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The Honourable Bill Barisoff  
Speaker of the Legislative Assembly  
Province of British Columbia  
Parliament Buildings  
Victoria, BC V8V 1X4

Dear Sir:

I have the honour to transmit my 2012/13 Report 12: *Audit of the Legislative Assembly's Financial Records: Update*.

As part of my Office's commitment to ensuring that recommendations are addressed, and British Columbians receive full value from our work, my staff have continued to monitor the progress of the Legislative Assembly Management Committee (LAMC) and management in regards to my 2012/13 report 5: *Audit of the Legislative Assembly's Financial Records*. While the unique nature of that work and the organization itself, do not lend themselves to my Office's traditional follow-up formats, it is still important that legislators and those they represent are informed of the progress following this or any other of my Office's reports – thus, my release of this update report and its two related appendices.

The main section is the update report itself, which deals with the findings and recommendations from my Office's audit of the Legislative Assembly's financial records for the fiscal years ended March 31, 2009, 2010, and 2011. Overall, LAMC and Legislative Assembly management have made a number of very important strides in recent months to address the deficiencies noted in my audit and I encourage them to continue. However, LAMC has still not committed to a specific date for the publication of the Legislative Assembly's audited financial statements. Financial transparency is a cornerstone of public accountability, and the Legislative Assembly should aspire to be a leader in this area.

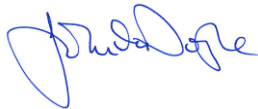
My audit of the Legislative Assembly's financial records for the years ended March 31, 2009, 2010, and 2011, identified numerous problems related to management overriding of controls, inadequate documentation and inadequate oversight of management. The appendices to this report document additional examples of problems that can arise in such an environment:

- Appendix A contains an analysis of new information recently received regarding an issue that had originally been identified in my Office's 2009-2011 audits — the payment of extensive leasehold expenditures and the risks associated with management overriding key controls. This situation also raises questions of the appropriateness of using public monies – intended for services to constituents – to pay for these expenditures.

- Appendix B discusses some unusual compensation arrangements I have identified while doing pre-planning for an audit of the Legislative Assembly's financial records for the fiscal year ended March 31, 2012. I found that four long-serving senior Legislative Assembly management team members received significant retiring allowances in fiscal 2012 that were not publically disclosed. I also found that two of these individuals had been receiving compensation for several years without any payroll taxes being withheld, which may not be fully in compliance with the Canada Revenue Agency and requirements of the *Income Tax Act* if these individuals are deemed to be employees.

These unusual compensation arrangements were only recently discovered and my staff will continue to investigate. However, given that many of these items occurred during this current parliamentary session, I felt it necessary to bring these items to the current Legislative Assembly's attention before its dissolution at the end of this session.

Had the Legislative Assembly acted earlier by adopting some of my Office's recommendations such as implementing strong financial management controls, strengthening LAMC oversight and consulting subject matter experts then these issues could either have been prevented, or detected and addressed internally. I cannot stress enough the importance for the next LAMC to continue down the path towards effective governance of the Legislative Assembly, with the end goal of becoming a model of financial propriety throughout the province.



John Doyle, MAcc, FCA  
*Auditor General of British Columbia*  
Victoria, British Columbia  
March 2013

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## Legislative Assembly Response to March 1, 2013 Update Report

Thank you for your report of March 1, 2013 advising the Legislative Assembly of your assessment of the progress made with respect to addressing the key accounting, financial reporting and related issues identified during the course of the audit of the Legislative Assembly's financial records for the years ended March 31, 2009, 2010, and 2011, which were discussed in your July 2012 public report.

I am pleased that as noted on page 2 of your report that in your opinion "Legislative Assembly Management has developed a number of important initiatives to deal with many of the concerns identified in the Audit". I also appreciate your recognition "that the pace of recent actions taken, represents a great improvement...."

We are pleased to continue to work with the Office of the Auditor General to implement the recommendations of your July 2012 report. Since July 2012 there has been a concerted effort to address the concerns of the OAG including:

- a. The Legislative Assembly Management Committee is holding public meetings on a quarterly or more frequent basis and the minutes and transcripts of proceedings of these meetings are publicly posted;
- b. A Finance and Audit committee has been established to review financial information and proposed policy changes and make recommendations to LAMC. These meetings are in addition to LAMC meetings;
- c. We established an Executive Financial Officer (EFO) position and seconded a senior OAG staff person as A/EFO for six months. This person was of great assistance in improving our financial processes;
- d. We have now recruited a new permanent EFO who will carry on the work that has been initiated to date;

- e. We established an internal audit program. An initial audit of three constituency offices is underway as well as an audit of our capital processes.
- f. There now is quarterly publication of MLA remuneration, Capital City Allowance and travel expenses;
- g. We established an Audit Working Group dedicated to addressing OAG concerns that meets weekly and often includes OAG staff;
- h. An improved MLA handbook and policies has been developed and will be soon issued;
- i. We have undertaken a project to expand the Legislative Assembly's public web site to disclose policy relevant to the assembly and MLAs, thereby increasing transparency;
- j. We have developed guidelines for non-returning Members to ensure a smooth transition to the new Parliament following the election.
- k. The Clerk of the House holds regular monthly meetings with an OAG official;
- l. An inventory program is being planned;
- m. A robust budgeting process has been developed; and
- n. A business continuity/disaster recovery/earthquake preparedness program is being developed.
- o. A greening initiative intended to reduce the consumption of electricity and water is being implemented which will result in significant savings in taxpayer dollars.

I too believe that above shows good progress especially considering we are in an election year and we will soon have a new parliament where membership in committees such as LAMC is likely to change.

Notwithstanding this, Legislative Assembly management will continue to work toward implementing the other items raised in your audit report. We will be in a position to make further changes once a new Speaker is elected in the new Parliament and the new LAMC is established following the election. I will emphasize to the new Speaker and the new LAMC the importance of continuing the current pace of resolving the remaining issues.

With respect to audited financial statements, it is our intent to prepare these, once the remaining financial and accounting matters are dealt with. I do note, however, that only a handful of Legislative Assemblies in Canada have such

audited statements, but we are prepared to proceed once the improvements in financial management and systems are completed.

Concerning Appendix A, past policy required the 85 elected Members to negotiate leases for constituency office space, and suggested that Financial Services staff was available to review them prior to signing. In all but one instance, there were no significant issues arising from these leases. We believe that the lease you mention in appendix A was an anomaly, however, a legal obligation to pay was established by the agreement negotiated by the Member. The Member has been repaying these additional costs through monthly deduction from the constituency allowance. The Member consulted the Conflict of Interest Commissioner about the leasehold improvements and the relationship of the constituency assistant to the landlord, and was exonerated of any conflict. The constituency assistant in question has served under three Members over a sixteen year period. On the basis of invoices being supplied by the Member, they were paid.

Moving forward, and recognizing that some Members may not be experienced in leasing business property, we intend to obtain the services of a leasing expert, to assist Members when leasing constituency office space for the first time or for renewing leases. In conjunction with this, we will provide a model lease contract to ensure the appropriate clauses for things like lease cancelation should the Member not be re-elected be included. We believe the services of a leasing expert will also assist Members in getting fair leases reflecting local market prices, and that collectively, these office leases will be more consistent.

With regard to appendix B, as noted in your report, this program was established in 1984 by the Speaker at that time and was consistent with some practices elsewhere. As such, this program was a condition of employment when the current Table Officers were appointed by the Legislative Assembly. While a decision has now been made to wind up the program, obligations had accrued and needed to be settled. The termination, however, means that there will be no further obligations accruing. Table Officers are not entitled to the retirement allowance awarded to government employees.

The Schedule of Employee Salaries in the Public Accounts is compiled from an extract of salaries charged to the payroll system, consistent with the practice used for preparation of other salary schedules in the Public Accounts. This schedule

excludes Employee Benefits, an account classification that includes a number of employee benefits such as moving expenses, and which also includes the employer contributions to pension, employee health and insurance plans, Canada Pension Plan, Unemployment Insurance. The retirement allowance pay outs were recorded as an Employee Benefit and therefore were not included in the salary schedule for 2011-12, however, they were included in Vote 1 expenses and correctly reported on the employee's T4 slips.

Again, I would like to thank you and your staff for their support of this progress these past months through meeting with management and attending Audit Working Group meetings. In particular, Bob Faulkner, seconded from your staff for six months to act as Executive Financial Officer, assisted us in achieving much of the noted progress to date. We are prepared to continue to work closely with the Office of the Auditor General as we complete the reform process.

A handwritten signature in blue ink, appearing to read 'Bill Barisoff', with a long horizontal flourish extending to the right.

Hon. Bill Barisoff  
Speaker

March 11, 2013

# Audit of the Legislative Assembly's Financial Records: Update

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Under the *Legislative Assembly Management Committee Act*, responsibilities of LAMC include:

- setting policies for administration of the Legislative Assembly;
- appointing, supervising and managing staff of the Legislative Assembly, other than permanent officers of the Legislative Assembly<sup>1</sup>; and
- undertaking other matters necessary for the efficient and effective operation and management of the Legislative Assembly.

The Speaker, subject to any direction of LAMC, is responsible for the day-to-day administration of the Legislative Assembly. The committee may also delegate any of its powers to the Speaker.

The Office of the Auditor General's (OAG) [July 2012 report](#) discussed the significant deficiencies that the audit found in the management and oversight of the Legislative Assembly's financial records for the fiscal years ended March 31, 2009, 2010 and 2011. Among the deficiencies identified were:

- a lack of public audited financial statements;
- a lack of basic financial controls (e.g. bank reconciliations);
- a lack of an internal audit function;
- inadequate supporting documentation (e.g. receipts) for MLA travel expenses;
- inadequate public disclosure of MLA payments; and
- inadequate oversight and governance of the Legislative Assembly's financial records by the Legislative Assembly Management Committee (LAMC).

From these findings, the audit concluded that the Legislative Assembly was falling short in meeting the basic accounting and financial management standards that the rest of the provincial public sector is required to meet. The report contained one suggestion: that the Legislative Assembly immediately address the numerous and pervasive deficiencies identified in this audit as well as the recommendations in the Office's [2007 report](#) on the Legislative Assembly's financial management framework.

While these concerns were released publicly in July 2012, they had been brought to management's attention much earlier, as they were encountered in the audit (see sidebar on next page). In some cases, concerns identified in this audit of the Legislative Assembly's financial records were first brought to their attention through the recommendations of the Office's April 2007 report. Specific findings were also raised as they were encountered during the audits, including one regarding payment for leasehold improvements which is now a matter of public record (see Appendix A for further discussion).

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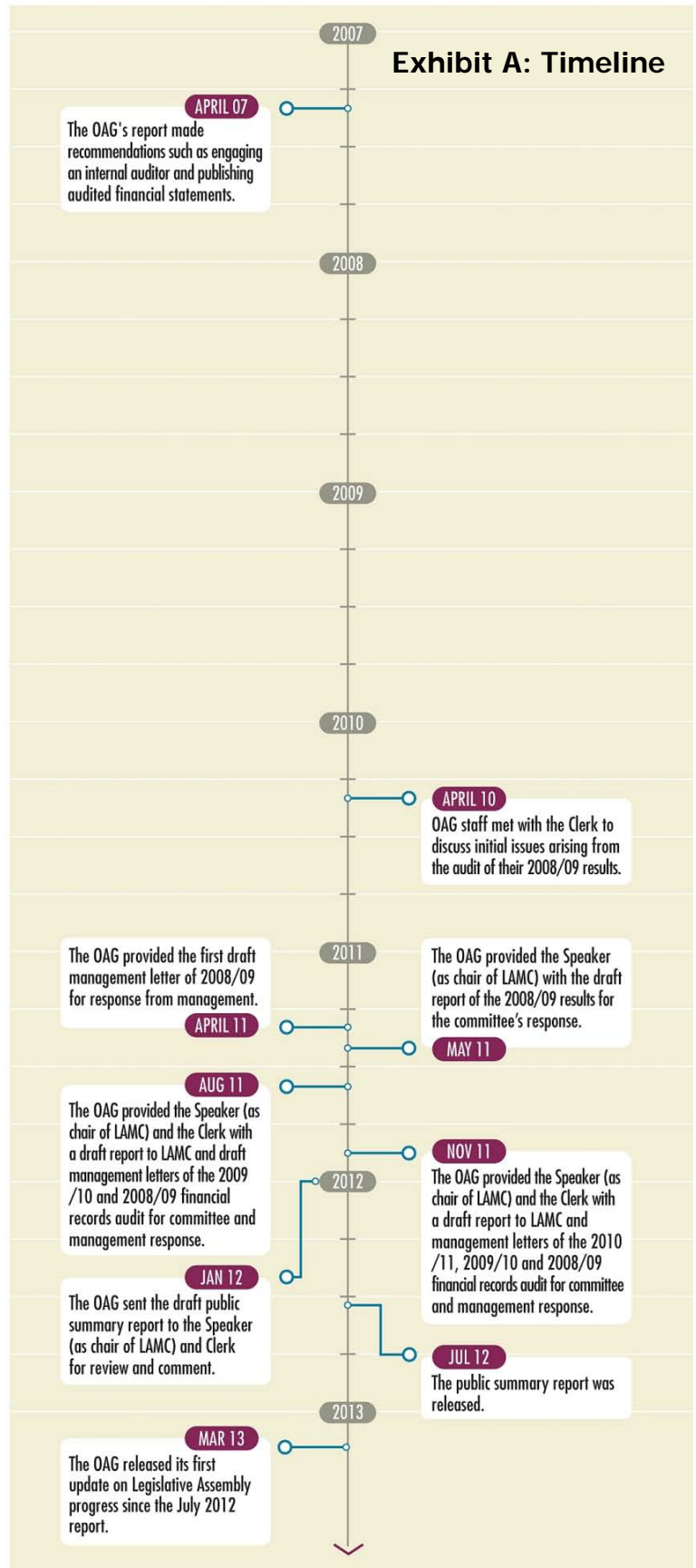
<sup>1</sup> Permanent officers of the Legislative Assembly include the Clerks and the Sergeant-at-Arms. See Appendix B for information relating to oversight of permanent officers.

LAMC and Legislative Assembly management have, since publication of the July 2012 report, accepted the Auditor General’s recommendations and committed to working towards them. Although some persistent issues have yet to be addressed, Legislative Assembly management has developed a number of important initiatives to deal with many of the concerns identified in the audit. Further, LAMC is beginning to step into its governance role by exercising its oversight of management and making many of the important policy decisions required before management’s initiatives can be undertaken. At the August 2012 LAMC meeting, the Speaker stated that he intended to see that, “well before July 2013”, the Legislative Assembly would have dealt with the accounting issues raised in the July 2012 report and that LAMC would have made decisions on the remaining key recommendations. The pace of recent actions taken represents a great improvement from the previous culture of inactivity which forced the release of the July 2012 report; however, it remains to be seen if the July 2013 target will be fully achieved. Overall, however, there is a positive indication that management’s inattention, which prevented these issues from being resolved in previous years, is now a thing of the past.

With an eye to assisting their continued improvement, we have identified two priority areas which require LAMC’s immediate and sustained attention.

**1. LAMC should publically commit to publish audited financial statements for vote 1 appropriation**

Audited financial statements are a fundamental part of good and accountable financial management, and publishing them was a significant recommendation from the Office’s work





(originally dating back to the 2007 report). While the Speaker has committed to implementing all the accepted recommendations, LAMC has yet to provide specific direction to Legislative Assembly management to prepare published financial statements for audit. This direction should also identify the

There are eight BC Reporting Principles (created in 2003 as a joint initiative of government, the Legislative Assembly's Select Standing Committee on Public Accounts, and the OAG):

1. Explain the public purpose served
2. Link goals and results
3. Focus on the few, critical aspects of performance
4. Relate results to risk and capacity
5. Link resources, strategies and results
6. Provide comparative information
7. Present credible information, fairly interpreted
8. Disclose the basis for key reporting judgements

specific fiscal year for which those statements should be prepared.

Based on the items noted during pre-planning procedures done to date, OAG staff will continue auditing the Legislative Assembly's financial records for the year ended March 31, 2012. Currently, the next planned full audit of the Legislative Assembly's financial records will be for the fiscal year ending March 31, 2014. This would be an ideal opportunity for the first full set of audited financial statements to be published by the Legislative Assembly, and to start the process of presenting these financial results alongside other performance information and explanations in an annual report that complies with the BC Reporting Principles, the accepted standard across all B.C. government organizations (see text box). Such a report would serve as an excellent foundation for the LAMC to meet its requirements to "report annually to the

Legislative Assembly on the decisions made by the committee during the previous year" (LAMC Act, Section 5, paragraph 9).

## ***2. LAMC should fully perform its governance and oversight function***

As stated in the July 2012 report, a key role of LAMC is operating as a governance and management oversight body to ensure that:

- the Legislative Assembly's resources are properly used;
- operations are well-managed and in compliance with all relevant legislation; and
- public and stakeholder expectations about the stewardship of public monies are met.

That report, and the accompanying non-public management letter and report to LAMC, included observations about the lack of effective LAMC oversight and governance of the Legislative Assembly. Since the report was released, the committee has met publically three times – once in each of August, October and January – and has announced that it would continue to meet at least quarterly, in meetings that would be public. These regular meetings are a necessary step towards delivering their governance and oversight role. LAMC and Legislative Assembly management have also created an audit working group and an audit and finance committee to further progress in implementing the recommendations.

These LAMC meetings and the efforts of the audit working group and audit and finance committee appear to have been productive. LAMC has recently made a number of important policy decisions to address many of the concerns raised. These are important first steps towards resolving outstanding issues, and may indicate that LAMC has turned a corner towards providing the timely and necessary

decisions which will allow Legislative Assembly management to carry out their duties effectively and efficiently.

In reviewing the minutes of LAMC's meetings, we noted that LAMC members were in active discussions with management to define LAMC's role and responsibilities under their Act. While incomplete, absent, or rushed briefing materials were a feature of LAMC's early meetings following my report, with one member stating "How can I discharge my judgement if I'm not getting information in a timely way?"<sup>2</sup>, the most recent January 2013 meeting seemed far smoother and more productive – further indication that LAMC appears to be developing its role towards strong governance and effective management oversight practices.

### **Looking Forward**

As stated in my report of July 2012, the Office's involvement with the Legislative Assembly's financial records will continue until all significant issues identified during these audits have been satisfactorily resolved, at which point the OAG will re-evaluate the need for continued direct involvement. As already mentioned, the OAG will complete an audit of the financial records for the fiscal year ended March 31, 2012. And after that, the next planned full audit of the Legislative Assembly's financial records will be for the fiscal year ended March 31, 2014.

The Office has a multi-year plan to examine constituency offices and, despite intervention from within the Legislative Assembly, has successfully tested the planned audit procedures in a small number of constituency offices. We also intend to examine the financial records of all MLAs' constituency offices over the next parliament. Shortly after the next election, the OAG will also examine the records of a number of constituency offices closed as a result of MLAs retiring or not being re-elected, to ensure that Legislative Assembly policies for closing offices and returning unused public funds and publicly funded assets are being adhered to. The OAG will also continue to monitor the implementation of the recommendations from previous reports, reporting publically as appropriate.

Although not a recommendation from the Office's work, the Legislative Assembly has taken steps to improve transparency around MLA expenditures. We encourage continued improvements in this area.

In summary, Legislative Assembly management needs to continue to work diligently to address the recommendations to which they have committed, and LAMC must provide regular oversight and scrutiny over this process actively making decisions where needed. Timely resolution of these items will require sustained commitment from LAMC for the remainder of this Parliament and into the next one. Then, even after these important items have been resolved, all subsequent LAMCs will need to commit to maintaining an active governance and management role to ensure that similar issues are not allowed to develop again.

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<sup>2</sup> LAMC meeting minutes, October 17, 2012.

# Appendix A: Leasehold Improvement Payment

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Specific findings from the audit of the 2009/10 financial records are now a matter of public record. This appendix provides an update on these findings through the Office's continued audit procedures.

During fiscal 2009/10, the Legislative Assembly paid the landlords of a Member \$67,000 as reimbursement for leasehold improvements to the member's office. This matter was raised in the fiscal 2010 management letter report, which noted that the member had forwarded the landlords' original request for payment of \$78,000 and that the pre-payment of leasehold improvement costs was in violation of the Legislative Assembly's policies, per the Member's Guide to Constituency Operations.

That management letter report also identified concerns around the arm's-length nature of this constituency office agreement as the member's constituency office assistant was married to one of the landlords of this building.

OAG staff were informed that the Legislative Assembly's controls were overridden and payment of the requested amount was made on the Speaker's instruction, who may not have been aware of additional facts which have only recently been brought to the Auditor General's attention. It was also noted during the audit that the Legislative Assembly is recovering the \$67,000 paid to the landlords from the member, by reducing his constituency office allowance by a prorated portion each month so that the full amount would be recovered by the end of the parliament. Each member receives \$119,000 each year, over the term of the parliament to pay for the operations of their constituency office. These offices help ensure that members are easily accessible to their constituents and can hear first hand their interests and concerns.

## **Additional information**

In December 2012, invoices supporting the amount paid to the landlords were provided to the OAG. Against normal procedure, these invoices were not stamped when received by the Legislative Assembly, leaving no record of the date received. Given that OAG staff requested these at the time of the audit, this raises serious concerns as to when they were provided and added to the Legislative Assembly's financial records.

The OAG has now completed a review of these invoices, which has raised some new concerns, particularly regarding a sub-group of these expenditures totalling approximately \$51,000. These expenditures included, among other things; purchasing and installing a complete forced air heating/cooling system including a 4-ton heat pump and 75,000 BTU furnace, replacing the building's wiring system, installing vapour barriers in exterior walls and purchasing and installing a new double-paned 18' X 9' store front window and new plumbing including gas piping, and painting the building's exterior.

The scope of the work done under these expenditures seems beyond the alterations typically made to customize a rental property for the needs of a specific tenant. Instead, these invoices indicate that the Legislative Assembly has reimbursed the landlord for a complete renovation of this building, and not just the mere customization of a pre-existing space.

In the review of the commercial lease agreement entered into with the landlords, it was noted that many of these expenditures appear to go well beyond the items agreed to by the member in that document and fall within the specific responsibilities of the landlord as defined in that agreement. We also identified that the lease agreement entered into by the member does not include many of the standard lease terms describing the tenant's rights and the landlord's obligations, and instead appears to favour the landlord.

Further, a detailed review of these invoices indicated that the member's office was also being used as the mailing address for the landlords for this renovation project. It was also noted that monthly rent invoices for the constituency office also displayed the member's office address as the landlords' mailing address. This creates the risk that at least a portion of the landlords' business operations were being carried out in premises paid through public monies.

The OAG provided the Speaker with this information and other details in a letter dated February 1, 2013. This letter also included a number of questions to help us better understand this transaction and the level of diligence exercised prior to approving this payment. While the Speaker provided a response to this letter on February 20, 2013, he did not answer all the questions posed. As a result, it is still unclear as to why the Legislative Assembly paid for this work, or why it obtained reimbursement of these amounts from the member by reducing the funds he was provided each month to run his office to represent the interests of his constituents.

However, the response from the Speaker did state that the lease agreement was an "exception", and described their current efforts to improve controls over constituency offices, leasing costs, and tenant improvements:

1. LAMC is considering implementing a recommendation to engage a professional lease negotiator to help members when acquiring lease space following the May 2013 election.
2. The Clerk's office is updating the Members' Handbook to "consolidate all the required information for members".
3. The Legislative Assembly is committed to making improvements to the policies and procedures around constituency offices.
4. The upcoming internal audit program will "touch upon the issue of lease costs and leasehold improvements" and that this audit work will "better inform the Legislative Assembly of any issues and that appropriate action may then be taken to further improve internal controls".

Overall, while payment of these building improvements is a significant use of public monies, it is also a symptom of a larger issue. It illustrates what can happen when management is not complying with existing policies, nor bringing any policy exceptions to LAMC's attention. It underscores the need for LAMC to operate as an effective oversight body for the Legislative Assembly.

# APPENDIX B: Legislative Assembly Senior Management Compensation

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## Introduction

As part of the Office’s ongoing audit work, we recently requested and obtained a copy of the Legislative Assembly’s 2012 general ledger for audit planning purposes under section 10(2) of *the Auditor General Act*. This early planning involved a number of high-level audit procedures, including reviewing the compensation and payroll records for senior officers. Those procedures identified a number of unusual payments which were then investigated. We continue to review the general ledger and this preliminary report covers only those matters identified and considered to date.

## Responsibility for Oversight

The *Legislative Assembly Management Act* establishes the governance framework for the administration of the Legislative Assembly, and defines the role of the LAMC and the Speaker in the administration of the Legislative Assembly’s activities. According to Section 3 (1) (c) of the Act, the jurisdiction of the LAMC includes: *the appointment, supervision and management of staff of the Legislative Assembly, other than permanent officers of the Legislative Assembly [...]*. The Act does not identify who has jurisdiction over the “permanent officers” of the Legislative Assembly. As a result, that role has been taken on by the Speaker as part of the responsibilities of the “*day to day administration of the Legislative Assembly*” (LAMC Act, section (4) (1)).

This situation also means that the Speaker has a level of autonomy in determining the terms of any compensation program available to these permanent officers.

## Findings

### Retirement Allowance Program

In 1984, the then Speaker identified that the Legislative Assembly’s “table officers” were not eligible to participate in the *Public Service Act* retirement allowance or executive benefit plan, nor did they receive benefits similar to those available to senior officials and managers at that time. He concluded that, as a result, table officers should receive additional compensation, which consisted of a payment upon retirement equivalent to 13 days of salary for each year of service up to 20 years in the year of their retirement. As a result, table officers could receive up to one year’s salary after 20 years of service under this program. At the time that this program was created, the entitlement was back-dated to the first day of employment for each table officer. Records obtained by the OAG to date indicate that two table officers received retirement allowances in 1988 under this program.

The benefit packages available to table officers have changed significantly since the retirement allowance program was first created in the 1984. We noted that the eligibility of two table officers under this program was “capped” at April 1, 1987, meaning they could not earn any further entitlement

**Table officers** are non-partisan employees of the Legislative Assembly who provide procedural advice to the Speaker and Members, and record the decisions of Legislative Assembly. Table Officers include the Clerk, the Clerk Assistant and the Law Clerk.

**Permanent officers** are non-partisan employees of the Legislative Assembly. In addition to the table officers, this group includes the Sergeant-at-arms and the Chief of Hansard.

under this program after that date. (The Executive Benefit Plan available to senior government officials in other government organizations was terminated this same year .) This capping was done to recognize that their evolving compensation arrangements had resulted in them receiving everything for which the original program was intended to compensate them. However, records for fiscal 2011/12 identified payments totalling \$660,000 under this program made to four current and former Legislative Assembly senior management team members in the first few weeks of 2012, prior to the program being terminated in February 2012 by the current Speaker.

The termination of this benefit in 2012 suggests this program was formally recognized as not being necessary in light of existing compensation arrangements, some 28 years after it was first created. To date, we have not been able to identify documentary evidence that the appropriateness of payments under this program in 2012 was reviewed in light of the actual compensation packages of these four recipients.

The Legislative Assembly should have been accruing this retirement allowance liability over the time period that the benefits were being earned by the recipients (which they were not) and, as no payments under this program were made in the years ended March 31, 2009, 2010, or 2011, my prior year audit procedures did not identify that such a liability existed. If the Legislative Assembly had been preparing audited financial statements, they would have been required to disclose the existence of this benefit program in the notes to their financial statements so that readers would understand to whom the monies were owed and why.

Due to the long service of many employees within the Legislative Assembly, most of the recipients of this retirement allowance benefit are also receiving, or could accumulate, a full government pension based on 35 years of service. They may also have been, or be, eligible for up to three months' salary retirement allowance under the standard retirement allowance plan available to all provincial employees who work over 20 years.

Furthermore, none of the \$660,000 in payments made in fiscal 2012 were publically disclosed, as required under the *Financial Information Act*. While the Legislative Assembly maintains a separate page on the Province's public accounts that identifies the individual recipients of salaries in excess of \$75,000, these retirement allowances were not included in these disclosures, even though their "regular" salaries were.

The issue of incomplete public disclosure of compensation paid by the Legislative Assembly was first brought to management's attention as part of the audit of the Legislative Assembly's 2009-2011 financial records. The audit of the 2010 results identified approximately \$2 million in "transitional assistance" (payments made to former MLAs who had completed a term in parliament and either decided not to run again or were defeated) that were not included in any publically disclosed members' compensation totals. This information (and its impact) was included in the OAG's fiscal 2010 management letter and was a feature of the summary report published July 2012.

### **Unusual Compensation Arrangements**

We have found that the Legislative Assembly had longstanding payment agreements with two senior executives which raise significant questions of whether they were being treated as employees or

contractors. This distinction is important, as each category has its own set of rules established by the *Income Tax Act* and the Canada Revenue Agency.

For example, these individuals were paid at regular intervals (1/8<sup>th</sup> of their annual compensation every 1.5 months), but there was no payroll tax withheld from these payments. While this suggests that they were being treated as contractors, there was no GST, PST or HST paid on these amounts.

While receiving the tax benefits associated with contractors, these individuals also received the same benefit entitlements as other regular employees including MSP benefits, extended health and dental insurance coverage, and a quarterly car allowance. They also were registered with the Province's employee pension plan over the period of this arrangement and had the employee portion of pension fund costs withheld from their periodic payments during the required 35-year pension plan contribution period. Similarly, the Legislative Assembly contributed the employer portion of the pension plan during this time as well.

### **Clerk Consultant Appointment**

The awarding of a two-year consulting appointment to a retiring Clerk was discussed at the August 2012 LAMC meeting, where it was identified that the precedent for this "traditional" arrangement was established in the retirements of the previous two Clerks. In our audit work to date, we have found evidence of this happening as far back as 1993.

While this arrangement was discussed and approved in a vote of the Legislative Assembly appointing the Clerk Consultant, no formal contract documenting the terms and conditions around this arrangement was established.

Standard good practice is that organizations establish clearly defined deliverables for all consultants and timelines for their performance. Organizations use this information to evaluate consultants' performance and to ensure that they are getting value for the money they are spending. I will look to see these sorts of good practice are being followed in any documentation that I am able to obtain around this arrangement.

As discussed in the "unusual compensation arrangement" section above, this two-year agreement with the Clerk Consultant also includes a number of benefits typically only provided to employees, such as employer-paid MSP premiums, extended health benefits and travel (including spousal travel). The Legislative Assembly has also included payments to the Clerk Consultant under this appointment in their public accounts disclosure of "Salary Payments of \$75,000 and greater".)

### **Looking Forward**

This appendix lists a number of important preliminary findings identified through the pre-planning procedures for an audit of the Legislative Assembly's financial records for the year ended March 31, 2012. Going forward, we will follow up on these items and complete the audit, reporting on the results to the next parliament and their LAMC. The form of this report will either be a management letter for internal purposes only, or a public report, which will be determined after completion of the audit procedures.