a person other than the member, the member's spouse or children and which may be used by the member when travelling;
- (f) "secondary residence" means a residence that is not a permanent residence but is owned or leased by the member and is available for occupancy by the member but does not include a seasonal or recreational dwelling or cabin; and
- (g) "temporary accommodation" means short-term, temporary or transient accommodation such as a hotel, motel, bed and breakfast or boarding house.

[2007 cH-10.1 Sch s28](#)

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Principles

- 29.** (1) A member may claim for a travel and living allowance only where the member
- (a) is engaged in constituency business; and
 - (b) is outside of commuting distance of the member's permanent residence.
- (2) Entitlement to claim a particular type of travel and living allowance and the extent of that claim is affected by
- (a) whether the member's permanent residence is located in
 - (i) the member's constituency,
 - (ii) another constituency outside the capital region, or
 - (iii) the capital region;
 - (b) whether or not the House of Assembly is in session; and
 - (c) whether the member maintains a secondary residence.

(3) For the purpose of these rules, a member may operate and maintain only one permanent residence but a member may operate and maintain a secondary residence.

(4) Where a member changes a permanent residence or a secondary residence, the member shall immediately notify the speaker by way of affidavit of that change.

(5) A member shall not claim reimbursement for a travel or a living allowance relating to travel from his or her permanent residence to the Confederation Building complex where his or her permanent residence is located in the capital region.

(6) A member shall not claim reimbursement for a travel or a living allowance relating to travel from his or her permanent residence to his or her constituency where the permanent residence is outside the constituency but within commuting distance of the constituency.

(7) On a day when a member may claim a meal allowance while on constituency business, but only a portion of that day is spent on constituency business, his or her daily meal allowance shall be prorated in a manner established by a directive of the commission.

(8) When traveling, a member may avail of temporary accommodation or may stay in a secondary residence or in private accommodation.

[2007 cH-10.1 Sch s29](#)

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Types of travel and living allowance

30. A member may claim reimbursement for travel and associated accommodation and meal costs related to travel

- (a) between his or her constituency or permanent residence and the Confederation Building complex to attend sittings of the House of Assembly and to attend to constituency business and other duties of the member that may require his or her presence in the capital region;
- (b) between his or her permanent residence, where that residence is not located in the constituency, and his or her constituency, where that constituency is located outside the capital region;
- (c) within his or her constituency to attend to constituency business;
- (d) between his or her constituency or the capital region and another constituency outside the capital region in relation to matters affecting his or her constituency;
- (e) to attend conferences and training courses relating to his or her member responsibilities;
- (f) to and from other parts of Canada where the purpose of the trip is directly related to constituency business; and
- (g) for travel of his or her constituency assistant where it is necessary to attend to constituency business.

[2007 cH-10.1 Sch s30](#)

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Travel and living allowances: residence outside capital

temporary accommodation or a secondary residence in the capital region to attend a sitting of the House of Assembly may claim reimbursement for the following costs:

- (a) for each week or part of the week that the House of Assembly is in session the actual transportation cost of one return trip;
- (b) for each day that the House of Assembly is in session, either,
 - (i) the actual cost of temporary standard room accommodations, with receipts, for every night the accommodations are actually occupied by the member, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) for each day that the House of Assembly is in session, a daily amount of \$50, without receipts, as a contribution to the cost of meals.

(2) Where a member makes a claim for travel under paragraph (1)(a) or under paragraph 35 (a) to return to his or her permanent residence or to his or her constituency, the member is not entitled to claim under paragraph (1)(b) for the days associated with that travel.

[2007 cH-10.1 Sch s31; 21/08 s1](#)

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Sessional travel and living allowances: residence within capital

32. (1) Where a member travels from his or her permanent residence that is within the capital region to attend a sitting of the House of Assembly that member is not entitled to claim reimbursement for that travel or for accommodation or meals associated with that travel.

(2) A member who maintains a permanent residence within the capital region but represents a constituency outside the capital region may claim reimbursement for the following costs while the House of Assembly is in session:

- (a) for each week or part of a week that the House of Assembly is in session, the actual transportation cost of one return trip to his or her constituency to attend to constituency business;
- (b) for a maximum of 3 nights during a trip, either
 - (i) the actual cost of temporary standard room accommodations in the constituency for every night actually spent in the constituency, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) without receipts, a daily amount of \$50, as a contribution to the cost of meals.

[2007 cH-10.1 Sch s32; 21/08 s2](#)

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Travel and living allowances: residence outside capital and constituency

33. A member who maintains a permanent residence outside the capital region in a location that is not in his or her constituency and the constituency is outside the capital region may, in addition to claiming reimbursement under subsection 31 (1), claim reimbursement for the following additional costs while the House of Assembly is in session:

- (a) for each week or part of a week that the House of Assembly is in session, the actual transportation cost of one return trip to his or her constituency from either the capital region or from his or her permanent residence, whichever is the shorter distance, to attend to constituency business;
- (b) for a maximum of 3 nights during a trip, either
 - (i) the actual cost of temporary standard room accommodations, with receipts, for every night the accommodations are actually occupied by the member, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) without receipts, a daily amount of \$50, as a contribution to the cost of meals.

[2007 cH-10.1 Sch s33; 21/08 s3](#)

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No banking of weekly travel

34. Where a member does not travel under paragraph 31 (1)(a), 32(2)(a) or 33(a) in respect of a particular week, the entitlement to claim for that week ceases.

[2007 cH-10.1 Sch s34](#)

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Intersessional travel and living expenses: residence outside capital

35. A member who travels from his or her permanent residence that is outside the capital region to the capital region when the House of Assembly is not in session to attend to constituency business or other duties may claim reimbursement for the following costs:

- (a) the actual transportation cost of not more than 20 return trips per year;
- (b) the actual cost of 50 nights of either
 - (i) the actual cost of temporary standard room accommodations, with receipts, for every night the accommodations are actually occupied by the member, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) without receipts, a daily amount of \$50 as a contribution to the cost of meals.

[2007 cH-10.1 Sch s35; 21/08 s4](#)

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Intersessional travel and living expenses: residence within capital

36. (1) A member who maintains a permanent residence within the capital region is not entitled to claim for accommodation or meals while attending constituency business in the capital region.

(2) A member who maintains a permanent residence within the capital region but represents a constituency outside the capital region may claim reimbursement for the following travel and

session:

- (a) the actual transportation cost of not more than 20 return trips per year;
- (b) the actual cost of 50 nights of either
 - (i) the actual cost of temporary standard room accommodations in the constituency for every night actually spent in the constituency, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) without receipts, a daily amount of \$50 as contribution to the cost of meals.

[2007 cH-10.1 Sch s36; 21/08 s5](#)

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Intersessional travel and living expenses: residence outside capital and constituency

37. A member who maintains a permanent residence outside the capital region in a location not in the member's constituency and outside commuting distance of that constituency where that constituency is outside the capital region may, in addition to claiming reimbursement under section 35 , claim reimbursement relating to travel and accommodation between his or her permanent residence and constituency for the following additional costs when the House of Assembly is not in session:

- (a) the actual transportation cost of up to 20 return trips between his or her permanent residence and his or her constituency, per year;
- (b) the actual cost of 50 nights of either
 - (i) the actual cost of temporary standard room accommodations in the constituency for every night actually spent in the constituency, or
 - (ii) a daily amount, without receipts, of \$53 on the island portion of the province and \$71 in Labrador when staying in a private accommodation; and
- (c) without receipts, a daily amount of \$50, as a contribution towards meals.

[2007 cH-10.1 Sch s37; 21/08 s6](#)

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Intra-constituency travel allowance

38. (1) A member may be reimbursed in accordance with this section for reasonable travel, accommodation and meal expenses incurred while acting on constituency business within his or her constituency.

- (2) The allowance provided for in this section may include
 - (a) the cost of transportation by motor vehicle, all-terrain vehicle, boat, snowmobile, fixed wing aircraft or helicopter, in accordance with section 40 ;
 - (b) the actual cost of temporary standard room accommodations, with receipts, for every night

accommodations, a daily amount without receipts of \$53 on the island portion of the province and \$71 in Labrador; and

(c) a daily amount of \$50, without receipts, as a contribution to the cost of meals.

(3) The maximum amount in respect of an electoral district for which a member who represents that district may claim in a fiscal year for intra-constituency travel is the amount set out in the Schedule.

[2007 cH-10.1 Sch s38; 21/08 s7](#)

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Extra-constituency travel allowance

39. (1) A member may be reimbursed in accordance with this section for reasonable travel, accommodation and meal expenses incurred with respect to circumstances referred to in paragraphs 30 (d), (e), (f) and (g).

(2) The maximum amount that a member may claim in a fiscal year for extra-constituency travel is the amount unexpended on intraconstituency travel under section 38 .

[2007 cH-10.1 Sch s39](#)

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Modes of travel

40. (1) A member may travel by means of

- (a) his or her own motor vehicle;
- (b) a rental vehicle;
- (c) commercial scheduled fixed wing aircraft;
- (d) bus transportation;
- (e) ferry transportation; and
- (f) taxis.

(2) Where a member proposes to travel by means other than the means mentioned in subsection (1), the member shall first make a proposal in writing to the speaker outlining the nature of the travel, the reasons for that travel, the details of the proposed engagement of the mode of travel and its estimated costs, and if the speaker is of the opinion that it is a reasonable expenditure to enable the member to fulfill his or her duties to constituents and there is sufficient money available within the existing travel budget of the House of Assembly, the speaker may approve the proposal subject to conditions that he or she considers reasonable in the circumstances.

(3) A decision of the speaker under subsection (2) shall be reported at the next meeting of the commission and recorded in the minutes of the commission.

(4) Subject to subsection 29 (5), where a member whose constituency is in the capital region travels by his or her own vehicle, he or she may claim reimbursement for the number of kilometres reasonably necessary to accomplish the travel objectives multiplied by the rate per kilometre payable to government employees.

(5) Subject to subsection 29 (6), where a member whose constituency is outside the capital

kilometres reasonably necessary to accomplish the travel objectives multiplied by the rates per kilometre payable to government employees who are required to use private vehicles as a condition of employment rate.

(6) The member for the electoral district of Cartwright-L'Anse au Clair and the members of those other electoral districts as may be designated by directive of the commission are entitled, on filing an affidavit with the speaker verifying that the member has travelled in her or his private vehicle in excess of 5,000 kilometres on unpaved roads on constituency business, to payment of a sum of \$1,000 annually to be paid toward deterioration of the vehicle.

(7) Where a member travels by his or her own vehicle, he or she shall at all times maintain a vehicle travel log in which he or she shall record the dates and destinations of a trip, the number of kilometers actually and reasonably traveled in connection with the trip, and in the case of members referred to in subsection (6) the number of kilometers traveled on unpaved roads.

(8) A member shall make his or her vehicle travel log available for inspection by the clerk, the speaker, the commission and an auditor appointed by the commission within the 3 year period following the date when a particular trip was undertaken.

(9) Where a member travels by rental vehicle or commercial scheduled fixed wing aircraft, the member may claim reimbursement for the actual cost provided it does not exceed the actual cost of a full fare economy ticket.

(10) Where a member travels by rental vehicle for more than 15 consecutive days, the member shall first obtain the approval of the clerk who shall report his or her approval at the next meeting of the commission and a notation of that approval shall be recorded in the minutes of the commission.

(11) Where a member travels by bus, he or she may claim reimbursement for the actual cost of the trip provided that it does not exceed the cost of a full fare economy air fare.

[2007 cH-10.1 Sch s40; 10/08 s2](#)

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Accommodation expenses

41. (1) Where a member claims expenses related to temporary accommodation, those expenses may include

- (a) room charges;
- (b) long distance telephone and internet charges related to constituency business;
- (c) overnight parking fees;
- (d) incidental hotel, motel, bed and breakfast or boarding house charges; and
- (e) those other items that may be specified by a directive of the commission.

(2) Where a member claims expenses relating to a stay in a secondary residence those expenses may include

- (a) rent and associated charges;
- (b) condominium common area expenses;
- (c) mortgage interest;

- (c.1) property taxes;
- (d) utilities ;
- (e) telephone and internet services;
- (f) furniture rental;
- (g) parking charges; and
- (h) those other items that may be directed by the commission.

(3) For the purpose of making a claim under subsection (2), a member may estimate the costs that he or she considers to be reasonable on an annual basis for the determination of a pro-rated daily amount as the basis of his or her claim and submit them to the clerk for approval.

(4) The clerk may, before approving the costs under subsection (3), require the member to provide further documentation in support of the estimates.

[2007 cH-10.1 Sch s41; 72/08 s1](#)

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Restriction on meal allowance

42. Where a member makes a claim under subsection 46(3) relating to a meal expense, the member shall not claim a meal allowance under this Part for that meal expense.

[72/08 s2](#)

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Special circumstances

43. (1) Where it is unsafe or otherwise impractical for a member who is traveling to return to his or her permanent residence when scheduled to do so and when he or she would not otherwise be entitled to claim reimbursement for accommodations and meals under this Part, the member is entitled to claim for additional expenses at the same rates and under the same circumstances that relate to the original travel.

(2) A member shall contact the clerk or the speaker before incurring the additional expenses contemplated by this section, explain the reason for and estimated amount of the additional expenses and obtain the approval of the speaker for that expenditure and that approval shall not be unreasonably withheld.

(3) Notwithstanding subsection (2), where a member has been unable to contact the clerk or the speaker before incurring an expense, the member shall at the earliest reasonable opportunity notify the speaker of the incurring of the expense.

(4) The speaker shall, in writing, report the nature and amount of additional expenditures incurred under this section, together with the reasons for those expenditures to the next meeting of the commission and that information shall be recorded in the minutes of the meeting.

[2007 cH-10.1 Sch s43](#)

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Budgetary requests

44. (1) A member shall, on or before a date in each year prescribed by the speaker submit an estimate of the amount of money that the member reasonably estimates will be required by him or her for travel in the following fiscal year.

(2) An estimate submitted under subsection (1) shall be provided to the clerk in the form that he or she may require.

(3) In preparing the estimates of the House of Assembly under section 26 of the Act the speaker shall take account of the estimates submitted by the member under subsection (1) but the commission may vary those estimates if in its opinion the amount is not appropriate.

(4) The clerk may issue guidelines for members with respect to the matters to be dealt with, and the manner of presentation of those matters, in the preparation of the estimates under subsection (1).

[2007 cH-10.1 Sch s44](#)

PART VII COMMITTEE ALLOWANCE

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Committee allowance

45. (1) A member who is a member of a standing or select committee of the House of Assembly, the commission or a committee of the commission may claim for reasonable expenses related to attendance at a committee or commission meeting when the House of Assembly is not in session.

(2) A member who is a member of a standing or select committee of the House of Assembly, the commission or a committee of the commission, other than a chair, may claim a daily amount of \$145 for attendance at a committee or commission meeting when the House of Assembly is not in session.

(3) A member who is a chair of a standing or select committee of the House of Assembly, the commission or a committee of the commission may claim a daily amount of \$190 for attendance at a committee or commission meeting when the House of Assembly is not in session.

(4) Subsections (2) and (3) shall not apply to a member who is a minister or who holds a position referred to in subsection 12(1) of the Act.

(5) Reasonable expenses claimed under subsection (1) shall be

- (a) in accordance with the travel and allowance rates permitted under these rules; and
- (b) approved by the speaker before being reimbursed to the member.

[67/08 s1](#)

PART VIII CONSTITUENCY ALLOWANCE

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Expenses related to constituency work

46. (1) A member is entitled to be reimbursed for his or her constituency expenses necessarily incurred by that member to carry out his or her constituency business.

(2) The maximum amount in respect of each electoral district for which the member from that electoral district may be reimbursed from the constituency allowance in each fiscal year shall not exceed \$3,000.

(3) The following expenses necessarily incurred by a member to carry out his or her constituency business may be reimbursed:

- (a) meals or the bulk purchase of food, non-alcoholic beverages and other supplies for meetings with constituents or other members of the public in relation to constituency business, and meals and non-alcoholic beverages on other constituency-related occasions;
- (b) memberships in community or other organizations;
- (c) equipment not provided by the House;
- (d) magazine, newspaper and journal subscriptions;
- (e) travel, accommodations, meals and registration fees for conferences and training courses for the member or constituency assistant if approved by the speaker;
- (f) expenses associated with attending at meetings and hearings involving advocacy on behalf of a constituent; and
- (g) other categories of items as directed by the commission.

(4) The following types of expenses shall not be reimbursed:

- (a) the acquisition, creation or distribution of anything that uses or includes a word, initial, or device that identifies a political party;
- (b) artwork including paintings, prints, sculptures, carvings and crafts;
- (c) alcoholic beverages, either individually or in bulk;
- (d) sponsorship of individuals or groups;
- (e) donations;
- (f) raffle tickets;
- (g) hospitality, except for meetings referred to in paragraph (3)(a);
- (h) gifts;
- (i) items, services or activities of a personal nature, including clothing and laundry expenses;
- (j) travel costs for constituents;
- (k) travel costs for spouses or dependants;
- (l) financial assistance for constituents; and
- (m) those other items directed by the commission.

(5) A member, in his or her capacity as a member, shall not make a donation or gift, whether of a charitable nature or not, to any person, group or community except as may be contemplated by subsection (3) and section 27 .

personal capacity, the member shall, in making the donation or gift, stipulate that any acknowledgment of the donation or gift shall not identify him or her as a member.

[2007 cH-10.1 Sch s46](#)

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Prohibition

47. (1) An expense of a type listed in subsection 46 (3) may not be reimbursed if

- (a) it is not directly connected with the member's responsibilities as a member in relation to the ordinary and proper representation of constituents and the public;
- (b) it is incurred in relation to partisan political activities or promotion; or
- (c) one or more of the following persons has a financial interest in the contract or other arrangement under which the expense is incurred or in a corporation that has a financial interest in the contract or other arrangement under which the expense is incurred:
 - (i) the member,
 - (ii) an associated person in relation to the member,
 - (iii) another member, and
 - (iv) the spouse or child of another member.

(2) Notwithstanding subsection (1), an expense of a type listed in subsection 46 (3) may be reimbursed in the circumstances described in subsection (1) where the reimbursement is specifically approved and directed by the commission.

[2007 cH-10.1 Sch s47](#)

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Schedule

House Operations Estimates of Intra-constituency Costs

Riding No.	Riding Name	Total
1	Baie Verte - Springdale	\$12,600
2	Bay of Islands	15,600
3	Bellevue	16,400
4	Bonavista North	12,600
5	Bonavista South	12,600
6	Burgeo - LaPoile	14,100
7	Burin - Placentia West	10,200
8	Cape St. Francis	9,000
9	Carbonear - Harbour Grace	9,600
10	Cartwright - L'Anse au Clair	49,200
11	Conception Bay East - Bell Island	9,600
12	Conception Bay South	9,000
13	Exploits	12,600
14	Ferryland	12,600
15	Fortune Bay - Cape La Hune	59,600
16	Gander	9,600

17	Grand Bank	15,000
18	Grand Falls-Windsor - Buchans	11,400
19	Grand Falls-Windsor - Green Bay South	9,000
20	Harbour Main	8,600
21	Humber East	7,900
22	Humber Valley	15,000
23	Humber West	10,200
24	Kilbride	9,000
25	Labrador West	9,600
26	Lake Melville	10,000
27	Lewisporte	11,500
28	Mount Pearl North	7,500
29	Mount Pearl South	7,500
30	Placentia - St. Mary's	14,400
31	Port au Port	8,500
32	Port de Grave	9,600
33	Signal Hill - Quidi Vidi	7,500
34	St. Barbe	12,600
35	St. George's - Stephenville East	9,600
36	St. John's Centre	7,500
37	St. John's East	7,500
38	St. John's North	7,500
39	St. John's South	7,500
40	St. John's West	7,500
41	Terra Nova	12,800
42	The Isle of Notre Dame	12,300
43	The Straits - White Bay North	12,600
44	Topsail	7,500
45	Torngat Mountains	45,900
46	Trinity - Bay de Verde	10,800
47	Trinity North	10,200
48	Virginia Waters	7,500
	Total	<u>\$626,400</u>

[2007 cH-10.1 Sch Sch](#)

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