



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE

COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

P.O. BOX 500586 SAIPAN, MP 96950

CELINA R. BABAUTA

CHAIRPERSON

JUDICIARY AND GOVERNMENTAL OPERATIONS COMMITTEE

Adopted - 6/16/2021

STANDING COMMITTEE REPORT NO. 22-15

DATE: APRIL 22, 2021

RE: H.B. 22-29

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations to which was referred:

H. B. No. 22-29:

“To amend 1 CMC § 121 in order to eradicate the unconstitutional public purpose presumption for legislative expenditures.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. No. 22-29 be passed by the House in its current form.

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 22-29 is to amend 1 CMC § 121 in order to eradicate the unconstitutional public purpose presumption for legislative expenditures.

B. Committee Findings:

Your Committee finds that pursuant to Article X, Section 1 of the NMI Constitution, as amended by Amendment 28 of the Second Constitutional Convention, the Legislature was granted the power to provide the definition of “public purpose”. In granting such power, it was the intent of the members of the Second Constitutional Convention to provide limitations to guide the Legislative Branch in defining such a term. The intended definition for “public purpose” was one that directly and substantially benefits the public welfare in a manner that is reasonably foreseeable and reasonably likely to occur. Your Committee finds that it is imperative to uphold the honorable intentions of the members of the Second Constitutional Convention and remit any language in our laws that contradict such intent. “public purpose” is a term that should benefit the Commonwealth as a whole.

Your Committee also finds pursuant to 1 CMC §121, originally enacted by Public Law 11-84 and subsequently amended by Public Law 12-2, “public purpose” is defined. However, subsection (i) of the aforementioned statute establishes the presumption that all expenditures authorized and regulated by legislative rules are presumed to be for a public purpose unless proven otherwise by clear and convincing evidence that the expenditure was for personal or political activity. Your Committee finds that this presumption stated in 1 CMC §121(i) contradicts the Constitutional mandate under Article X, Section 1 of the NMI Constitution. Furthermore, 1 CMC §121(i) undermines the intent of the Second Constitution Convention by lacking firm guidance for legislators to determine a truly public purpose expenditure. Without such stern guidance, poor public accountability conditions will continue to prevail.

Your Committee further finds that based on Public Auditor Mike Pai’s letter in regards to House Members’ allotments, specifically House Department & Agency Communication 21-10, the Public Auditor made recommendations to provide more guidance on allowable expenses for such allotments. Furthermore, the letter also refers to the 2003 OPA Report (OPA Report No. AR-03-05) “Monthly Subsistence Allowance Provided to the Members of the Senate Covering the Six Months Ending June 30, 2002.”¹ The 2003 OPA Report indicated that the \$5,000 subsistence allowances are considerably high, resulting in an unjustified personal benefit in violation of the public purpose presumption. Your Committee also finds that in the United States Congress, members of the U.S. House of Representatives possess the “Members’ Congressional Handbook” that sets thorough guidelines on how members’ allowances are to be used.² The specified handbook serves as a first-class example on how to use allowances without contradicting the intent of the public purpose presumption. Your Committee finds that it is imperative to preserve the spirit of the CNMI Constitution and ensure that public funds are used solely for the benefit of the Commonwealth.

Therefore, your Committee agrees with the intent and purpose of House Bill No. 22-29 and recommends its passage in its current form.

¹ <https://www.opacnmi.com/oockuvoa/2020/10/AR-03-05-CNMI-Senate-Monthly-Subsistence-Allowance-Provided-to-Members-of-the-Senate-Covering-the-Six-Months-Ending-June-2002.pdf>

²

https://cha.house.gov/sites/democrats.cha.house.gov/files/2020_116th%20Members%27%20Congresional%20Handbook_11-06.pdf

C. Legislative History:

House Bill No. 22-29 was introduced by Representative Christina M.E. Sablan on March 16, 2021 to the full body of the House and was referred to the House Standing Committee on Judiciary and Governmental Operations for disposition.

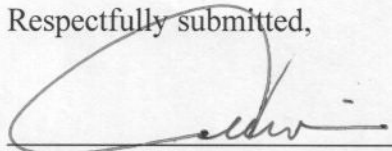
D. Cost Benefit:

The enactment of House Bill No. 22-29 will not result in additional cost to the CNMI government due to the fact that the proposed legislation aims to remove an unconstitutional provision regarding the public purpose presumption being defined under the respective legislative rules.


III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 22-29, and recommends its passage in its current form.

Respectfully submitted,



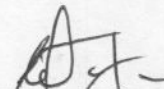
Rep. Celina R. Babauta, Chairperson



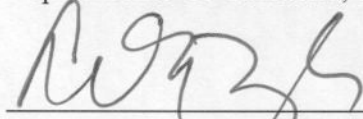
Rep. Blas Jonathan "BJ" T. Attao, Vice Chair



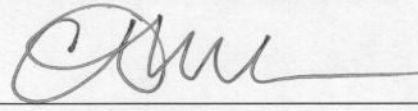
Rep. Vicente C. Camacho, Member



Rep. Richard T. Lizama, Member



Rep. Donald M. Manglona, Member

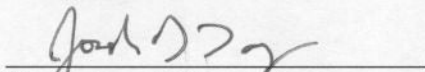


Rep. Christina M.E. Sablan, Member



Rep. Edwin K. Propst, Member

Reviewed by:



House Legal Counsel

Attachments:

- House Department & Agency Communication 21-10;
- OPA Report No. AR-03-05; and
- 116th U.S. Congress, House of Representatives: Members' Congressional Handbook.



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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April 10, 2019

Dept. & Agency Comm. 21-10
(HOUSE)

VIA HAND DELIVERY

Honorable Edwin Propst, House Minority Leader
Honorable Christina Sablan, Representative
Honorable Edmund Villagomez, Representative
Honorable Sheila Babauta, Representative
Honorable Richard Lizama, Representative
Honorable Donald Manglona, Representative
The House of Representatives
21st Northern Marianas Commonwealth Legislature
Honorable Jesus P. Mafnas Memorial Building
P.O. Box 500586
Saipan, MP 96950

RE: Request for OPA guidance on rule change that would permit each member to draw an allowance from that member's individual office allotment.

Dear Representatives:

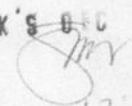
The Office of the Public Auditor (OPA) appreciates the House of Representatives (House) reaching out in regard to the changing of the House rules to allow members to receive an allowance. Unfortunately, action was taken on the proposed rule change prior to our ability to tender a response. OPA will evaluate the House rule amendments as adopted and provide responses to the inquiries as presented in the request letter.ⁱ

As you are aware, several of the issues raised in the request have been partially addressed by a previous report prepared by our office, albeit under different factual scenarios. OPA recommends this response be reviewed as supplemental and complimentary to the concerns raised and analysis set forth in its 2003 report "Monthly Subsistence Allowance Provided to the Members of the Senate Covering the Six Months Ending June 30, 2002." One important distinction is the Senate Rules analyzed at that time required the allowance to be spent *outside* the Senators' Senatorial District. By contrast, the currently proposed House Rules allow for Representatives to use the allowance in any Senatorial District *and* outside the Commonwealth *and* includes "other incidental expenses related to community events and activities." The more expansive rules, including incidental expenses invite confusion and may frustrate public accountability.

The specific questions directed to our office are addressed below in turn.ⁱⁱ

1. Whether the House has the authority to grant such allowances to its members, drawing from each member's individual office allotment?

OPA addressed the similar issue of whether allowances for legislators could be provided by legislative rule change instead of by legislation in its 2003 report cited above. Though the specifics in 2003 and present rule changes differ (see analysis below), the mechanics of their creation suffer the same Constitutional flaws. Article II, Section 10 of the N.M.I. Constitution discusses the Legislature's compensation, and additionally permits "reasonable allowances for expenses

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provided by law.” This specifies that allowances must be reasonable and they must be created by law. By law means the ordinary legislative process governed by Article II, Sections 5 and 7 of the N.M.I. Constitution, requiring a majority of each legislative body and action or non-action by the executive.

Furthermore, creating an allowance regime by legislative rule instead of by law offends the separation of powers doctrine, bypassing the veto power of the Executive Branch and evading judicial review by the Judicial Branch.ⁱⁱⁱ “The legislature cannot enact laws by a resolution, which merely expresses the agreement of the legislatures without force of law.” *Analysis of the Constitution of the CNMI*, p. 43 (1976). Any lawful designation of allowances received by the House must be done by law, not by House rule, as required by the Constitution.^{iv}

2. Whether the proposed allowance for defraying the costs of food, lodging, and other incidental expenses related to legislative business, satisfies public purpose requirements?

An analysis of each expense claimed is required to determine whether they satisfy the public purpose requirement. Public purpose was not defined by law until the Second Constitutional Convention mandated the legislature to provide a definition of public purpose in accordance with Article 1, Section X of the N.M.I. Constitution. Members of the Second Constitutional convention envisioned that the public purpose definition would be limiting, “[t]he direct and substantial benefits to the welfare necessary for a finding of public purpose must be reasonably foreseeable and reasonably likely to occur” and “[a] public purpose does not include an objective that brings benefits only to a few persons...or that improves private property.”^v

Public Law 11-84, codified at 1 CMC § 121, defines public purpose and included a provision specific to legislative expenditures: “[n]otwithstanding any other provision of this act or other law to the contrary, expenditures authorized and regulated by the legislative rules are expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.” While this provision seems to undermine the intent of the Second Constitutional Convention text above, which sought to limit the expansion of public purpose, the issue is whether the allowance as proposed by the rule change is indeed for a public purpose or for personal or political activity.

The compounding of the “public purpose presumption” for all legislative expenditures and the extremely loose rules allowing for “incidental expenses relative to legislative business” create ideal conditions for poor public accountability. As demonstrated below, audits and investigations of such allowances and any personal accounts into which they are comingled is allowable under the law. Any expenditures shown with clear and convincing evidence to be made for a private purpose, could cause violators to be prosecuted for charges of theft, Ethics Act violations, misconduct in public office, and be subject to civil claims reimbursement of the allowance under 1 CMC § 7705.

The Second Constitutional Convention also created Article X, Section 8 of the N.M.I. Constitution, which requires the Department of Finance to control and regulate the expenditure of public funds and to “promulgate regulations including accounting procedures that require public officials to provide full and reasonable documentation that public funds are expended for public purposes.” This means that any expenditure of public funds by public officials must meet the requirements of the Department of Finance current and future regulations, even those contemplated by the newly enacted House rules.

3. Whether the proposed allowance amount is reasonable?

As discussed in response to question 1, the N.M.I. Constitution requires any allowance be both reasonable and provided by law. Whether the proposed allowance of between \$2,500 and \$5,000 per month is reasonable would require analysis of the expenses claimed. OPA does not have sufficient information to conduct this inquiry but an analysis could be undertaken in the future.

Without embarking on a figure-based analysis, OPA notes the suspicious lack of distinction between members representing districts in Saipan and those representing districts on Rota and Tinian. The intent of the 2003 Senate Rule change was largely to allow Senators from Tinian and Rota wider discretion to spend funds while they were away from their homes and accruing costs related to this required travel for legislative business. It is difficult to see how this need would apply to Senators in their own districts. Disregarding the obvious disparities between travel and per diem needs of these two categories of representatives puts the reasonableness of the rule in serious and immediate doubt.

Moreover, in OPA's 2003 report, in which analysis into actual expenditures was conducted, we determined that Senate Rules, which only applied to travel expenses *outside* their Senatorial district, violated the Constitution because the monthly allowances were above the reasonable travel costs, resulting in an unjustified benefit to the Senators receiving the allowance. Here, the broader House Rule which includes expenditures in any Senatorial district and outside the Commonwealth and does not apply simply to travel but "other incidental expenses relative to legislative business," raises serious question as to its reasonableness. If anything, the more relaxed rules proposed by the House raise far more concerns than the earlier Senate rules analyzed in the 2003 report because of the reduced geographical limitations and expanded "incidental expenses" justification, which could result in a \$5,000 potential expenditures for anything remotely relative to legislative business. The vagueness of the rule and endless potential of the expenditures make it difficult to currently determine reasonableness; however, once OPA is able to observe the legislators' spending habits under the new rule, we would be able to analyze reasonableness similar to our 2003 report.

4. Whether the Secretary of Finance has the authority to issue lump sum payments for allowances to individual members for deposits into personal bank accounts or to cash outright?

The Secretary of Finance has a duty to disburse funds according to law, but also a Constitutional duty to promulgate regulations to require proper documentation to ensure that public funds are expended for public purposes. Title 1, Section 2553(g) of the Commonwealth Code provides that the Secretary of Finance has a duty to disburse funds according to law. While there remains question as discussed above whether the allowance created by the rule change is valid under the Constitution, assuming the rule is valid, the Secretary would be authorized to issue the payments as allowed by the rule.

Notwithstanding the relaxed nature of the rule and the duty to disburse funds according to law, Article X, Section 8 of the N.M.I. Constitution, requires the Department of Finance to control and regulate the expenditure of public funds and to "promulgate regulations including accounting procedures that require public officials to provide full and reasonable documentation that public funds are expended for public purposes." Despite the presumption that legislative expenditures are for a public purpose, the Constitution requires adequate safeguards be placed by the Department of Finance to ensure public accountability of the allowance funds. In other words, the legislature may not circumvent the mandates of public accountability placed upon all public

officials by Article X, Section 8 of the Constitution by creating a “public purpose presumption” and a relaxed standard for allowable incidental expenses.

5. Whether the Public Auditor has the authority to audit the receipt, possession, and disbursement of allowances, as well as the personal bank accounts into which allowances would be deposited?

OPA has audit oversight over the disbursement of public funds by the legislature and that authority would extend to the allowances contemplated by the rule change and any personal bank accounts into which those funds were deposited. Under Article III, Section 12 of the N.M.I. Constitution, “[t]he public auditor shall audit the receipt, possession and disbursement of public funds by the executive, legislative and judicial branches of the government, an instrumentality of the Commonwealth or an agency of local government and shall perform other duties provided by law.” Under 1 CMC 7842(a), OPA is granted access to all agency records. The term “agency” is defined by 1 CMC § 7103(b) to include the several branches of government. Personal bank records into which such funds are deposited would be subject to summons under 1 CMC § 7842(b) & (c), even if commingled with personal assets.

6. Whether the Open Government Act would apply to records documenting transactions from these allowances?

The Open Government Act applies to the legislature and sufficient records of expenditures made of allowance funds must be maintained, however, whether those records are subject to public disclosure under the law would depend on a case by case analysis on whether any exceptions exist under the law. Individuals receiving allowances will be required to keep sufficient records of allowance expenditures under 1 CMC 7850(a) to allow a proper audit to be conducted and are subject to fine and imprisonment for failure to maintain adequate records. Furthermore, House Rule XIII, Section 10(c) requires each member to maintain a record of all transactions and corresponding public purpose justification related to the allowance. The records maintained will most likely be subject to disclosure under the Open Government Act, but will depend on individual circumstances of each request.

7. Whether any minimum reporting or other accountability requirements would apply to the use of the allowances?

As discussed above, individuals receiving allowances will be required to keep sufficient records of allowance expenditures under 1 CMC 7850(a) to allow a proper audit and required by House Rule XIII, Section 10(c) to maintain a record of all transactions and corresponding public purpose justifications. Neither requirement has any minimum reporting requirement. Additionally, Article X, Section 8 of the Constitution requires the Department of Finance to ensure disbursements are for a public purpose. The Department of Finance created and adopted the “Regulations for the Control of Public Funds” to achieve their constitutional mandate. These funds are still controlled by the Department of Finance’s regulations.

8. What measures, if any, the House might consider adopting to enhance transparency and accountability for these public funds?

As discussed above, the current rule change violates the letter and spirit of the Commonwealth Constitution and, even if lawful, would create ideal conditions for poor accountability of public funds. Assuming the motivation for the rule change was to simplify access to funds for legislative expenses, OPA has several suggestions that might streamline access, while maintaining at least some level of accounting. However, we do recognize that the additional requirements of each

member maintaining a record of all transactions and a corresponding public purpose justifications for all expenditures are steps in the right direction.

First, OPA suggests a rule change to require signed receipts for every dollar spent. Corresponding receipts to the required record of all transactions will further ensure that the funds are being spent in a proper manner. Additionally, it will be easier to audit and track these funds if receipts are maintained. OPA would also suggest that a general prohibition on any receipts for cash. The use of cash opens the door for potential abuse because it is very difficult to track, thereby hard to confirm whether the funds are being spent properly.

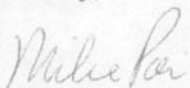
Second, we recommend the rules be amended to require the public purpose justification to be signed under the penalty of perjury. This additional requirement would provide more potential consequences to situations of abuse. Potential consequences beyond the civil liability of having to pay back the funds will act as a deterrent to improper use of funds. Having to sign under a penalty of perjury would be an on-going reminder of those potential consequences.

Third, OPA suggests that members not in compliance with the record keeping requirements be prohibited from receiving further allowance until full compliance is achieved. This control measure will serve the dual purpose of motivating compliance and limiting excessive unjustified balances.

Lastly, we recommend including more guidance on allowable expenses and separating expenses that apply to travel. The vague language allowing claims for "other expenses incurred by reason of attending to legislative business" does not provide adequate direction and may invite inappropriate expenses claimed under color of law. Also, by not separating travel from the rest of the rule it may appear allowable for a representative to use these funds for food and lodging in their own Senatorial District, when it is intended that expenses related to food and lodging are allowable only while traveling. Legislation addressing all government travel is long overdue, as the CNMI has not adopted travel regulations since 2005. One Commonwealth-wide travel rule would promote fairness, efficiency, and accountability in government travel.

If you have any questions about OPA's comments, please do not hesitate to contact our office.

Sincerely,



Michael Pai, CPA
Public Auditor

MP/ak/jp/mc/cf

cc: Ashley Kost, OPA Legal Counsel

ⁱ It should be noted that OPA's ability to issue an authoritative legal opinion is limited to inquiries under the Ethics Code Act under 1 CMC § 8561(j).

ⁱⁱ These identical questions were posed to the Office of the Attorney General and these responses represent the opinion of the Office of the Public Auditor only.

ⁱⁱⁱ The court is unable to inquire into or review the senate's internal rules in absence of any law specifically allowing judicial inquiry. *Mafnas v. Inos*, Civ. Action No. 90-031, N.M.I. Super. Ct. Jan. 22, 1990, Memorandum Decision on Order to Show Cause for Declaratory Relief at n.16.

^{iv} Though it was argued by Senate counsel opinion in response to the 2003 report that allowances could be created by such legislative fiat in light of 1 CMC § 121(i), which provides that "expenditures authorized and regulated by legislative

rules are expressly declared to be for a public purpose," the reasoning simply does not withstand scrutiny. Section 121 of Title 1 does not address legislative allowances in any manner. It merely declares that expenditures authorized by legislative rule are presumptively for a lawful public purpose. The reference to "expenditure authorized and regulated by legislative rule" in a separate law cannot be used to bypass the process required by Constitution with respect to legislative allowances.

^v Committee Recommendation No. 33, Report To The Convention By The Committee on Finance And Other Matters. (Adopted, as amended, by the Committee of the Whole and the Convention on July 12, 1985).

EXECUTIVE SUMMARY

Monthly Subsistence Allowance Provided to Members of the Senate Covering the Six Months Ending June 30, 2002

Report No. AR-03-05, dated August 6, 2003

Summary

This report presents the Office of the Public Auditor's (OPA) evaluation of the monthly subsistence allowance provided to the members of the Senate for the Thirteenth Legislature in the Commonwealth of the Northern Mariana Islands (CNMI). The evaluation's objectives were to determine whether: (a) the Senate has authority to grant the monthly \$5,000 subsistence allowance; (b) the amount of the \$5,000 monthly allowance satisfies public purpose requirements; (c) senators receiving monthly allowances are required to submit documentation detailing travel; and (d) the Commonwealth is compensating senators twice for items covered by the monthly subsistence allowance.

Senators from the First Senatorial District (Rota), Second Senatorial District (Tinian and Aguiguan) and Third Senatorial District (Saipan and the Northern Islands) receive a monthly subsistence allowance for local inter-island travel within the CNMI. The allowance is based upon Senate rules and resolutions.

Our review of the NMI Constitution, statutes, regulations, legislative resolutions and rules, current quoted air fares, and applicable per diem rates show that the monthly travel expenses for Rota and Tinian senators are likely to be considerably less than the \$5,000 monthly subsistence allowance provided to them when traveling to Saipan, resulting in an unjustified personal benefit to the senators in violation of public purpose.

Reasonableness of \$5,000 Monthly Travel Allowance for Tinian and Rota Senators Traveling to Saipan

When Per Diem is Based Upon:	Excessive Monthly Allowance Under Different Scenarios		
	Daily Trips	Weekly Trips	Monthly Trips
Full \$175 Per Diem Regardless of Whether Overnight Trips Were Made			
Rota	(\$34)	\$1,720	\$961
Tinian	1,265	1,980	1,021
\$87.50 Per Diem in Lieu of the Full \$175 Per Diem Because Overnight Trips Not Made			
Rota	1,387	2,004	1,027
Tinian	2,686	2,264	1,087

Our review also found:

- while the authority for the monthly subsistence allowance is found in Senate rules and resolutions, the Constitution and Commonwealth law require allowances for expenses to be in the form of a law;
- the Commonwealth is likely paying the six senators from Rota and Tinian \$104,216 annually in excess of reasonable travel costs;
- although current laws and regulations applicable to the Senate appear to require submission of documentation for travel covered by the monthly allowance, senators are not filing such documentation; and

- finally, Senate rules and resolutions do not provide adequate assurance that senators are not reimbursed for items already covered by the allowance, i.e. concurrent travel.

Accordingly, we recommend that the Senate:

- 1) introduce legislation to grant it authority for the subsistence allowance and its amount, to set the amount of the allowance, and to certify it as a public purpose;
- 2) undertake an analysis of reasonable travel costs to ensure that the amount set for allowances is appropriate given expenses incurred;
- 3) document travel activity to enable it to more accurately estimate an appropriate monthly allowance;
- 4) require that travelers document trip activities to ensure compliance with applicable regulations and the law, a practice which would support Senate efforts to determine a reasonable monthly allowance amount; and
- 5) draft amendments to current legislation or other travel policies to prevent senators from being reimbursed for other concurrent travel.

In a letter response dated June 25, 2003, the Senate agreed with recommendations 2, 3, and 5. More specifically, the Senate agreed to replace the existing subsistence allowance system with a new revolving reimbursement system that would use uniform per diem rates to reimburse senators for expenses incurred in the exercise of their constitutional duties. The Senate also agreed to conduct an analysis of travel expenses to ensure that the new per diem rate was reasonable. Further, it agreed to adopt policies to ensure compliance with public purpose requirements. Also, the Senate confirmed that any disbursements of funds from the new revolving account would be predicated on the provision of sufficient documentation of expenditures. Finally, it agreed to take action to ensure that members of the Senate do not receive "double compensation" for travel costs.

The Senate did not, however, adequately respond to recommendations 1 and 4. More specifically, the Senate did not agree:

- with OPA's position that authority for the monthly subsistence allowance, created in the Senate rules, must be in the form of a law. Instead the Senate asserts that it has the implied statutory authority to establish the subsistence allowance for its members by Senate rule; or
- to submit travel vouchers documenting travel purpose and expenses.

Office of the Public Auditor
Commonwealth of the Northern Mariana Islands

**CNMI Senate
Monthly Subsistence Allowance
Provided to Members of the Senate
Covering the Six Months Ending June 30, 2002**



Audit Report
AR-03-05



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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August 6, 2003

The Honorable Paul A. Manglona
President of the Senate
Thirteenth Northern Marianas Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

The Honorable Ramon S. Guerrero
Senator
Thirteenth Northern Marianas Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

Dear President Manglona and Senator Guerrero:

**Subject: Monthly Subsistence Allowance Provided to Members of the Senate
Covering the Six Months Ending June 30, 2002 (Report No. AR-03-05)**

This report presents the Office of the Public Auditor's (OPA) evaluation of the monthly subsistence allowance provided to the members of the Senate for the Thirteenth Legislature in the Commonwealth of the Northern Mariana Islands (CNMI). The evaluation's objectives were to determine whether: (a) the Senate has authority to grant the monthly \$5,000 subsistence allowance; (b) the amount of the \$5,000 monthly allowance satisfies public purpose requirements; (c) senators receiving monthly allowances are required to submit documentation detailing travel; and (d) the Commonwealth is compensating senators twice for items covered by the monthly subsistence allowance.

BACKGROUND

Senators from the First Senatorial District (Rota), Second Senatorial District (Tinian and Aguiguan) and Third Senatorial District (Saipan and the Northern Islands) receive a monthly subsistence allowance for local inter-island travel within the CNMI. The allowance is based upon Senate rules and resolutions.

On March 15, 2002, Senator Ramon S. Guerrero requested the Office of the Public Auditor to review the monthly subsistence allowance received by senators from Rota and Tinian.¹ Later, in a meeting on June 11, 2002, Senate President Paul Manglona, Senator Joaquin Adriano, and Senator Ricardo Atalig requested OPA to broaden the request to include other areas which will be addressed in a separate report.

The Senate has periodically increased the subsistence allowance, which initially applied only to senators from Rota and Tinian, and has more recently provided a similar allowance to senators from Saipan.

- On February 24, 1999, the Senate adopted Senate Resolution 11-30 setting the monthly allowance at \$5,000. According to the resolution, senators would no longer receive housing allowances or blanket travel authorizations and “reimbursement is permitted upon legal review by the Senate Legal Counsel.”
- On July 3, 2002, the Senate for the Thirteenth Legislature adopted Official Rules. Rule 12, section 2(a)(6) provides that Members of the Senate from Rota and Tinian may use a portion of the funds under their individual office accounts as an allowance to defray the costs of food, lodging, transportation, and other expenses they incur by reason of their presence on Saipan on legislative business, in accordance with any Senate resolution relative to such subsistence costs allowances. It further provided that members of the Senate from the Third Senatorial District shall receive a legislative allowance from funds under their individual office accounts to defray the cost of food, lodging and transportation and other related expense incurred while on legislative business in the First or Second Senatorial Districts. According to the rule, the allowance shall be \$2,000 per month if the member is a chairperson of a standing or special committee and \$1,000 per month per committee, standing or special, of which the member is a member, but in no event shall a member from the Third Senatorial District receive more than \$5,000 per month under this Rule.
- Senate Resolution 13-19, adopted on August 16, 2002, increased the Senate per diem rates for travel within the CNMI to \$175 per day. The resolution provided that if a senator spends eight hours away from his island of residence he is entitled to a stipend equal to the full per diem rate. If a senator spends less than eight hours on travel within the Commonwealth, he is entitled to receive a stipend equal to fifty percent of the daily per diem rate, which equals \$87.50.

¹ When OPA received Senator Guerrero’s request on March 15, 2002, the Interim Rules of the Thirteenth Senate were in effect, which provided the allowance only to senators of the First Senatorial District (Rota) and Second Senatorial District (Tinian and Aguigan). Subsequently, on July 3, 2002, the Thirteenth Senate adopted final rules which provided for allowances to senators of the Third Senatorial District (Saipan and the islands to the north of it) in amounts ranging from \$1,000 to \$5,000 calculated based upon the number of committees of which the senator is a member or chairs.

Senate Rule 12, section 2(a)(6), together with Senate Resolution 11-30, authorized Rota and Tinian senators to receive a monthly allowance of \$5,000 and allowed senators from Saipan to receive up to \$5,000 per month, based on the number of committees the senator chairs or serves as a member, while Senate Resolution 13-19 increased the per diem rates for travel within the CNMI to \$175.

OBJECTIVE, SCOPE, AND METHODOLOGY

OPA's evaluation had four objectives:

- Does the Senate have authority to grant the monthly \$5,000 allowance?
- Does the amount of the \$5,000 monthly allowance meet public purpose requirements?
- Are senators who receive monthly allowances required to submit documentation detailing travel?
- Is the Commonwealth compensating senators twice for items covered by the monthly subsistence allowance?

To address our 1st objective, namely to determine whether the Senate has authority to grant the monthly subsistence allowance, we reviewed the applicable provisions in the Constitution of the Northern Mariana Islands (NMI), statutes, regulations and legislative resolutions and rules.

To address our 2nd objective, namely to determine whether the amount of the monthly subsistence allowance comports with public purpose requirements, we utilized current quoted air fares and applicable per diem rates to determine if estimates of reasonable travel expenses approximated the current allowance.

To address our 3rd objective, namely to determine whether senators receiving the allowance need to submit travel documentation, we reviewed the applicable provisions in the NMI Constitution, statutes, regulations and legislative resolutions and rules.

To address our 4th objective, namely to determine whether the Commonwealth is providing duplicate compensation to senators for items covered by the monthly allowance, we reviewed the applicable Senate rules and resolutions and available financial documents.

Our evaluation was limited to: (a) reviewing documents obtained from the Department of Finance (DOF) and the CNMI Legislature relating to legislative expenditures and the monthly allowance, (b) conducting interviews with various legislative and DOF employees, (c) reviewing applicable airline flight costs, per diem rates, as well as the CNMI's consumer price index, (d) reviewing applicable provisions in the Constitution of the NMI, statutes, regulations and legislative rules, and (e) conducting analyses of average travel and subsistence costs to determine

reasonable travel expenses.

Our evaluation was conducted, where applicable, in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures as we considered necessary to accomplish our objectives.

RESULTS OF EVALUATION

Our review of the NMI Constitution, statutes, regulations, Senate resolutions and rules, current quoted air fares, and applicable per diem rates shows that:

- while authority for the monthly subsistence allowance is found in Senate rules and resolutions, the Constitution and Commonwealth law require allowances for expenses to be in the form of a law;
- Rota and Tinian senators are likely to spend considerably less than the \$5,000 monthly subsistence allowance provided to them when traveling to Saipan resulting in an unjustified personal benefit to the senators in violation of public purpose;
- the Commonwealth is likely paying the senators \$104,216 annually in excess of reasonable travel costs;
- although current laws and regulations applicable to the Senate appear to require submission of documentation for travel covered by the monthly allowance, senators are not filing such documentation; and
- finally, Senate rules and resolutions do not provide adequate assurance that senators are not reimbursed for items already covered by the allowance, i.e. concurrent travel.

A. Authority to Grant Subsistence Allowance

The Senate's monthly subsistence allowance appears to have been improperly authorized. Based on the NMI Constitution, it appears such allowance for expenses should be authorized in the form of a law rather than a Senate rule or resolution.

Article X, Section 1 of the NMI Constitution mandates that Commonwealth funds be expended for a "public purpose" and it authorized "*the legislature*" to define public purpose. (Emphasis added). Public Law 11-84, the Public Purpose Definition Act of 1998, which was subsequently amended through Public Law 12-2, provided that:

[n]otwithstanding any other provision of this act or other law to the contrary, expenditures *authorized and regulated by legislative rules* are expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.” (Emphasis added.)

However, the Senate rules and resolutions authorizing the monthly allowance were not passed by “the legislature” as a whole, but rather independently by the Senate. OPA has concerns regarding the constitutionality of this portion of Public Law 12-2 as the CNMI Legislature, through Public Law 12-2, essentially changed the Constitutional mandate that public purpose be defined by law, and allowed it to be done by legislative rule.² Furthermore, 1 CMC §1251, which was enacted prior to, and not affected by, Public Law 12-2, states that “[l]egislators traveling away from their home islands on legislative business shall be paid such per diem as may be determined by *the legislature*.” (Emphasis added). This law also seems to contemplate that the funds provided to a legislator traveling outside of his or her home island is to be set by the “legislature” as a whole rather than the individual houses of the Legislature. Furthermore, Public Law 12-2 provides that legislators shall be paid per diem for travel away from their home islands and does not appear to contemplate or authorize subsistence in lieu of per diem.

In addition, Article II, Section 10 of the NMI Constitution states “[t]he members of the legislature shall receive an annual salary of eight thousand dollars and reasonable *allowances for expenses provided by law*. . .”³ (Emphasis added). Consequently, if the monthly subsistence allowances cover travel expenses related to a senator’s official duties, and are therefore “allowances for expenses,” and the authorization for those expenses would need to be provided for in the form of a law rather than a Senate rule.

As 1) the NMI Constitution mandates that the Legislature define public purpose in the form of law, 2) the NMI Constitution requires allowances for expenses provided by law, and 3) CNMI

² Relegating the defining of public purpose from a law to a legislative rule avoids the veto power of the governor and judicial review. (See, e.g. Mafnas v. Inos, Civ. Action No. 90-031, N.M.I. Super. Ct. Jan. 22, 1990, Memorandum Decision on Order to Show Cause for Declaratory Relief at n.16. In the absence of any law specifically authorizing judicial inquiry, court has no authority to inquire into or police administration of senate’s internal rules.). “The legislature cannot enact laws by a resolution, which merely expresses the agreement of the legislators without force of law.” Analysis of the Constitution of the CNMI, p. 43. It must be noted that, outside of the Senate’s traditional role of confirming executive nominations, “the Commonwealth Constitution contains no authorization for one house of the legislature to act unilaterally...”. Marianas Visitors Bureau v. Commonwealth, Civ. Action No. 94-516 (N.M.I. Super. Ct. June 23, 1994) (Memorandum Decision and Judgment at 37). In addition, Mason’s Manual of Legislative Procedure, Section 12 (1) states “[a] legislative body cannot make a rule that evades or avoids the effect of a rule prescribed by the constitution governing it, and it cannot do by indirection what it cannot do directly.” Mason’s Manual of Legislative Procedure, Section 12 (2) at 21. Public Law 12-2 indirectly evades the mandate of the NMI Constitution that public purpose be set by the Legislature through a law.

³ The eight thousand dollar annual salary was only the initial compensation level set by the NMI Constitution. The NMI Constitution also provided a mechanism and formula for increases in the compensation levels of legislative members over the years.

statutory law requires that the legislature determine per diem, OPA recommends that the Legislature enact laws to address Senate/legislative travel and expenses to replace Senate rules and resolutions so as to forestall challenges to the constitutionality of the authority for the monthly subsistence allowance.

B. Satisfaction of Public Purpose

The NMI Constitution mandates that government funds only be expended for a public purpose. While providing senators funds for reasonable official travel expenses satisfies public purpose, any amount provided above reasonable travel expenses would violate public purpose.

The members of the Second Constitutional Convention set forth the intended limitations of the Legislature's authority to define public purpose by stating:⁴

'A public purpose is one that directly and substantially benefits the public welfare. The direct and substantial benefits to the welfare necessary for a finding of public purpose must be reasonably foreseeable and reasonably likely to occur. This section does not prohibit government participation with private investors in enterprises that will benefit the public welfare. *A public purpose does not include an objective that brings benefits only to a few persons or corporations, that results in profits most of which are exported from the Commonwealth to the benefit of persons in other countries, that redresses private wrongs or that improves private property.*' (Emphasis added.)⁵

While Public Law 12-2 states that the Legislature may define public purpose through legislative rule, this authority must be interpreted in light of guidance set forth by the Committee in its Report to the Convention if it is to be consistent with the constitutional intent and its intended limitations. Therefore, to comply with the public purpose requirement, the Senate must set the allowance at a level that ensures a direct and substantial benefit to the public welfare without benefit to selective persons or to improving private property.

Article II, Section 10 of the NMI Constitution also mandates that the allowance legislators receive should be "reasonable." It states "[t]he members of the legislature shall receive an annual salary of eight thousand dollars and *reasonable allowances* for expenses provided by law. . ." As the monthly allowances are for expenses, pursuant to this section they must be both reasonable and provided for by law. (Emphasis added.)

⁴ The original version of Article X, Section 1 of the NMI Constitution did not provide for the Legislature to define public purpose. The change to the NMI Constitution granting such power to the Legislature came from ratification of Amendment 28 of the Second Constitutional Convention.

⁵ Committee Recommendation No. 33, Report To The Convention By The Committee on Finance And Other Matters. (Adopted, as amended, by the Committee of the Whole and the Convention on July 12, 1985.)

Given these constitutional principles, it is important to understand that each senator has a dual responsibility, namely to be: (1) responsive to their constituents which requires a presence in their legislative district and, (2) responsible to their legislative duties which require their attendance at official functions in Saipan, Rota, and Tinian. If senators are to be compensated for travel expenses incurred in carrying out their official duties, the per diem or allowance must still be reasonable and comply with public purpose. However, the Senate rules and resolutions do not provide clear guidance on what basis was used to set the monthly allowance at \$5,000. It therefore cannot be clearly determined if: 1) such amount is reasonable and in compliance with the public purpose requirement, or 2) whether the allowance provides an unjustified personal benefit.

If the \$5,000 monthly allowance was based on the average cost of hotel lodging, airline fares, and past expenditures for such items, the allowance might be reasonable. However, if these costs are less than \$5,000 per month, the allowance would benefit a few, namely the legislators, contrary to the limitations set forth by Article X, Section 1 of the NMI Constitution.

The Senate has indicated that it intended to conserve Commonwealth funds when it established the monthly allowance. Its justification, set forth in Senate Resolution 8-1 was “to *save public funds* by setting a maximum and yet *reasonable* limit on monthly subsistence allowance to senators rather than utilizing the established per diem rate for Saipan, which would cause a severe and unnecessary strain on available financial resources.” (Emphasis added.)⁶

OPA attempted to determine whether the fixed monthly allowance generates a public savings or is even reasonably related to estimated costs of travel. OPA compared the \$5,000 allowance with estimated per diem and air fares, assuming that senators from Rota and Tinian spent three-fourths of their time (75%) in Saipan on official business. This is a generous presumption as Senate attendance records indicate that, on average, the Senate only holds about two single day sessions each month in Saipan. While senators need to travel to Saipan for more than just attendance at legislative sessions, the number of monthly Senate sessions held indicates that OPA’s assumption that members spend not less than 75 percent of their time in Saipan is generous.

To analyze the reasonableness of the \$5,000 allowance, OPA:

- computed the number of days a senator would have to travel to Saipan to incur \$5,000 in costs associated with travel, lodging, and incidentals, and
- compared the allowance with estimated travel costs under different travel scenarios.

⁶ Senate Resolution 8-1.

The results of these analyses follow.

Number of Trips Needed by Rota and Tinian Senators to Incur \$5,000 in Travel Costs

Our analyses show that the \$5,000 allowance is unreasonably high given the number of daily trips a Rota or Tinian senator would need to take to Saipan to incur \$5,000 in costs associated with travel, lodging, and incidentals. OPA used per diem rates set forth in Senate Resolution 13-19 which authorizes full per diem of \$175 for senate travel exceeding 8 hours regardless of whether or not an overnight stay is involved, and provides a stipend of \$87.50 for any trip under 8 hours.

The Senate's policy of providing a full per diem rate without considering whether or not the traveler stays overnight is unreasonable. Full per diem rate assumes that an individual needs overnight accommodation, and is, therefore, partially based on hotel room rates. If a traveler does not spend the night, it seems arbitrary and without sound basis that a trip of more than 8 hours, including flight time, would justify a full per diem rate. According to the Department of Finance, the non-overnight travel stipend for the Executive Branch is \$15. This is likely insufficient given current food costs. The Senate's \$87.50 stipend rate, though still high for food costs alone, is more reasonable than \$175 for an individual who made a day trip of more than 8 hours but returned home by the end of the day and, therefore, did not require overnight lodging.

Our analysis of the number of travel days required to incur \$5,000 in costs associated with travel, lodging, and incidentals, where senators receive full per diem of \$175 regardless of whether or not they stayed overnight, shows that the allowance is unnecessarily high. To illustrate, Rota senators would need to make 16 round trips per month to Saipan to incur \$5,000 in travel expenses, while Tinian senators would likewise need to make 22 round trips, meaning they would spend practically every work day in Saipan.

For non-overnight travel the \$175 per diem rate appears overly generous as it compensates senators for lodging not necessarily used. Calculations based on the more reasonable daily stipend rate of \$87.50 for non-overnight stays show that Tinian senators would need to make 35 round trips per month and Rota senators would need to make 23 round trips per month to justify the \$5,000 monthly allowance. The 35 round trips from Tinian per month is clearly unrealistic. It is also unreasonable to assume that a Rota senator makes 23 day trips to Saipan per month. See **Appendix A** for the analysis.

Likely Travel Costs for Rota and Tinian Senators under Various Travel Scenarios

OPA reviewed three scenarios, namely, daily, weekly, and monthly travel to Saipan. OPA found that the allowance was excessive in every scenario, except the daily travel scenario from Rota where full per diem (\$175) would be received despite the senator not staying overnight.

- Under the daily travel scenario a senator would arrive in Saipan in the morning of each day and would return to the home island at the end of the day. Under this scenario, the total

cost of travel would be the corresponding daily air fare and daily stipend for non-overnight travel (either \$87.50 for less than 8 hours or \$175 for more than 8 hours).

- Under the weekly travel scenario, a senator would arrive on Saipan on Monday morning and could return to his home island on Friday afternoon, having spent four nights at the full overnight per diem rate and a single day of less than full day per diem (for Friday) plus corresponding airfare.
- Under the monthly travel scenario, a senator would arrive on Saipan on the first of the month and would return to his home island at the end of the month. Costs would include per diem for each day of the month and the one round trip air fare.

Under the daily scenario where a senator can receive per diem of \$175 despite travel being non-overnight, a Rota senator's estimated travel costs would only exceed his monthly allowance by \$34 per month. This assumed that the senator spent 75 percent of his time in Saipan, took no off-island trips on other official business, never took any personal time, and only spent one week per month in Rota. For all other scenarios, the monthly allowance provided to senators exceeded estimated travel costs by amounts ranging from \$961 to \$2,686 per senator. These amounts in excess of estimated travel costs are difficult to justify and clearly exceed public purpose limitations.

**Reasonableness of \$5,000 Monthly Travel Allowance for
Tinian and Rota Senators Traveling to Saipan⁷**

When Per Diem is Based Upon:	Excessive Monthly Allowance Under Different Scenarios		
	Daily Trips	Weekly Trips	Monthly Trips
Full \$175 Per Diem Regardless of Whether Overnight Trips Were Made			
Rota	(\$34)	\$1,720	\$961
Tinian	1,265	1,980	1,021
\$87.50 Per Diem in Lieu of the Full \$175 Per Diem Because Overnight Trips Not Made			
Rota	1,387	2,004	1,027
Tinian	2,686	2,264	1,087

⁷ OPA assumed that Senators spend 75 percent of their time in Saipan while making daily, weekly, or monthly round trips to their home island.

See **Appendix B** for OPA's detailed computation of the reasonableness of the \$5,000 subsistence allowance under daily, weekly, and monthly scenarios.

OPA calculated that if Rota and Tinian senators spend no less than 75 percent of their time in Saipan, the Commonwealth is likely paying the six senators via the monthly allowance \$104,216 annually in excess of estimated travel costs. See **Appendix C**.

Allowance provided to Saipan Senators

Although current Senate rules provide that Saipan senators are eligible to receive a monthly allowance of between \$1,000 to \$5,000 depending on the number of committees chaired or served, such allowance seems unreasonable given that:

- travel costs should be less than that of Rota and Tinian senators as most legislative meetings are held in Saipan.
- a Saipan senator would need to make at least 5 round trips to Rota or Tinian each month to fully utilize a \$1,000 allowance, and 11 round trips to utilize \$2,000.

The NMI Constitution mandates that allowances for expenses must be reasonable, and requires that expenditures must have a direct and substantial benefit to the public welfare. Article II, Section 10 of the NMI Constitution mandates "*reasonable allowances* for expenses." Setting the monthly allowances above reasonable travel costs violates both of these provisions, and results in an unjustified benefit to the senators receiving the allowance in violation of these constitutional provisions.

C. Documentation Needed

While both the NMI Constitution and CNMI law appear to require that the Legislature account for its travel, senators do not document travel covered by their allowances. Article X, Section 8 of the NMI Constitution states:

[t]he Department of Finance or its successor department shall control and regulate the expenditure of public funds. The department shall *promulgate regulations* including accounting procedures that require public officials to provide *full and reasonable documentation* that *public funds* are expended for public purposes." (Emphasis added.)

This authority extends to legislative expenditures⁸ and indicates that there is an expectation that government expenditures be fully accounted for and documented.

DOF regulations, adopted in the September 20, 2000 Commonwealth Register Volume 22, Number 9, page 17489, et seq., (“DOF Regulations”), to provide uniform standards for the control of public funds do not specifically address monthly allowances. However, two definitions addressing a “Travel Authorization Form” and “Travel Voucher Form” contained in such regulations do provide guidance. Such guidance, in Section 1100.3(v) of the DOF Regulations, requires government travelers to file a travel voucher for “*travel allowances, per diem, honorarium, or other expenses*” and would seem to cover the Senate’s monthly allowance which are intended to be a substitute for per diem. (Emphasis added)⁹

Furthermore, DOF Regulations and CNMI law indicate that the Government will not expend funds unless the expenditure is documented. More specifically, section 1100.6 of the DOF Regulations states:

Unallowable or *undocumented* official representation and *other expenditures will not be reimbursed or paid* by the CNMI Government. In cases where payments for such unallowable or *undocumented* expenses have been made from CNMI Government funds such as *travel or other advances*, imprest funds or other government funds, the responsible party who incurred the expense will pay or reimburse the CNMI Government for these expenditures. If not paid in a timely manner, such costs may be recovered, after notice through payroll deductions, or other means authorized by law. (Emphasis added)

This documentation requirement is also found in 1 CMC §7407(a) which states that:

Every government travel authorization shall contain a statement under penalty of perjury that the travel is for official business purposes and undertaken to benefit the people of the Commonwealth.

⁸ Public funds are used to pay Senators’ monthly subsistence allowance. Furthermore, discussions of the Second Constitution Convention members relating to Committee Recommendation 59, (which later became Article X section 8) focused on the Department of Finance’s authority to issue “regulations” that would apply to all branches of government.

⁹ When per diem is provided, travelers need not document expenses such as meals and incidental items, and the traveler is also permitted to retain the unspent amounts. However, to receive a per diem, an individual must complete a travel authorization and file a travel voucher upon completion of travel detailing trip activities.

In addition, 1 CMC §7407(b) requires that:

Within 15 days after completion of government travel, the traveler shall submit a detailed trip report and documented travel expenditures to the approving authority. The submissions shall be a public record. A person who has failed to make a timely submission shall not receive travel advances until his untimely submission is remedied.

These provisions, which apply to the Senate, also appear to apply to the monthly allowances, as the allowances are for Senate travel, which is “government travel.” Furthermore, the applicable Senate rules and resolutions do not contain language specifically excusing senators who receive monthly allowances from reporting on the travel activities covered by the funds.¹⁰ To the contrary, Senate Rule 12, Section 2(b)(1) provides that expenditures, whenever appropriate, shall follow the “standard procurement, purchase, *travel, per diem* and contract format.” (Emphasis added).

In addition, Senate Resolution 11-30 indicates that reimbursement connected to the monthly allowance is permitted upon legal review by the Senate Legal Counsel. While this can not serve as a substitute for the requirements set forth in public law and the constitutionally mandated DOF regulations, it does indicate that some documentation must be provided by the Senators, for review, to the Senate Legal Counsel.¹¹ Therefore, in order to comply with the law and to receive the monthly allowance, senators must file travel authorizations and travel vouchers or be liable to the Commonwealth for such funds pursuant to Section 1100.6 of the DOF Regulations.

While this analysis seems fairly straightforward, an issue arises because Public Law 12-2 created a different standard for expenditures authorized by legislative rules as compared to other expenditures of public funds. Normally expense items are submitted to DOF for payment and, if the Secretary of Finance denies payment because they are not found to be for public purpose, the burden is on the entity or individual submitting the request for payment to establish that the expenditures constitute a public purpose. According to Article X, Section 8 of the NMI Constitution, DOF regulates public funds and sets procedures for public officials to provide “full and reasonable documentation that public funds are expended for public purpose” thus placing a burden on the party requesting payment to show public purpose. If someone objects to the Secretary of Finance’s refusal to pay, he or she could seek remedy in a civil suit employing the

¹⁰ Given Article X, Section 8 of the NMI Constitution mandate, the legislative rules or resolutions can not override the DOF Regulation’s reporting requirements.

¹¹ Senate Legal counsel advised OPA that the Senate was not bound by this language given that it is contained in a “whereas” clause. However, the “resolved” language of the resolution adopts the increased per diem stating that the “Senate agrees with the maximum limit *as said above*.” The words “as said above” refer to the above “whereas” clauses. As such, there is some indication that the requirement for legal review was part of the intended resolution.

standard of preponderance of the evidence that the expenditure was for a public purpose.

According to Public Law 12-2, items authorized through legislative rules are presumed to be for a public purpose. If the Secretary of Finance refuses to pay them because of concern they do not satisfy public purpose, DOF would have to provide "clear and convincing evidence that the expenditure was in fact for a personal or political activity." This is a higher standard than the "preponderance of the evidence" standard used for other government expenses and more importantly it shifts the burden of proof from the expenditure authority to the DOF. Such differential treatment for legislative expenditures would seem contrary to the intention as indicated by the Constitutional framers of Article X, Section 8.

Nevertheless, while the burden of proof for denial of payments of travel expenses or allowances may differ, this does not negate the requirement that current regulations and laws appear to require submission of documentation regarding the travel covered by the monthly allowances. Given (1) these requirements, (2) the Senate rule stating that standard travel and per diem format be observed, and (3) the benefit the Legislature could derive from documenting and tracking travel to more accurately estimate actual travel expenses in setting the allowance amount, OPA suggests that senators receiving the allowance file travel documentation and substantiation as required by the DOF Control of Public Fund Regulations and Commonwealth law.

D. Possible Double Compensation of Travel Expenses

OPA noted a number of areas where senators might be receiving double reimbursement for the same travel:

- OPA is concerned that the current allowance system allows senators to receive double compensation for per diem when they travel to destinations other than Saipan both within and outside of the Commonwealth. OPA noted two instances during the 6 months ended June 30, 2002 where senators traveled out of the CNMI, and were reimbursed twice for the same period of time. A senator traveled to Manila and received \$804 in per diem for a five day trip, but still collected his full monthly allowance of \$5,000. This resulted in the senator being reimbursed twice for the five days he was out of the CNMI. In the other instance, a senator from Tinian traveled to Rota for two and a half days and received \$321.50 in per diem in addition to the full \$5,000 monthly allowance.
- Another area where double payment for the same item can occur concerns official representation reimbursements. Thirteenth Senate Rule 12, Section 2(a)(3) states that members can expend Senate funds for "food, beverage, entertainment, and similar expenses" and seek separate reimbursement for such costs upon submission of supporting documentation. If the monthly allowance was intended to be in lieu of per diem, there is a question of whether a senator should be reimbursed for food and meals under an official representation request, as this would essentially reimburse the senator twice for such expense.

- Finally, Senate Rule 12, Section 2(a)(6) states that the monthly allowance is intended to cover “food, lodging, transportation, and other expenses.” The phrase “other expenses” opens the door for uncertainty.¹² This language and the other issues raised above need to be analyzed to ensure that senators receiving monthly allowances are not compensated more than once for an expense.

OPA strongly suggests clarifications in these areas to resolve these issues.

CONCLUSIONS AND RECOMMENDATIONS

Although the authority for the monthly subsistence allowance is found in Senate rules and resolutions, the Constitution and Commonwealth law appear to require it to be in the form of a law. Rota and Tinian senators are likely to spend considerably less than the \$5,000 monthly subsistence allowance provided to them when traveling to Saipan because the allowance has been set unreasonably high. This results in an unjustified personal benefit to the senators in violation of public purpose. OPA estimates that the Commonwealth is likely paying the six senators \$104,216 annually in excess of reasonable travel costs. Although current laws and regulations applicable to the Senate appear to require submission of documentation on the travel covered by the monthly allowance, senators are not filing such documentation. Finally, Senate rules and resolutions do not provide adequate assurance that senators are not compensated for items already covered by the allowance.

Accordingly, we recommend that the Senate:

1. introduce legislation to grant it authority for the subsistence allowance, to set the amount of the allowance, and to certify it as a public purpose;
2. undertake an analysis of reasonable travel costs to ensure that the amount set for allowances is appropriate given expenses incurred;
3. document travel activity to enable it to more accurately estimate an appropriate monthly allowance;
4. require that travelers document trip activities to ensure compliance with applicable

¹² The language in this rule for the Twelfth and Thirteenth Senate is the same. Senate Resolution 8-1, the initial resolution establishing the monthly allowance, authorized a Senate Committee to establish a “monthly subsistence and travel allowance.” The Resolution also provides that the allowance was to be used in lieu of per diem. Although per diem traditionally covers food and lodging, the Resolution used the term “monthly subsistence and travel” when establishing the allowance. By using the words “and travel” in the allowance, it appears the Resolution intended the allowance to cover food, lodging and air fare. The next resolution addressing the allowance, Senate Resolution 9-9, set the “monthly subsistence travel allowance” at \$2,000 per month using the same phrase, “monthly subsistence and travel allowance.” Senate Resolution 11-30, the current resolution addressing the monthly allowance established by Senate Resolution 8-1, increased the rate to \$5,000 per month.

regulations and the law, a practice which would support Senate efforts to determine a reasonable monthly allowance amount; and

5. amend legislation and/or travel policy to prevent senators from being reimbursed for other concurrent travel.

Senate Comments on Draft Report

The Senate provided OPA its initial written comments (See **Appendix D**) on June 12, 2003 by a letter dated May 29, 2003 which was accompanied by a Legal Opinion from its counsel concluding that the Senate had implied authority to establish a monthly subsistence allowance by legislative rule.

On June 17, 2003, OPA met with members of the Senate to discuss the Senate's response to OPA's draft report. The Senate subsequently responded by letter, dated June 25, 2003 (See **Appendix E**), to this discussion, and agreed with certain recommendations made by OPA. More specifically, the Senate agreed to:

- replace the existing subsistence allowance system with a new revolving reimbursement system that would use uniform per diem rates to reimburse Senators for expenses incurred in the exercise of their constitutional duties. This new system would apply only to travel within the Commonwealth.
- conduct an analysis of travel expenses to establish a new reasonable per diem rate.
- adopt policies to ensure compliance with public purpose requirements. Also, they agreed that any disbursements of funds from the new revolving account would be predicated on the provision of sufficient documentation of expenditures. They did not, however, agree to submit travel vouchers documenting travel purpose and expenses.
- take action to ensure that members of the Senate do not receive "double compensation" for travel costs.

The Senate did not, however, agree with OPA's position that authority for the monthly subsistence allowance, created in the Senate rules, must be in the form of a law. Instead, the Senate asserts that it has the implied statutory authority to establish the subsistence allowance for its members by Senate rule because Public Law 12-2, codified at 1 CMC §121(i) states that "expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose...". They further reasoned that this section "impliedly grants the Legislature the authority to authorize and regulate expenditures by legislative rule because it expressly refers to the existence of such expenditures and states that such expenditures are deemed to be for a public purpose."

OPA's Response

The Senate's response and agreements will, if carried through, satisfy or make moot all but two of OPA's recommendations: Recommendation No. 1, namely that the Senate provide for the subsistence allowance through law as required by the Constitution and existing Commonwealth laws, and Recommendation No. 4, namely the need to submit travel vouchers documenting travel. The remaining recommendations would be moot if the Senate: (a) abandons the allowance system and properly institutes a revolving reimbursement account, (b) properly sets reasonable researched per diem rates, and (c) requires proper substantiation and documentation. Those recommendations can be closed once the Senate completes these actions.

OPA disagrees that the Senate may impliedly grant itself the authority to create an allowance for expenses through its internal rules as the Constitution requires otherwise. More specifically,

- Article II, Section 5 states that the "legislature may not enact a law except by bill and no bill may be enacted without the approval of at least a majority of the votes cast in each house of legislature."
- Article II, Section 10 of the NMI Constitution allows the members of the legislature to "receive *reasonable allowance for expenses as provided by law.*"

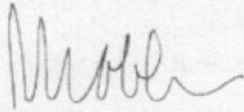
Therefore, until such time as allowances that have been created by the Senate rules are discontinued, OPA must reiterate that the potential for legal challenges to the constitutionality and the authority for the monthly allowance exists.

Actions or documents needed to consider these recommendations as closed are presented in **Appendix F**.

Our office has implemented an audit recommendation tracking system. All audit recommendations will be included in the tracking system as open or resolved until we have received evidence that the recommendations have been implemented. An open recommendation is one where no action or plan of action has been made by the client. A resolved recommendation is one in which the auditors are satisfied that the client cannot take immediate action, but has established a reasonable plan and time frame of action. A closed recommendation is one in which the client has taken sufficient action to meet the intent of the recommendation or we have withdrawn it.

Please provide us the status of recommendation implementation within 30 days along with documentation showing specific actions that were taken. If corrective actions will take longer than 30 days, please provide us additional information every 60 days until we notify you that the recommendation has been closed.

Sincerely,

A handwritten signature in black ink, appearing to read "MS Sablan", written in a cursive style.

Michael S. Sablan, CPA
Public Auditor

cc: Members of the Thirteenth CNMI Senate
Governor
Lt. Governor
President of the Senate
Speaker of the House
Attorney General
Special Assistant for Management and Budget
Secretary of Finance
Press

Appendix A

Number of Round Trips that Rota and Tinian Senators Need to Make to Incur \$5,000 in Costs Associated with Travel, Lodging, and Incidentals

	Travel Costs	Number of Round Trips Needed to Incur \$5,000 in Travel Costs
Using \$175 Per Diem Rate and Air Fare:		
Rota Senators	\$135 Air Fare & 175 Per Diem = \$310	$\$5,000/\$310 = 16$ trips
Tinian Senators	\$55 Air Fare & \$175 Per Diem = \$230	$\$5,000/\$230 = 22$ trips
Using \$87.50 Per Diem Rate and Air Fare:		
Rota Senators	\$135 Air Fare & 87.50 Per Diem = \$222	$\$5,000/\$222 = 23$ trips
Tinian Senators	\$55 Air Fare & \$87.50 Per Diem = \$143	$\$5,000/\$143 = 35$ trips

APPENDIX B
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Calculation of the Reasonableness of Subsistence For Rota Senators Under Daily, Weekly and Monthly Scenarios Using a \$175 Per Diem Rate	
DAILY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Round Trip x 5 Round Trips Per Week x 4.33 Weeks* Per Month	\$2,923
Non-Overnight Per Diem At \$175 Per Trip x 5 Trips Per Week x 4.33 Weeks Per Month	3,789
Total Monthly Expenses With 100% Time Spent On Saipan	6,712
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	5,034
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	34
For 3 Senators	101
For 3 Senators Annually	\$1,217
WEEKLY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Flight x 4.33 Flights Per Month	\$585
Overnight Per Diem At \$175 Per Night x 4 Nights Per Week x 4.33 Weeks Per Month	3,031
Non-Overnight Per Diem At \$175 Per Day x 4.33 Weeks Per Month	758
Total Monthly Expenses With 100% Time Spent On Saipan	4,373
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,280
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,720)
For 3 Senators	(5,160)
For 3 Senators Annually	(\$61,921)
MONTHLY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Flight x One Flight Per Month	\$135
Overnight Per Diem At \$175 Per Night x 29 Nights Per Month	5,075
Non-Overnight Per Diem At \$175 x One Day	175
Total Monthly Expenses With 100% Time Spent On Saipan	5,385
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	4,039
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(961)
For 3 Senators	(2,884)
For 3 Senators Annually	(\$34,605)

APPENDIX B
Page 2 of

Calculation of the Reasonableness of Subsistence For Tinian Senators Under Daily, Weekly and Monthly Scenarios Using a \$175 Per Diem Rate	
DAILY FLIGHT SCENARIO	AMOUNT
Air Fare At \$55 Per Round Trip x 5 Round Trips Per Week x 4.33 Weeks* Per Month	\$1,191
Non-Overnight Per Diem At \$175 Per Trip x 5 Trips Per Week x 4.33 Weeks Per Month	3,789
Total Monthly Expenses With 100% Time Spent On Saipan	4,980
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,735
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,265)
For 3 Senators	(3,796)
For 3 Senators Annually	(\$45,554)
WEEKLY FLIGHT SCENARIO	
Air Fare At \$55 Per Flight x 4.33 Flights Per Month	\$238
Overnight Per Diem At \$175 Per Night x 4 Nights Per Week x 4.33 Weeks Per Month	3,031
Non-Overnight Per Diem At \$87.5 Per Day x 4.33 Weeks Per Month	758
Total Monthly Expenses With 100% Time Spent On Saipan	4,027
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,020
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,980)
For 3 Senators	(5,939)
For 3 Senators Annually	(\$71,274)
MONTHLY FLIGHT SCENARIO	
Air Fare At \$55 Per Flight x One Flight Per Month	\$55
Overnight Per Diem At \$175 Per Night x 29 Nights Per Month	5,075
Non-Overnight Per Diem At \$87.5 x One Day	175
Total Monthly Expenses With 100% Time Spent On Saipan	5,305
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,979
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,021)
For 3 Senators	(3,064)
For 3 Senators Annually	(\$36,765)

Calculation of the Reasonableness of Subsistence For Rota Senators Under Daily, Weekly and Monthly Scenarios
Using a \$175 Per Diem Rate for Overnight Travel & \$87.50 For Non-Overnight Travel

DAILY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Round Trip x 5 Round Trips Per Week x 4.33 Weeks* Per Month	\$2,923
Non-Overnight Per Diem At \$87.5 Per Trip x 5 Trips Per Week x 4.33 Weeks Per Month	1,894
Total Monthly Expenses With 100% Time Spent On Saipan	4,817
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,613
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,387)
For 3 Senators	(4,161)
For 3 Senators Annually	(\$49,938)
WEEKLY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Flight x 4.33 Flights Per Month	\$585
Overnight Per Diem At \$175 Per Night x 4 Nights Per Week x 4.33 Weeks Per Month	3,031
Non-Overnight Per Diem At \$87.5 Per Day x 4.33 Weeks Per Month	379
Total Monthly Expenses With 100% Time Spent On Saipan	3,994
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	2,996
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(2,004)
For 3 Senators	(6,013)
For 3 Senators Annually	(\$72,151)
MONTHLY FLIGHT SCENARIO	AMOUNT
Air Fare At \$135 Per Flight x One Flight Per Month	\$135
Overnight Per Diem At \$175 Per Night x 29 Nights Per Month	5,075
Non-Overnight Per Diem At \$87.5 x One Day	88
Total Monthly Expenses With 100% Time Spent On Saipan	5,298
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,973
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,027)
For 3 Senators	(3,081)
For 3 Senators Annually	(\$36,968)

Calculation of the Reasonableness of Subsistence For Tinian Senators Under Daily, Weekly and Monthly Scenarios
Using a \$175 Per Diem Rate for Overnight Travel & \$87.50

DAILY FLIGHT SCENARIO	AMOUNT
Air Fare At \$55 Per Round Trip x 5 Round Trips Per Week x 4.33 Weeks* Per Month	\$1,191
Non-Overnight Per Diem At \$87.50 Per Trip x 5 Trips Per Week x 4.33 Weeks Per Month	1,894
Total Monthly Expenses With 100% Time Spent On Saipan	3,085
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	2,314
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(2,686)
For 3 Senators	(8,058)
For 3 Senators Annually	(\$96,702)
WEEKLY FLIGHT SCENARIO	
Air Fare At \$55 Per Flight x 4.33 Flights Per Month	\$238
Overnight Per Diem At \$175 Per Night x 4 Nights Per Week x 4.33 Weeks Per Month	3,031
Non-Overnight Per Diem At \$87.5 Per Day x 4.33 Weeks Per Month	379
Total Monthly Expenses With 100% Time Spent On Saipan	3,648
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	2,736
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(2,264)
For 3 Senators	(6,792)
For 3 Senators Annually	(\$81,503)
MONTHLY FLIGHT SCENARIO	
Air Fare At \$55 Per Flight x One Flight Per Month	\$55
Overnight Per Diem At \$175 Per Night x 29 Nights Per Month	5,075
Non-Overnight Per Diem At \$87.5 x One Day	88
Total Monthly Expenses With 100% Time Spent On Saipan	5,218
Total 100% Monthly Expenses Adjusted To 75% Time Spent On Saipan	3,913
Less: Monthly Allowance Per Senator According To Resolution 11-30	5,000
(Excessive) Monthly Allowance	
For One Senator	(1,087)
For 3 Senators	(3,261)
For 3 Senators Annually	(\$39,128)
* 4.33 Weeks In a Month Is Derived as Follows: 365 Days per Year Divided by 12 Months Divided by 7 Days Equal 4.33 Weeks.	

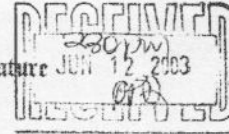
APPENDIX C

Summary of Annual (Excess) Reimbursements to Senators Using Per Diem ¹³		
Excess Allowance Using \$175 Per Diem Under:	<u>Rota</u>	<u>Tinian</u>
Daily Scenario	\$1,217	(\$45,554)
Weekly Scenario	(61,921)	(71,274)
Monthly Scenario	(34,605)	(36,765)
Average Excess Allowance Under the 3 Scenarios	(\$31,772)	(\$51,198)
Average between Rota And Tinian		(\$82,969)
Excess Allowance Using \$87.50 Per Diem Under:	<u>Rota</u>	<u>Tinian</u>
Daily Scenario	(\$49,938)	(\$96,702)
Weekly Scenario	(72,151)	(81,503)
Monthly Scenario	(36,968)	(39,128)
Average Excess Allowance Under the 3 Scenarios	(\$53,019)	(\$72,444)
Average between Rota And Tinian		(\$125,463)
Overall Average		(\$104,216)

¹³ Derived from Appendix B, pages 1 to 4.



The Senate
Thirteenth Northern Marianas Commonwealth Legislature
Senator Joaquin G. Adriano
Floor Leader



P.O. Box 500129, Saipan, MP 96950 email address: sen.j.adriano@vzpacifica.net

May 29, 2003

Michael S. Sablan
Public Auditor
Office of the Public Auditor
J.E. Tenorio Building, Gualo Rai
P.O. Box 51399 CK
Saipan, MP 96950

Re: Written Comment on OPA's Draft Report on the Monthly Subsistence Allowance.

Dear Michael S. Sablan:

This following written comment is submitted for your review and is in response to the Office of the Public Auditor's (OPA) Draft Report on the Monthly Subsistence Allowance Provided to Members of the Senate Covering the Six Months Ending June 30, 2002.

First, the members of the Senate have sought and obtained legal advice from its counsel as to the authority of the Senate to establish a monthly subsistence allowance for its members by legislative rule. The members of the Senate have been advised that the Senate has the implied statutory authority to establish a monthly subsistence allowance for its members by legislative rule due to the enactment of Public Law 12-2 which is codified at 1 CMC § 121(i). See Attached Confidential Legal Opinion. The members of the Senate have also been advised, however, that the monthly subsistence allowance must be reasonable and must be accounted for in a manner that ensures that the "public purpose" requirement set forth at 1 CMC § 121 is fulfilled.

The members of the Senate, after reviewing the aforementioned legal analysis, have determined that it is in the best interests of all concerned that the present monthly subsistence allowance provisions be rescinded. The members of the Senate will establish, by legislative rule, a new

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revolving account system that utilizes a uniform per diem rate to reimburse members of the Senate for costs incurred in the exercise of their constitutional duties and responsibilities on a monthly basis.

Second, the members of the Senate will endeavor to ensure that the new revolving account system satisfies the public purpose requirements established by law. The members of the Senate note that the public purpose requirements will be enforced in accordance with the mandate of Public Law 12-2, which specifically sets forth the legal mechanism by which expenditures authorized by legislative rules can be challenged to ensure that they are indeed for a public purpose. Public Law 12-2, states:

Notwithstanding any other provision of this act or other law to the contrary, expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.

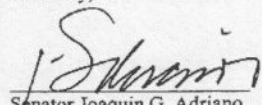
See Public Law 12-2, codified at 1 CMC § 121(i) (emphasis added).

Third, the members of the Senate will require that the disbursement of funds from the new revolving account system are predicated on the provision of sufficient documentation of costs incurred.

Finally, the members of the Senate will ensure that the new revolving account system does not allow for members of the Senate to receive "double compensation" for travel costs. The new revolving account system shall apply solely to travel within the Commonwealth. Travel outside of the Commonwealth will be compensated under the existing system whereby each member of the Senate submits a travel authorization request directly to the Department of Finance.

The members of the Senate would appreciate the opportunity to meet with you to discuss the aforementioned issues and to answer any questions you may have.

Sincerely,



Senator Joaquin G. Adriano
Chairman
Senate Standing Committee on Rules and Procedure

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LEGAL OPINION

To: Senator Joaquin G. Adriano
Chairman, Senate Standing Committee on Rules and Procedures
Re: Senate's Authority to Adopt Subsistence Allowance Policy
From: Steven M. Newman
Senate Legal Counsel
Date: May 23, 2003

I. Facts.

The Senate has adopted several Senate Resolutions establishing per diem and allowance rates for members of the Senate, including: (1) Senate Joint Resolution No. 7-13, establishing a per diem rate of one hundred twenty five dollars (\$125) per day for travel within the Commonwealth; (2) Senate Joint Resolution No. 8-1, authorizing the Senate Standing Committee on Rules and Procedures, in consultation with the Senate Standing Committee on Fiscal Affairs, to establish a monthly subsistence and travel allowance for each Senator from the First and Second Senatorial Districts for travel within the Commonwealth; (3) Senate Resolution No. 9-9, authorizing Senators from the First and Second Senatorial District to receive a monthly subsistence allowance in the amount of two thousand dollars (\$2,000); (4) Senate Resolution No. 11-30, authorizing Senators from the First and Second Senatorial District to receive a monthly subsistence allowance in the amount of five thousand dollars (\$5,000), such amount to replace the previous quarterly subsistence allowance, the housing allowance, and the blanket travel authorizations previously issued to Senators from the First and Second Senatorial Districts; and (5) Senate Resolution 13-19, establishing a per diem rate of one hundred seventy five dollars (\$175) per day for travel within the Commonwealth and establishing separate per diem rates for travel outside the Commonwealth.

Confidential Memorandum

On July 3, 2002, the Official Rules the Senate for the Thirteenth Northern Marianas Legislature were adopted. Rule 12, Section 2(a)(6) of the Official Rules of the Senate incorporates the aforementioned resolutions in the form of a legislative rule, stating:

Members of the Senate from the First or Second Senatorial Districts may use a portion of the funds under their individual office accounts as an allowance to defray the costs of food, lodging, transportation, and other expenses they incur by reason attending to legislative business without their respective senatorial district, in accordance with any Senate resolution relative to such allowances. Allowances previously approved, whether by action of the current or a preceding Senate, shall be deemed approved and remain in effect until amended or repealed by the Senate. Members of the Senate from the Third Senatorial District shall receive a legislative allowance from funds under their individual office accounts to defray the cost of food, lodging and transportation and other related expenses incurred while on legislative business in the First or Second Senatorial Districts. The allowance shall be \$2,000.00 per month if the member is a chairperson of a standing or special committee and \$1,000.00 per month per committee, standing or special, of which the member is a member, but in no event shall a member from the Third Senatorial District receive more than \$5,000.00 per month under this Rule.

See Official Rules of the Senate, Rule 12, § 2(a)(6).

On April 14, 2003, upon the request of members of the Senate, the Office of the Public Auditor submitted a Draft Report on the Monthly Subsistence Allowance Provided to Members of the Senate (OPA Draft Report). The OPA Draft Report addressed, in part, the Senate's authority to establish a monthly subsistence allowance. The OPA Draft Report concludes that "while the authority for the monthly subsistence allowance is found in Senate rules and resolutions, the Constitution and Commonwealth law appear to require it to be in the form of a law." *See* OPA Draft Report, Page 4.

II. Issue.

Whether the Senate has the authority to establish a monthly subsistence allowance for its members by legislative rule.

Confidential Memorandum

III. Analysis.

Article II, Section 10 of the Commonwealth Constitution states, in pertinent part, that “[t]he members of the legislature shall receive an annual salary of eight thousand dollars and reasonable allowances for expenses provided by law.” See N.M.I. Const. Art. II, § 10. Article II, Section 10 of the Commonwealth Constitution further states that “[t]he salary of members may be changed no more than once every four years and only upon the recommendation of an advisory commission established by law to make recommendations concerning the compensation of Commonwealth executive, legislative and judicial officers.” See N.M.I. Const. Art. II, § 10.

Members of the Senate are permitted by Article II, Section 10 of the Commonwealth Constitution to receive “reasonable allowances provided by law.” See NMI Const. Art. II, § 10. Legislators were formerly given an “Official Representation Allowance” pursuant to 1 CMC §1201 through 1 CMC § 1203. The “Official Representation Allowance,” however, was discontinued upon the enactment of Public Law 4-32, the “1984 Compensation Adjustments Act.” See Public Law 4-32, § 3. The “Official Representation Allowance” has not been reinstated as evidenced by the language of Public Law 7-31, the “Commonwealth Compensation Adjustment and Salary Act of 1991,” which states that “[t]he members of the legislature shall receive an annual salary of \$39,300 and no official representation allowance.” See 1 CMC § 1271. There have been no further enactments specifically authorizing Legislators to receive an “allowance.”

1 CMC § 121(i), however, states:

Notwithstanding any other provision of this act or other law to the contrary, **expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose**, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.

See 1 CMC § 121(i) (emphasis added).

The language set forth at 1 CMC § 121(i) does not specifically authorize Legislators to receive an “allowance.” 1 CMC § 121(i), however, impliedly grants the Legislature the authority to authorize and regulate expenditures by legislative rule because it expressly refers to the existence of such expenditures and states that such expenditures are deemed to be for a public

Confidential Memorandum

purpose. Accordingly, the Senate has the authority to establish a monthly subsistence allowance by legislative rule.

B. CONCLUSION:

The Senate has the authority to establish a monthly subsistence allowance by legislative rule. The monthly subsistence allowance, however, must be reasonable and must be accounted for in a manner that ensures that the "public purpose" requirement set forth at 1 CMC § 121 is fulfilled.

Confidential Memorandum



The Senate

Thirteenth Northern Marianas Commonwealth Legislature

Senator Joaquin G. Adriano
Floor Leader

P.O. Box 500129, Saipan, MP 96950 email address: sen.j.adriano@vzpacifica.net



June 25, 2003

Michael S. Sablan
Public Auditor
#1236 Yap Drive, Capitol Hill
Saipan, MP 96950

Re: June 17, 2003, Meeting to Discuss OPA Draft Report on Monthly Subsistence Allowance.

Dear Michael S. Sablan:

Thank you for taking the time to meet with members of the Senate on June 17, 2003, to discuss the Office of the Public Auditor's (OPA) Draft Report on the Monthly Subsistence Allowance Provided to Members of the Senate Covering the Six Months Ending June 30, 2002.

The following is set forth to clarify the position of members of the Senate as to some of the issues discussed at the aforementioned meeting.

First, the members of the Senate reiterate that the Senate has the implied statutory authority to establish a monthly subsistence allowance for its members by legislative rule due to the enactment of Public Law 12-2 which is codified at 1 CMC § 121(i). The members of the Senate acknowledge, however, that as discussed in the June 17, 2003 meeting, it would be prudent to clarify the kind of expenditures that can be authorized by legislative rule by amending Public Law 12-2 or by enacting new legislation.

Second, the members of the Senate note that the existing subsistence allowance system will be replaced by a new revolving account system that utilizes a uniform per diem rate to reimburse

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APPENDIX E
Page 2 of 2

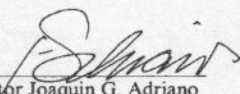
June 25, 2003
June 17, 2003, Meeting OPA Draft Report on Monthly Subsistence Allowance.
Page -2-

members of the Senate for costs incurred in the exercise of their constitutional duties and responsibilities. The members of the Senate accept the recommendations made by OPA as to the method for determining a reasonable per diem rate and will undertake an analysis of travel expenses to ensure that the rate adopted is reasonable.

Third, the members of the Senate agree with the suggestions made by OPA related to the adoption of policies to ensure compliance with the public purpose requirements established by law. Disbursement of funds from the new revolving account system will be predicated on the provision of sufficient documentation of costs incurred.

Finally, the members of the Senate reiterate that they will ensure that the new revolving account system does not allow for members of the Senate to receive "double compensation" for travel costs. The new revolving account system shall apply solely to travel within the Commonwealth. Travel outside the Commonwealth will be compensated under the existing system whereby each member of the Senate submits a travel authorization request directly to the Department of Finance.

Sincerely,



Senator Joaquin G. Adriano
Chairman, Rules and Procedure

cc: *Senate President, Paul A. Manglona*
Senate Vice-President, Jose M. Dela Cruz
Senate Legislative Secretary, Thomas P. Villagomez
Chairman PUTC, Diego M. Songao
Chairman RED&P, Ramon S. Guerrero
Senate Minority Leader, Pete P. Reyes

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**Thirteenth Legislature
Monthly Subsistence Allowance Provided to Members
of the Senate Covering the Period Ending June 30, 2002**

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Action Required
1. Introduce legislation to grant it authority for the subsistence allowance, to set the amount of the allowance, and to certify it as a public purpose.	Senate	Open	<p>Senate Response: The Senate stated that the subsistence allowance need not be in the form of a law. Instead the Senate asserts that it has <u>implied</u> statutory authority to establish the subsistence allowance for its members by Senate rule because 1 CMC §121 (i) states that "expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose...".</p> <p>Action Required: Introduce legislation to authorize monthly subsistence allowance and any changes in its amount, and to certify it as a public purpose.</p>
2. Undertake an analysis of reasonable travel costs to ensure that the amount set for allowances is appropriate given expenses incurred.	Senate	Resolved	<p>Senate Response: The Senate said it will replace the existing subsistence allowance system with a new revolving reimbursement system that would use uniform per diem rates to reimburse Senators for expenses incurred in the exercise of their constitutional duties. It would also conduct an analysis of travel expenses to ensure that the new per diem rate was reasonable.</p> <p>Action Required: After the Senate replaces its existing subsistence system with a new revolving reimbursement system, it should provide OPA with:(1) the Senate's analysis of what it considers reasonable travel to support the amount set for per diem. and (2) legislative bills authorizing the new per diem.</p>
3. Document travel activity to enable the Senate to more accurately estimate an appropriate monthly allowance.	Senate	Resolved	<p>Senate Response: The Senate agreed to provide OPA with a written analysis of what it considers as reasonable travel to support changing the amount set for the monthly subsistence allowance.</p> <p>Action Required: The Senate should provide OPA with an analysis of what it considers as reasonable travel to support changing the amount set for the monthly subsistence allowance.</p>

Thirteenth Legislature
Monthly Subsistence Allowance Provided to Members
of the Senate Covering the Period Ending June 30, 2002

STATUS OF RECOMMENDATIONS

Recommendations	Agency to Act	Status	Agency Response/ Action Required
<p>4. Require that travelers document trip activities to ensure compliance with applicable regulations and the law, a practice which would support Senate efforts to determine a reasonable monthly allowance amount.</p>	Senate	Open	<p>Senate Response: The Senate stated it would adopt policies to ensure compliance with established public purpose requirements. Also, any disbursements of funds from the new revolving account would be predicated on the provision of sufficient documentation of expenditures.</p> <p>Action Required: Department of Finance regulations which apply to all 3 branches of government require (Section 1100.2(v) government travelers file a government travel voucher documenting travel and other expenses. The Senate did not, however, agree to document trips with travel vouchers as required by regulation and law. The Senate should enact a Resolution requiring Senators to submit a travel voucher monthly showing local trips taken to Saipan in order to comply with regulations and law.</p>
<p>5. Amend legislation and/or travel policy to prevent senators from being reimbursed for other concurrent travel.</p>	Senate	Resolved	<p>Senate Response: The Senate stated it would take action so that members do not receive "double compensation" for travel costs.</p> <p>Action Required: The Senate should amend language in legislation and/or travel policy requiring senators to adjust their vouchers or allowance so as not to obtain reimbursement for other concurrent travel.</p>

MEMBERS' CONGRESSIONAL HANDBOOK



COMMITTEE ON HOUSE ADMINISTRATION

ZOE LOFGREN, CHAIRPERSON

RODNEY DAVIS, RANKING MEMBER

116TH CONGRESS
UNITED STATES HOUSE OF REPRESENTATIVES



THE COMMITTEE ON HOUSE ADMINISTRATION HAS ISSUED THE FOLLOWING REGULATIONS TO ENSURE THAT MEMBERS OF THE UNITED STATES HOUSE OF REPRESENTATIVES UTILIZE OFFICIAL RESOURCES TO SUPPORT THE CONDUCT OF THE OFFICIAL REPRESENTATIONAL DUTIES ON BEHALF OF THE DISTRICT FROM WHICH HE OR SHE IS ELECTED.

CHAIRPERSON ZOE LOFGREN

ADOPTED JULY 25, 2018

UPDATED NOVEMBER 6, 2020

All citations to the House Rules refer to the Rules of the House of Representatives

FOR ADDITIONAL ASSISTANCE, PLEASE CONTACT THE COMMITTEE AT (202) 225-2061.

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INTRODUCTION: MEMBERS' REPRESENTATIONAL ALLOWANCE

During each session of Congress, each Member has a single Members' Representational Allowance ("MRA") available to support the conduct of official and representational duties to the district from which he or she is elected. Ordinary and necessary expenses incurred by the Member or the Member's employees within the United States, its territories, and possessions in support of the conduct of the Member's official and representational duties to the district from which he or she is elected are reimbursable in accordance with the regulations contained in this Members' Congressional Handbook.

"Ordinary and necessary" means reasonable expenditures in support of official and representational duties to the district from which he or she is elected that are consistent with all applicable federal laws, Rules of the House of Representatives and regulations of the Committee on House Administration. Examples of official and representational include, but are not limited to:

1. Relating to the legislative process; or
2. Facilitating interaction between constituents and the Federal government (including, but not limited to: info or services on laws, programs, regulations, funding, decisions, and other actions by the Federal government); or
3. Actions taken as a representative of the district from which you are elected; or
4. Issues areas or programs established by the House.

The following regulations of the Committee on House Administration, collectively known as the Members' Congressional Handbook (Handbook), govern all expenditures from the MRA.

The Handbook regulations assist Members in determining whether expenses are reimbursable. Therefore, the Handbook contains broad descriptions of reimbursable expenses, but is not an exhaustive list of such expenses.

Questions about reimbursement of an expense should be directed to the Committee on House Administration at x52061 prior to incurring the expense.

For questions related to official office communications content, contact the Commission on Congressional Mailing Standards ("Commission") by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

For all questions relating to policies and procedures applicable to the acquisition, transfer, disposal, and maintenance of furnishings, equipment, software, and related services, please refer to the Guide to Outfitting and Maintaining an Office available from the Committee on House Administration.

Administrative, financial and non-legislative support services (e.g., equipment purchases, technology standards and services, office supplies, room reservation and set-up) are acquired through the Office of the House Chief Administrative Officer (CAO). For further information about the CAO's services, please refer to HouseNet, the House intranet (housenet.house.gov) or the CAO's services office, First Call, at x58000.

The Handbook is a collection of regulations issued by a vote of the Members of the Committee. In drafting these regulations, the Committee consults with other committees of the House, House leadership, Member office staff, and the Officers of the House.

General

When an expense is incurred, the Member must determine the primary purpose for the expenditure. Is the primary purpose for the expenditure official and representational? Or is it primarily related to personal, campaign-related political party, campaign or committee activities? Only expenses the primary purpose of which are official and representational and which are incurred in accordance with the Handbook are reimbursable.

1. The MRA may only be used for official and representational expenses.
2. The MRA may not be used to pay a settlement or award in connection with conduct prohibited under the *Congressional Accountability Act of 1995*.
3. A Member may expend personal funds in support of official and representational duties.
4. The MRA may not be used to pay for any expenses related to activities or events that are primarily social in nature (including but not limited to: sporting events, theme park activities, concerts, personal events, etc.).
5. The MRA may not pay for personal expenses.
6. The MRA may not pay for campaign expenses.
7. The MRA may not pay for campaign-related political party expenses.
8. The MRA may not be used to pay for capital improvements to the district office.
9. The MRA may not pay for committee expenses.
10. The MRA may not be used outside of the United States, its territories, and possessions.
11. Committee resources may not pay for a Member's official and representational expenses.
12. Except where authorized by the Committee on Ethics, campaign funds may not pay for a Member's official and representational expenses.
13. A Member may not maintain, or have maintained for his use, an unofficial office account for the purpose of defraying or reimbursing ordinary and necessary expenses incurred in support of a Member's official and representational duties.
14. A Member may not accept from any private source in-kind support having monetary value for an official activity.
15. Only appropriated funds, not personal or unofficial funds, may be used to pay for mail sent under the frank.
16. Each Member is personally responsible for the payments of any official and representational expenses incurred that exceed the provided MRA or that are incurred but are not reimbursable under these regulations.
17. Unless specifically authorized by an applicable provision of federal law, House Rules, or Committee Regulations, no Member, relative of the Member, or anyone with whom the Member has a professional or legal relationship may directly benefit from the expenditure of the MRA.
18. Official resources may not be used to advertise for any private individual, firm, charity, or corporation, or imply in any manner that the government endorses or favors any specific commercial product, commodity, or service.
19. The MRA is available for services provided and expenses incurred from January 3 of one year through January 2 of the following year. All expenses incurred will be charged to the allowance available on the date the services were provided or the expenses were incurred. Upon the death, resignation, or expulsion of a Member, the Member's allowance will be made available only for services provided and expenses incurred at the direction of the Member up through the last day of the Member's term in office. Otherwise such funds will be subject to the direction of the Clerk of the House.

20. Requests to obligate prior year funds after January 2 of the succeeding year will be considered by the Committee when a Member provides documentation demonstrating a bona fide intent to obligate the prior year's funds during the applicable year. Applicable to equipment and software in both D.C. and district offices, and to furnishings and security enhancements in the district office only. Please see the *Security* section for more information on district office security enhancements.
21. The MRA is not transferable between years.
22. Members may not use official resources to misrepresent their current official positions or titles within the House.
23. Pursuant to 18 U.S.C. § 1913, the MRA may not be used for certain activities in the absence of authorization by Congress. Contact the Committee on House Administration at x52061 for more information.
24. Any asset purchase of \$1,000 or more and any high-risk equipment regardless of original cost must be added to the Member's inventory.

Budgeting and Disclosure

The Committee recommends that each Member establish an annual budget for the MRA. To assist in this process, the Office of Finance sends each Member monthly statements showing year-to-date expenditures and obligated amounts. The quarterly expenditures reflected in these statements are compiled and published as the Quarterly Statement of Disbursements, which is a public document.

Disbursements

Disbursements from the MRA are made on a reimbursement or direct payment basis and require specific documentation and Member certification as to accuracy and compliance with applicable federal laws, House Rules, and Committee regulations.

Reimbursements and payments from the MRA may be made only to the Member, the Member's employees, or a vendor providing services to support the operation of the Member's offices.

Interns employed by a Member Office through the House Paid Internship Program are eligible for reimbursement of official expenses incurred as part of their official duties.

Incidental Use

Incidental personal use of equipment and supplies owned or leased by, or the cost of which is reimbursed by the House of Representatives is permitted only when such use is negligible in nature, frequency, time consumed, and expense.

For example, limited use of government resources to access the Internet, to send or receive personal email, or to make personal phone calls is permissible, so long as the use meets the above criteria, and otherwise conforms with the Regulations of the Committee on House Administration and the Code of Official Conduct (House Rule XXIII).

Each Member office may adopt a more restrictive incidental use policy.

Overspending

Each Member is personally responsible for the payment of any official and representational expenses incurred that exceed the authorized MRA. If a Member incurs an obligation to the U.S. House of Representatives and the amount of the obligation incurred exceeds the MRA, the Member shall pay the obligation from personal funds. If the Member fails to pay the obligation voluntarily, the CAO will deduct the amount owed from any pay, mileage, or expense money due to the Member in the case of a sitting Member or through an administrative offset or legal action in the case of a former Member. The Office of Finance will notify a Member if that Member is projected to overspend the MRA.

Contact the Office of Finance at x57474 or the Committee on House Administration at x52061 for assistance with accounting and budgeting.

STAFF

General

Each Member is the employing authority; the Member determines the terms and conditions of employment and service for their staff. These terms and conditions must be consistent with applicable federal laws and House Rules.

1. Personnel actions affecting employment positions in the House of Representatives must be free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), service in the military, disability, or age.
2. A Member may not retain an employee on the Member's payroll who does not perform official duties commensurate with the compensation received for the offices of the employing authority. (House Rule XXIII, clause 8(a)).
3. "Employee" means an individual appointed to a position of employment in the House of Representatives by an authorized employing authority including individuals receiving pay disbursed by the CAO and individuals in a Leave Without Pay or furlough status.
4. "Staff" means all individuals including employees, fellows, unpaid interns, and volunteers who serve in the office of a Member.
5. Annual rates of pay may not exceed the amount specified in the Speaker's Pay Order.
6. Total compensation in any month including any lump sum and regular pay, student loan program payments, (including cash reimbursement for accrued annual leave) may not exceed 1/12th of the maximum rate of pay specified in the Speaker's Pay Order.
7. Retroactive pay adjustments are not authorized.

8. Government contributions to retirement, life insurance, Thrift Savings Plan, transit benefits, Student Loan Repayment Program and health benefits programs are not charged to the MRA.
9. Each month, Member offices receive a Payroll Certification Form from the Office of Payroll and Benefits that lists the annual pay and gross pay earned for each employee. If an employee is a relative of a current Member of Congress, the nature of the relationship to the Member must be noted on the Payroll Certification Form. The Member must certify the information and return the form to the Office of Payroll and Benefits no later than the 15th day of the month. Contact the Office of Payroll and Benefits at x51435 for payroll forms.

Employee Ceiling

Under 2 U.S.C. § 92, each Member of the House of Representatives may employ 18 permanent employees and 4 additional employees. The 4 additional employees must be appointed to one of the following categories:

1. Paid interns
2. Part-time employees
3. Shared employees
4. Temporary employees
5. Employees on leave without pay

Categories of Staff

Employees

Employees are classified into one of the following two categories:

1. Employees who are Exempt from the overtime requirements of the Fair Labor Standards Act, as incorporated by the Congressional Accountability Act, are those who are not required to be paid overtime for all hours worked in excess of 40 hours in one workweek. Exempt employees are expected to work whatever hours are necessary to

meet the job responsibilities and needs of the Office.

2. Employees who are Non-Exempt from the overtime requirements of the Fair Labor Standards Act, as incorporated by the Congressional Accountability Act, are those who are required to be compensated for all hours worked in excess of 40 hours per workweek.

The employee classification determination is based on the actual job duties and responsibilities of the employee. For a detailed review of overtime pay and work requirements for Non-Exempt employees, at the request of a Member or his/her designee, the Office of House Employment Counsel can advise an office of the Fair Labor Standards Act as it pertains to that respective office

Interns

Interns, paid or unpaid, must perform services for the Member on a temporary basis as part of an educational plan. Examples of an educational plan include, but are not limited to, participation in the Intern Lecture Series, attendance at committee hearings, attendance at CRS internship training programs, etc. Each Member is responsible for determining the activities of the Member's interns consistent with these requirements.

Paid interns may work for no more than 120 calendar days in a 12-month period, per employing authority, and are not employees for purposes of compliance with the minimum wage and overtime provisions of the Fair Labor Standards Act. The gross annual rate of intern pay is established by the Committee on House Administration. For the current applicable rate, contact the Committee on House Administration at x52061.

Upon a determination by the Committee on House Administration, and consistent with all existing rules, regulations, and provisions of law, paid interns are eligible to telework in the event of a disaster, pandemic, or other emergency, as part of an office's continuity

of operations plan, provided the educational plan of the internship is maintained, any work performed is incidental to said plan, and participation in the plan is certified by the employing office.

This eligibility shall apply to interns paid from the Members' Representational Allowance and interns participating in the House Paid Internship Program.

All equipment issued to support telework must be returned to the employing Office no later than thirty days from the end date of the internship and costs incurred to return such equipment are reimbursable.

Any Member interested in employing a foreign national as an intern should contact the Office of General Counsel at x59700.

The use of unpaid interns is subject to regulations established by the Committee on Ethics. Contact the Committee on Ethics at x57103.

Interns are ineligible for the following benefits:

1. Federal Employees' Retirement System
2. Federal life insurance
3. Federal health insurance
4. Thrift Savings Plan
5. Student Loan Repayment Program

House Paid Internship Program

Public Law 115-244, Section 120, established an allowance separate from the MRA for compensation of interns. Pursuant to Public Law 116-94, each Member office is authorized to use up to \$25,000 per year from this allowance to pay interns. Interns participating in this program are subject to the same federal laws and regulations, House Rules, House regulations, and Ethics regulations as interns who may be paid with MRA funds. Interns participating in this program may be based in the Washington, D.C. or a Member's district office. In addition, these interns do not count against the Member's employee staff ceiling.

In the event of a vacancy in office, amounts will be available to the succeeding Member on a prorated basis as determined by the Committee on House Administration.

The Member determines the terms and conditions of employment for an intern participating in this program, including provisions for leave (e.g., Annual, Administrative, and Sick).

Part-time Employees

The term "part-time employee" means an individual who is employed by the Member and whose normally assigned work schedule is not more than the equivalent of 15 full work days per month. A typical month has 22 work days so a part-time employee would be an individual who typically works 15 or fewer full 8-hour days per month, or the equivalent amount in hours (e.g., all 22 work days, but only 5 hours per day).

Temporary Employees

The term "temporary employee" means an individual who is employed for a specific purpose or task and who is employed for not more than 90 calendar days in a 12-month period, except that the term of such employment may be extended with the written approval of the Committee on House Administration.

Temporary employees are ineligible for the following benefits:

1. Federal Employees' Retirement System
2. Federal life insurance
3. Federal health insurance
4. Thrift Savings Plan

Shared Employees

The term "shared employee" means an employee who is paid by more than one employing authority of the House of Representatives.

1. Two or more employing authorities of the House may employ an individual.

2. Subject to telecommuting policies, such shared employees must work out of the office of an employing authority, but are not required to work in the office of each employing authority. The pay from each employing authority shall reflect the duties actually performed for each employing authority. The name, title, and pay of such an individual will appear on each employing authority's Payroll Certification. Such employees may not receive pay totaling more than the highest rate of basic pay in the Speaker's Pay Order applicable to the positions they occupy.
3. Employees may not be shared between a Member or Committee office and the office of an Officer of the House if the employee, in the course of duties for an Officer, has access to the financial information, payroll information, equipment account information, or information systems of either Member, Committee, or Leadership offices.
4. Each House employee who, during any pay period, is simultaneously employed by three or more House employing authorities is required to inform each employing authority in writing of the employee's employment status and any change in employment status with other employing authorities.
5. Each House employee who, during any pay period, is simultaneously employed by three or more House employing authorities is required to file with the Office of Finance a signed Acknowledgment of Receipt and Understanding of Shared Employee Manual and Certification of Continued Compliance upon becoming simultaneously employed by three or more employing authorities. (See Acknowledgement and Certification).
6. Pursuant to 5 U.S.C app. § 101 et seq., each House employee who is simultaneously employed by three or more House employing authorities for more than 60 days during a calendar year must file a Financial Disclosure Statement by May 15 of each year.

7. Any House employee engaged in any outside employment or business activity may not directly, or indirectly through such outside employment or business activity, sell, lease, or otherwise provide any goods or assets to any House office or entity.

Consultants

Pursuant to 2 U.S.C. § 4301, only committees are authorized to procure the temporary services of consultants.

Member offices are not authorized to procure consultant services (including, but not limited to: legal fees (except where otherwise noted in the Members Congressional Handbook), speech writers, personal financial advisers, communications advisers, political party or campaign advisers, etc.).

Contractors

Members may contract with firms or individuals only for general (outside core office functions), non-legislative and non-financial, office services (e.g., equipment maintenance, information technology services, data entry, staff training, photography, custodial services, web services, personal security contractors) for a specified time period not to exceed the Member's current term. Such contracts are reimbursable. Such contractors are not employees of the House and are ineligible for government-provided personnel benefits.

Contractors do not count against the Member's employee ceiling.

Members are advised to consult the Committee on House Administration before entering into such contracts. The Committee has set standards for many technology contracts in the Services section of the Guide to Outfitting an Office.

Federal Civilian Annuitants

If a Member employs a federal civil service annuitant, the amount of the annual annuity, when added to the annual rate of pay at which the employee is to be paid by the Member, may not exceed the highest rate of basic pay

as authorized by the Speaker's Pay Order. The combined total of the civil service annuity and the amount of the salary will be charged to the MRA.

Waivers

Member offices will not be granted waivers of applicable annuity reductions or pay reductions.

Detailees

The term "detaillee" means a non-Congressional federal employee assigned to a committee for a period of up to one year.

Pursuant to 2 U.S.C. § 72a(f), detailees may not be assigned to a Member office.

Fellows

The term "fellow" means an individual performing services in a House office on a temporary basis as part of an established mid-career education program while continuing to receive the usual compensation from his or her sponsoring employer.

Fellows may be assigned to a Member office.

Fellows do not count against the Member's employee ceiling.

Fellows may not be reimbursed from House appropriated funds. Outside of using existing office resources, if a fellow incurs an expense as a result of work performed for the Member, the fellow may either be reimbursed by the fellow's sponsoring entity or a Member may use personal funds as authorized under House Rules.

The use of fellows is subject to regulations established by the Committee on Ethics. Contact the Committee on Ethics at x57103.

Temporary Agencies

Ordinary and necessary expenses related to services provided by an individual employed by a temporary agency are reimbursable if the following conditions are met:

1. Payment for such services is commensurate with the official duties performed by the

individual;

2. Such individual remains an employee of the agency and is not eligible for pay, benefits, rights, or privileges available to House employees; and
3. The total of such individuals and employees may not exceed 22 individuals.

Volunteers

The term "volunteer" means an individual performing services in a House office without compensation from any source.

The voluntary service should be of significant educational benefit to the participant and such voluntary assistance should not supplant the normal and regular duties of paid employees.

Volunteers should be required to agree, in advance and in writing, to serve without compensation.

Volunteers do not count against the Member's employee ceiling.

The use of volunteers is subject to regulations established by the Committee on Ethics. Contact the Committee on Ethics at x57103.

Telecommuting

Telecommuting is entirely at the discretion of the employing office. An employing office is under no obligation to offer a telecommuting option to employees.

Offices may obtain a copy of the Telecommuting policy on the Committee on House Administration website.

Employment Law

Congressional Accountability Act

Pursuant to the Congressional Accountability Act, the following civil rights, labor, and workplace safety laws are applicable to House employing offices:

1. The Fair Labor Standards Act of 1938;
2. Title VII of the Civil Rights Act of 1964;

3. The Americans with Disabilities Act of 1990;
4. The Age Discrimination in Employment Act of 1967;
5. The Family and Medical Leave Act of 1993;
6. The Employee Polygraph Protection Act of 1988;
7. The Worker Adjustment and Retraining Notification Act;
8. The Rehabilitation Act of 1973;
9. The Uniformed Services Employment and Reemployment Rights Act of 1994;
10. Chapter 71 of Title V of the U.S. Code, the Federal Service Labor-Management Relations Statute;
11. The public service and accommodations provisions of the Americans with Disabilities Act;
12. The Occupational Safety and Health Act of 1970; and
13. The Genetic Information Nondiscrimination Act of 2008.

The Office of Compliance has published A Guide to the Congressional Accountability Act of 1995, which is available from the Office of Compliance's website, or at Room LA-200, John Adams Building, Library of Congress, Washington, D.C. 20540-1999, (202) 724-9250. The Office of Compliance also provides materials that employing offices can use to notify employees of their rights and protections under the CAA.

A Model Employee Handbook providing sample office policies to assist in developing an organization that complies with applicable laws and House Rules is available on HouseNet.

The Office of House Employment Counsel is available to provide advice and guidance on employment matters generally, and on establishing office policies consistent with these laws. The Office of the House Employment Counsel can be reached at x57075.

Nepotism

A public official may not appoint, employ, promote, advance or advocate for appointment, employment, promotion, or advancement in or to a position in the office in which that public official is serving or over which that public official exercises jurisdiction or control any individual who is a relative of that public official. Pursuant to 5 U.S.C. § 3110, the term "public official" includes a Member, an employee, and any other individual who has authority, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an office.

Every employee must certify a relationship to any Member of Congress on a certificate of relationship form available from Payroll and Benefits. If, at any time, the relationship of an employee to any current Member of Congress changes the employee must file an amended certificate of relationship form with the employing office. Contact Payroll and Benefits at x51435 for such forms.

Individuals with the following relationship to the Member may not be employed by the Member:

- Aunt;
- Brother;
- Brother-in-law;
- Daughter;
- Daughter-in-law;
- Father;
- Father-in-law;
- First cousin;
- Granddaughter;
- Grandson;
- Half-brother;
- Half-sister;
- Husband;
- Mother;
- Mother-in-law;
- Nephew;
- Niece;
- Sister;
- Sister-in-law;

- Son;
- Son-in-law;
- Stepbrother;
- Stepdaughter;
- Stepfather;
- Stepmother;
- Stepsister;
- Stepson;
- Uncle; and
- Wife.

However, if a House employee becomes related to the employing Member (by marriage), the employee may remain on the Member's personal or committee payroll. Similarly, if a Member becomes the employing authority of a relative who was hired by someone else (e.g., the Member ascends to the chairmanship of a Committee or subcommittee for which the relative is already working), the relative may remain on the payroll. However, the Member may not then give that individual further promotions or raises, other than cost-of-living or other across-the-board adjustments.

The statute does not prohibit a Member from employing two individuals who are related to each other but not to the Member. Contact the Committee on Ethics at x57103 for further information.

Non-Disclosure Oath

House Rule XXIII, clause 13, requires Members and employees to execute an oath of non-disclosure before having access to classified information.

Post-Employment Restrictions

Members and employees paid at a rate equal to or greater than 75 percent of the basic rate of pay of a Member for at least 60 days in the one-year period preceding termination are subject to post-employment restrictions. For the current applicable rate and information regarding the applicable restrictions, contact the Committee on Ethics at x57103.

Working from Home due to a Disability

Pursuant to the Americans with Disabilities Act (ADA), a Member may reasonably accommodate

a qualified employee with a disability by allowing the employee to work from home. As a condition of such a request, the Member may require certification from a physician of the need for such accommodation. For questions concerning compliance with the ADA, contact the Office of House Employment Counsel at x57075.

Pay

Appointment

The official appointment of each employee requires the Member's signature on the Payroll Authorization Form (PAF). When hiring new staff to the U.S. House of Representatives, all personnel appointment PAFs, along with the completed appointment package, must be submitted to the Office of Payroll and Benefits no less than two business days prior to the effective date of hire. Completed appointment packages include the Appointment PAF, employment eligibility documents (U.S. Citizen and Non-U.S. Citizen requirements), Form I-9, Direct Deposit, W4, TSP-1 enrollment form, and Oath of Office.

Subsequent payroll transactions (changing from one House office to another, pay adjustments, title changes, furlough status, terminations, etc.) must also be made on the appropriate PAF or payroll form with the Member's signature. PAFs and payroll forms are due to the Office of Payroll and Benefits by the 15th day of the month in which the adjustment is effective to be included in the monthly regular payroll cycle, which is paid on the last business day of the month. PAFs and forms not submitted by the 15th of the month, must be received by the Office of Payroll and Benefits no later than the last business day of the month in which the payroll transaction is effective. These transactions submitted after the 15th will be processed in the off-cycle payroll.

Dual Compensation

The aggregate gross annual salary of an employee receiving payment from the House who is also receiving payment from the U.S. Senate, Architect of the Capitol, or any other

department or agency of the U.S. Government, may not exceed the gross annual rate established by 5 U.S.C. § 5533. For the current applicable dual compensation rate, contact the Office of Payroll and Benefits at x51435.

Financial Disclosure

Members and employees receiving basic pay at a rate equal to or greater than 120 percent of the minimum pay for GS-15 for at least 60 days during any calendar year must file a Financial Disclosure Statement upon appointment, termination, and annually on May 15th.

Each Member's office that does not have an employee paid at or above the threshold must designate one employee as the "Principal Assistant" who must file a Financial Disclosure Statement.

Ordinary and necessary expenses incurred by Members and their employees, in support of the filing of reports consistent with the provisions of the Ethics in Government Act, are reimbursable.

Contact the Committee on Ethics at x57103 for guidance concerning the current applicable rate of pay and other information regarding Financial Disclosure requirements.

Lump Sum Payments

A Member may authorize a lump sum payment to an employee for any purpose consistent with the following:

1. Payments must be consistent with House Rule XXIII, clause 8(a), which requires that employees perform official duties commensurate with the compensation received. Employees may not be compensated from public funds to perform non-official, personal, campaign-related political party, or campaign activities on behalf of the Member, the employee, or anyone else;
2. A lump sum payment may not be more than the monthly pay of the employee receiving the lump sum payment;

3. Lump sum payments may be for services performed during more than one month;
4. Members may provide lump sum payments for accrued annual leave only if such leave was accrued in accordance with written personnel policies established prior to the accrual of such leave;
5. Total compensation in any month including any lump sum payment, student loan payments, and regular pay (including cash reimbursement for accrued annual leave) may not exceed 1/12th of the maximum rate of pay specified in the Speaker's Pay Order;
6. Lump sum payments will be disclosed separately in the Quarterly Statement of Disbursements;
7. Lump sum payments are considered as part of "rate of pay" under the Speaker's Pay Order;
8. Lump sum payments are considered "supplemental wages" for taxation purposes; and
9. Lump sum payments are not considered as part of "basic pay" for purposes of calculating Thrift Savings Plan, life insurance, or federal pensions.

Contact the Committee on Ethics at x57103 for information on the treatment of lump-sum payments with regard to financial disclosure, post-employment restrictions, and outside earned income limitations.

Outside Earned Income

Members and employees receiving basic pay at a rate equal to or greater than 120 percent of the minimum basic pay for GS-15 for at least 90 days in a calendar year are subject to the outside earned income limitation established by 5 U.S.C. app 4 § 501 (a)(1) and House Rule 25, cl. 1 (a)(1).

For the current applicable rate of basic pay, the amount of the limit and application of the House Rule, contact the Committee on Standards of Official Conduct, Office of Advice and Education, at x57103.

Overtime Wage Rate Compensation

Employees who are covered by the minimum wage and overtime provisions of the Fair Labor Standards Act ("non-exempt") must be compensated at a rate of time-and-a half for all hours worked in excess of 40 hours during any work week, either in pay or in time-off during the same pay period. Overtime wage sheets must be received by no later than the 15th day of the month by the Office of Payroll and Benefits following the month in which overtime wages were earned.

Contact Payroll and Benefits at x51435 for the appropriate forms.

Contact the Office of House Employment Counsel at x57075 for assistance in establishing overtime and time-off policies.

Pay Adjustments

Members may adjust, in any month, an employee's pay to reflect exceptional, meritorious, or less than satisfactory service.

Such adjustments must be received by the Office of Payroll and Benefits on or before the 15th day of the month in which the adjustment is to be effective.

Retroactive pay adjustments are not authorized.

Payroll Schedule

Pursuant to 5 U.S.C. § 5505, the monthly payroll is based on a 30-day pay period. Payment is made on the last business day of the month.

Rates of Compensation

Members are responsible for adhering to the applicable minimum wage provisions of the Fair Labor Standards Act (\$7.25 per hour as of July 24, 2009).

Interns are not employees for purposes of compliance with the minimum wage and overtime provisions of the Fair Labor Standards Act.

The maximum rate of pay is established for Member offices by the Speaker's Pay Order.

Terminations

Terminations must be made on a Payroll Authorization Form and submitted to the Office of Payroll and Benefits as soon as the date of termination is known. If the termination notice is received by Payroll and Benefits after the 15th day of the month during which the termination becomes effective, the payroll for that month may have already been processed.

Leave

General

The Member determines the terms and conditions of employment, including provisions for leave (e.g., Annual, Administrative, and Sick).

Contact the Office of House Employment Counsel at x57075 for model leave policies.

Family and Medical Leave

Pursuant to the Family and Medical Leave Act (FMLA), a person employed by a Congressional office for at least one year and for a total of at least 1,250 hours during the previous 12-month period is entitled to up to a total of 12 weeks of unpaid leave during any 12-month period for the following family and medical reasons:

1. For the birth of a child and to care for the newborn child; or
2. To adopt a child or to receive a child in foster care; or
3. To care for a spouse, son, daughter, or parent who has a serious health condition; or
4. For the employee's own serious health condition which makes the employee unable to perform the functions of his or her job.
5. FMLA also includes a special leave entitlement that permits employees to take up to 26 weeks of FMLA leave to care for a covered service member during a single 12-month period.

Employees on Family and Medical Leave remain eligible for all benefits. Please contact OHEC at x57075 with questions concerning FMLA leave.

Furlough

Furlough is an absence without pay initiated by the Member. Placement in furlough status is at the discretion of the Member, unless a statute otherwise requires placement in such status.

1. To be eligible for appointment to furlough status at the discretion of the Member, an employee must have been employed by the Member for the entire month prior to the effective date of furlough status.
2. An employee placed in a furlough status continues to fill an employee position. The name of such employees will be listed on the monthly payroll certification forms.
3. Continuation of employee benefits while in a furlough status:
 - a. Health benefits enrollment and coverage may be continued for up to 12 months. However, to maintain such enrollment and coverage, an employee placed in a furlough status is responsible for the payment of the employee's portion of the insurance premium for the time period of the furlough status, either by direct payment or by incurring a debt to the House. Employees should contact the Office of Payroll and Benefits for more information.
 - b. Life insurance continues for up to 12 months without employee contribution.
 - c. Retirement coverage continues without employee contribution. Up to 6 months in a calendar year is credited for service in the annuity computation, while in furlough status.
 - d. The placement of an employee in a furlough status must be made on the appropriate form provided by the Office of Payroll and Benefits and received on or before the 15th day of the month in which the furlough status is to be effective. Contact Payroll and Benefits at x51435 for such forms.

Contact Payroll and Benefits at x51435 for information on employee benefits while on furlough.

Jury and Witness Duty

Under 2 U.S.C. § 130b, the pay of an employee shall not be reduced during a period of absence with respect to which the employee is summoned as a juror; or as a witness on behalf of any party in connection with any judicial proceeding to which the United States or a State or local government is a party.

An employee may not receive fees for service as juror in a court of the United States or the District of Columbia; or as a witness on behalf of the United States or the District of Columbia. If an employee receives an amount (other than travel expenses) for service as a juror or witness in such a court, the employee must remit such amount to the Office of Finance for deposit in the general fund of the Treasury.

Leave Without Pay

Leave Without Pay (LWOP) is an absence without pay. LWOP status is initiated by the employee and is subject to Member approval, unless a statute otherwise requires placement in such leave status. To be eligible, an employee must have been employed by the Member for the entire month prior to the effective date of the LWOP status.

1. As a basic condition for approval of LWOP status, there should be a reasonable assurance that the employee will return to duty at the end of the approved period. Members are encouraged to contact the Committee on Ethics at x57103 prior to approving a LWOP status request to confirm that no conflict of interest issues exist.
2. LWOP status should be requested in advance of the period of absence.
3. LWOP status may not exceed 12 months in a 24-month period.
4. When an employee has been appointed to LWOP status, he or she continues to fill a payroll position. The name of such employees will be listed on the monthly payroll certification forms.
5. Continuation of employee benefits while on LWOP status:

a. Health benefits enrollment and coverage may be continued for up to 12 months. However, to maintain such enrollment and coverage, an employee placed in a LWOP status is responsible for the payment of the employee's portion of the insurance premium for the period of the LWOP status, either by direct payment or by incurring a debt to the House. Employees should contact the Office of Payroll and Benefits for more information on applicable regulations.

b. Life insurance continues for up to 12 months without employee contribution.

c. Retirement coverage continues without employee contribution. Up to 6 months in a calendar year is credited for service in the annuity computation.

6. The placement of an employee on LWOP status must be made on the payroll authorization form and received by the Office of Payroll and Benefits on or before the 15th day of the month in which the LWOP status is to be effective.

Contact Payroll and Benefits at x51435 for more information on LWOP.

Military Leave

Under 5 U.S.C. § 6323, an employee in the National Guard or Reserves is entitled to up to 15 days of paid military leave per fiscal year for active duty, as well as for other qualifying purposes (such as inactive-duty training). Employees are also entitled to non-reduction in pay. In addition, under 5 U.S.C. §5538, an employee called to active duty in the uniformed services in support of a contingency operation, as defined under 10 U.S.C. §101(a)(13)(B), is entitled to up to five years of paid leave offset by the employee's military salary.

Contact the Office of House Employment Counsel at x57075 for additional information on the rights, benefits, and obligations of individuals absent from employment for service in a uniformed service.

OFFICE EXPENSES

Appliances

Small appliances under \$250 in value for use in the Member's congressional offices are reimbursable. In Washington, D.C., congressional offices, the MRA may not be used to pay for items that are readily supplied to offices by the Chief Administrative Officer or the Architect of the Capitol.

An Artistic Discovery, The Congressional Art Competition

Ordinary and necessary expenses, within a category of authorized official and representational expenses, related to the Congressional Art Competition, An Artistic Discovery, are reimbursable.

Shipping An Artistic Discovery entry by means other than the frank is reimbursable. Insurance expenses for the artwork are not reimbursable except for shipping insurance.

Academy Nominations

Ordinary and necessary expenses related to reimbursement of travel expenses in support of attending information sessions/briefings at any of the National Military Academies is reimbursable.

Amicus Briefs

Ordinary and necessary expenses related to amicus brief filing fees are reimbursable for the following purposes:

1. To file an amicus brief in his or her capacity as a Member of Congress; or
2. To participate in a civil action challenging the validity of any federal law or regulation; or
3. To participate in a civil action challenging the lawfulness of an action of a federal agency, or an action of a federal official

taken in an official capacity, provided that the action concerns a matter of public interest, rather than a matter that is personal in nature.

All other legal fees associated with the filing of an amicus brief are not reimbursable from the MRA.

Certificates

Certificates of recognition to a person who has achieved some public distinction for distribution in connection with official and representational duties are reimbursable.

Certificates must comply with Commission content regulations.

Clipping Services

Ordinary and necessary expenses related to clipping and media monitoring services (newspapers, periodicals, magazines, etc.) are reimbursable.

Decorating Expenses

Decorations of nominal value (e.g., as frames, bookends, flags, seals, rugs, etc.) for congressional offices are reimbursable.

In D.C. congressional offices, the MRA may not be used to pay for items exceeding nominal value, including, but not limited to:

- Area rugs above nominal value
- Paint, except for chalkboard and whiteboard paint as approved by the House Superintendent

Prior to the purchase of any furnishing exceeding \$5000 per item, written approval must be obtained from the Committee on House Administration. Contact the Committee on House Administration at x52061 for more information.

The MRA may not be used to pay for holiday-specific decorations.

Contact the Committee on House Administration at x52061 for a list of government agencies that provide wall decorations free of charge.

Deposits

Security and other deposits are not reimbursable and must be paid from the Member's personal funds. Each Member should notify vendors that any return of deposits should be made to the Member.

Drug Testing

Ordinary and necessary expenses related to drug testing, in accordance with the Member's written drug-testing policy, are reimbursable.

Offices should consult with the Office of House Employment Counsel at x57075 when establishing drug-testing policies.

Dues

Pursuant to 5 U.S.C. § 5946, dues, membership fees, assessments, and annual fees are not reimbursable.

Educational Expenses

Ordinary and necessary expenses for Members or employees to attend vendor-sponsored conferences, seminars, briefings, professional training, and informational programs related to the official and representational duties to the district from which he or she is elected are reimbursable.

1. Members or employees may not be reimbursed for expenses to attend educational programs in order to obtain a primary, secondary, graduate, postgraduate, or professional degree.
2. Expenses associated with acquiring or maintaining professional certification or licensing are not reimbursable, except for basic first-aid, CPR, or notary certifications.

3. Informational programs are events in which interaction with participants relates to official business, including but not limited to discussions about the federal role of government in various issue areas, discussions involving how the Member may assist constituencies through action from the federal government or seek relief from the government in any manner, discussions of policy matters, etc. Information programs should not be primarily social in nature, including but not limited to awards events not related to official business, galas or balls that are primarily social, or other events in which official interaction is more incidental than is the primary purpose.
4. Security training for Members and staff is a reimbursable expense. Please contact the House Sergeant at Arms for training resources available to the D.C. and District Offices.

Employment-Related Expenses

Ordinary and necessary expenses related to filling employment vacancies are reimbursable.

The following expenses are not reimbursable:

1. Transportation to and from employment interviews; or
2. Relocation expenses upon acceptance or termination of employment; or
3. Relocation expenses incidental to a change in duty station.

Flags

U.S. flags for purchase by individuals may be obtained by a Member from the Office Supply Service (OSS) at x53321. Initially, the costs of the flags will be charged to the MRA. Once payment for a flag is received by the Member office, the office may submit the check to OSS. OSS will credit the MRA.

If a request is made to have a U.S. flag flown over the Capitol, an additional flag flying fee must be paid by the individual purchasing the flag.

Food and Beverage Expenses

Except where noted, Members and employees may be reimbursed for food and beverage expenses incidental to an official and representational meeting that includes one or more person(s) who are not a Member or employee of the House.

Members and employees may be reimbursed for food and beverage expenses for legislative planning session meetings involving Members and their own staff no more than two times per year. Members and staff may be reimbursed for food and non-alcoholic beverage expenses incurred while participating in virtual legislative planning sessions. Virtual legislative planning sessions may not occur more than twice in a legislative year.

Members and employees may not be reimbursed for food and beverage expenses related to social activities or social events (e.g., hospitality, receptions, entertainment, holiday or personal celebrations, and swearing-in or inauguration day celebrations).

Members and employees may not be reimbursed for the cost of alcoholic beverages.

Framing

Framing services for items to be displayed in the Member's D.C. or district Congressional offices are reimbursable. In Washington, D.C., when a Member uses the in-House framing service provided by the CAO, costs will be automatically charged to the MRA.

Furniture

Furniture (e.g., furniture, rugs, carpet, draperies, repairs, etc.) is supplied and maintained by the CAO for Washington, D.C., Congressional offices through First Call at x58000 without charge to the MRA. Furniture is not reimbursable for the Washington, D.C., Congressional offices.

Prior to the purchase of any furnishing exceeding \$5000 per item, written approval

must be obtained from the Committee on House Administration. Contact the Committee on House Administration at x52061 for more information.

Effective March 13, 2020, the MRA may be used to procure or reimburse the cost of items such as desks (standing and traditional), office chairs, and desk lamps necessary for remote work situations, subject to any applicable telework requirements. Offices are required to maintain an inventory of items used in remote work locations. The purchase of any single item exceeding \$250.00 is subject to preapproval by the Committee on House Administration.

Gifts and Donations

Only the following gifts and donations are reimbursable:

1. Items purchased for official presentation when on official travel for the House of Representatives outside the United States, its territories and possessions. To purchase items from the House Gift Shop, select the item(s) and notify the sales clerk that it is for official presentation in the course of overseas travel. Receipts for such items should be vouchered for payment to the Office Supply Service, and the voucher description should note that it is for official presentation in the course of overseas travel.
2. U.S. flags flown over the Capitol for official presentation as a gift, including the flag flying fee, are reimbursable. Such flags must be for the personal use of or display by the recipient (examples may include, but are not limited to: flags presented at a building dedication for which the Member secured official funding, a flag presented to the family of a fallen soldier, flags presented for exceptional public distinction, etc.).
3. Ordinary and necessary expenses associated with the purchase of presentation folders, frames, or shadow boxes which are of nominal value.

4. Informational and educational federal government publications of nominal value.
5. U.S. Capitol Historical Society publications of nominal value (including calendars).
6. Expenses related to framing the Congressional Art Competition winning artwork, when a Member determines in his or her discretion that hardship case is demonstrated.

No other gifts or donations are reimbursable (e.g. magnets, keychains, stickers, buttons, pens, pencils, etc).

All gifts must be in connection to an officially-related activity or event.

Gifts provided for fundraising activity are prohibited.

House Gift Shop

The CAO operates a gift shop in B-217A Longworth that sells souvenirs and mementos to Members, staff, and the public. Gift Shop purchases may be made by cash, check or credit card. A Member Account Card may not be used to purchase items at the Gift Shop.

Contact First Call at x58000 for special orders from the Gift Shop.

Greetings

Expenses related to the purchase or distribution of greetings are reimbursable, provided the greeting complies with Commission content regulations.

Insurance

A Member may be asked to provide a certificate of insurance for the purpose of entering into a lease for a district office or for securing space in which to conduct a town-hall meeting or other official and representational event. The House does not carry a private insurance policy and generally does not permit Members to use the MRA to pay for a private insurance policy.

Under the provisions of the Federal Tort Claims Act, codified at 28 U.S.C. § 2671-2680, the United States acts as a self-insurer and recognizes liability for the negligent and wrongful acts or omissions of its employees acting within the scope of their official and representational duties. The United States is liable to the same extent an individual would be in like circumstances.

Although the Federal Tort Claims Act is not the equivalent of private liability insurance, it does provide an aggrieved party with administrative recourse, and if that proves unsatisfactory, legal recourse for damage or injury sustained. Thus, to the extent negligent acts of Members or Congressional staff, while conducting official and representational duties, result in either property damage or bodily injury, such damage or injury should be compensable under the Act in a manner that affords protection similar to private liability insurance.

However, if the provisions of the Federal Tort Claims Act are not considered adequate, the ordinary and necessary expenses for liability insurance to cover these risks are reimbursable. When a compensable event occurs, the deductible portion of a policy may be paid from the MRA.

The expenses of fire and theft insurance are not reimbursable.

Contact the Office of the General Counsel at x59700 for guidance regarding the Federal Tort Claims Act.

Interpreting and Translating Services

Ordinary and necessary expenses related to interpreting and translating services, including accommodations, are reimbursable. For events held in House Office Buildings, contact the Office of Congressional Accessibility Services at x44048.

Late Fees

Ordinary and necessary fees related to late payments incurred beyond the control of the Member are reimbursable.

Distribution Lists

Ordinary and necessary expenses related to the procurement and production of distribution lists may be reimbursed. Lists may not contain information about individuals whose primary residence is outside the district the Member is elected to represent with the exception of government officials. The list may not contain any campaign or campaign-related political party information. The list must be procured or compiled as a result of a bona fide arm's length marketplace transaction.

Members may not purchase or acquire distribution lists from their campaign offices or campaign-related political party entities. Official mailing and distribution lists may not be shared with a Member's campaign committee, any other campaign entity, or otherwise be used for campaign purposes.

Use of distribution lists must comply with House information technology and security policies as approved by the Committee on House Administration.

39 U.S.C. § 3210 prohibits Members from sending any mass mailings outside of the district from which elected. For further guidance, please refer to Commission content regulations, which can be found by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

The CAO provides a service of sorting constituent mailing lists to eliminate outdated/duplicate addresses and reduce mailing costs. Contact CAO Mailing Services for more information at x54355.

Mail Preparation

Ordinary and necessary expenses associated with the printing and preparation of Member correspondence are reimbursable. Franking expenses associated with all mailings will be deducted from the MRA.

Mass Transit Benefits

Members, employees, and paid interns working in Washington, D.C. or the Member's district are eligible for transit benefits. For information regarding this benefit, please contact Office of Payroll and Benefits for more information at x51435.

Messenger Services

Ordinary and necessary expenses for messenger services related to the Member's official and representational duties are reimbursable.

Official Meetings

Ordinary and necessary expenses related to conducting official meetings inside the district are reimbursable. These expenses include, but are not limited to, procuring space, chairs, tables, audio/video equipment, etc.

Presence or involvement by the Member or staff does not sufficiently define an activity as official.

For official meetings outside the district, only travel and travel related expenses are reimbursable.

Officially-sanctioned Competitions

Officially-sanctioned competition means an academic or civic competition designed for participation by each Congressional office, in which entry is limited to the district constituents of each respective participating Congressional office; and that meets the requirements described below, as determined by the Chair and Ranking Member of the Committee on House Administration at the beginning of each Congress. Note: Nothing in these regulations changes the status of the Artistic Discovery Competition.

The Chair and Ranking Member of House Administration shall maintain a list of officially-sanctioned competitions for use by Members and available for public inspection.

Requirements for Determination as an Officially-sanctioned Competition

The Chair and Ranking Member of House Administration may determine that an academic or civic competition is an officially-sanctioned competition if the following guidelines and restrictions are met:

1. A bipartisan request for an officially-sanctioned competition must be submitted in writing by the leadership of a registered Congressional Member Organization to the Chair and Ranking Member of House Administration.
2. The competition must be sponsored by non-Congressional person or organization (sponsor). The sponsor and participating Member agree that the winner of a participating Member's competition may not be a relative of that Member, or a relative of any official employee of that Member. For purposes of this prohibition, "relative" is defined in the same manner as House Rule XXIII, clause 8(c) (3).
3. The sponsor agrees not to use the Official Seal of the U.S., the U.S. House of Representatives, or the U.S. Congress in its communications.
4. The sponsor agrees that all technical assistance with the competition provided to the sponsor shall be available equally to all entrants of the competition.
 - a. Technical assistance with the competition may include equipment for use by and mentoring of entrants of the competition.
 - b. Technical assistance shall not be directed to the participating Member's office; instead, it should be directed to the entrants of the competition.
 - c. Technical assistance provided directly to each entrant must be equally available to each entrant regardless of the number of individual entrants per participating Member.
5. The sponsor agrees that all prizes for the entrants and winners of the competition provided to the sponsor shall be distributed equally to all competition entrants and winners, respectively.
 - a. Prizes for the entrants and winners of the competition may include travel expenses for the winner and a parent/guardian to attend an unveiling or awards ceremony in Washington, D.C., scholarships, tangible items, and cash or cash equivalents.
 - b. Prizes shall not be directed to the participating Member's office; instead, it should be directed to the entrants and winners of the competition.
 - c. Prizes provided directly to each entrant must be equally distributed to each entrant regardless of the number of individual entrants per participating Member.
6. The sponsor agrees that all other assistance provided to the sponsor for support of the competition shall be made available equally amongst the participating Member offices.
 - a. Other assistance may include advertising or other promotional activities.
 - b. All other assistance shall not be directed to the participating Member's office; instead, it should be directed to the competition entrants or businesses involved in the competition.
7. Each participating Member must retain ultimate control over the determination of a winner of a competition in his or her name, or in the name of his or her Congressional district.
8. Each participating Member must agree to direct any donations in the form of (a) technical assistance with the competition, or (b) prizes for the entrants and winners of the competition, to the sponsor if the value of the donation or donations from a single source is more than \$50. The sponsor is obligated to distribute such donations

equally to the competition entrants and winners of all participating Member offices.

9. Participating Members may not use principal campaign funds to support an officially-sanctioned competition.

Use of Official Resources to Support an Officially-sanctioned Competition

A Member may use the MRA in a limited fashion to support officially-sanctioned competitions.

The following resources may be used in support of an officially-sanctioned competition:

1. The Frank, provided the content of such communication is frankable;
2. Advertisements that are otherwise compliant with Handbook and Commission content regulations;
3. Food and Beverage expenses that are otherwise compliant with Handbook regulations;
4. Rental of rooms, chairs, and audio systems that are otherwise compliant with Handbook regulations;
5. Gifts and donations that are otherwise compliant;
6. Staff time and the use of incidental resources;
7. Use of letterhead and official seal of the House by the Member office, provided such letterhead and seal are not used for solicitations;
8. Mileage; and
9. Member official web site and social media.

Solicitation of Donations to Support an Officially-sanctioned Competition

A Member may only solicit donations (including in-kind) on behalf of the officially-sanctioned competition if the Member first receives written approval from the Committee on Ethics.

Parades

Members may only use official funds from the MRA to pay for transportation to and from a parade, not for anything else related to the parade. If the Member uses official funds to get to the parade, then no campaign activity or materials are permissible at the parade.

Parking

Please see the Committee on House Administration website for the House Parking Policy.

Information regarding District Office parking expenses is available in the District Office section of the Handbook.

Photography Expenses

Ordinary and necessary photography expenses related to a Member's official and representational duties, including but not limited to, the Member's official photo, official photographs for distribution to constituents, and photograph presentation folders and frames of nominal value, are reimbursable.

Official photographs are those taken with the use of House resources (e.g. equipment, staff, etc.) for official use. These include photos for use on House credentials and in-House directories. Additionally, photos taken with House equipment by House staff are considered official photographs. Members may use MRA funds to procure photographic equipment and use staff resources to take official photos. Additionally, Members may hire a photographer as a shared, temporary, or contract employee. Official photographs must comply with applicable rules and regulations for official use and may not be used for personal or campaign purposes. Members may use personal funds to retire a photograph from official use at a cost established by the House Photography Studio. At this time, the reimbursement cost is \$20. Payment is by check made out to the "U.S. Treasury". An official photograph is considered retired from official use one week after payment is received by the House from

the Member and all official resources (e.g. documents, websites, social media, etc.) have discontinued use of the image(s). A Member may not use MRA funds to purchase 1) photos that have been retired from official use, 2) photos from a Member's campaign, or 3) photos from a political organization. A Member may use MRA funds to purchase photographs that are official in nature, at the established market rate, from outside organizations such as media outlets. In Washington, D.C., contact the House Photography Studio at x52840 for services, charges, and availability.

Photographs provided by a constituent may implicate the gift rule. Contact the Committee on Ethics at x57103 for more information.

Publications

Ordinary and necessary expenses related to purchasing or subscribing to print and electronic publications, including but not limited to research materials, reference books, informational brochures, periodicals, and clipping/media monitoring services of such publications are reimbursable.

Subscriptions to publications (including clipping and media monitoring) are eligible for advance payment and may extend beyond the term of the Congress. Subscriptions that extend beyond a Member's term in office will be assigned to the Member's successor.

All invoices for these subscriptions received by the Office of Finance through the close of business January 2 will be debited from the current MRA year. Subscriptions beginning on January 1 or 2 may be debited from either allowance year, as directed by the Member.

Congressional Record

Costs related to providing Congressional Record subscriptions to constituents, private entities, or public entities are not reimbursable.

Offices are authorized to purchase additional copies of the Congressional Record, as necessary for office use.

Representational Programs

Ordinary and necessary expenses related to programs established by the Member to promote the public good or civic service, or to solicit input/information from constituents related to official business is reimbursable. Any program's title may only include the state and district of the Member. The program's title may not include the name of the Member. Members and staff may not solicit any items of value for the program, and may not offer any officially paid goods or services as a result of participating in the program that is not authorized as a gift. The office may issue participants a certificate of achievement as part of the Representational Program.

Staff Meetings

Members and staff may attend staff meetings (e.g., staff retreats, internal staff development, legislative planning sessions, etc.) at a Member-authorized location in the Member's State or in the Washington, D.C. metropolitan area for official and representational purposes, and may seek reimbursement for expenses relating to attendance at such meetings, provided that such expenses are otherwise consistent with all other Handbook regulations. Staff whose duty station is in the location of the meeting may not incur lodging expenses when staff meetings are held in that area, subject to official travel restrictions.

Members and employees may be reimbursed for food and beverage expenses for legislative planning session meetings involving Members and their own staff no more than two times per year.

The MRA may not be used for social events or activities (including but not limited to: boating, skiing, sporting events, theme parks, etc).

Supplies

Office supplies to support the conduct of the Member's official and representational duties are reimbursable.

The Office Supply Store ("OSS") is located in Room B-217 Longworth at x53321. OSS issues each Member an Account Card for official purchases, which may only be used by the Member and/or staff. The cost of all items purchased with the Account Card is charged to the MRA.

Supplies for a Member's district office may be procured in the district through supply stores or through regional General Services Administration ("GSA") supply centers.

The MRA may be used to procure or reimburse the cost of certain personal protective equipment such as facemasks, face shields, protective gloves, protective eyewear, and certain personal use thermometers as authorized by the Committee upon the recommendation of the Office of Attending Physician

Storage

Ordinary and necessary expenses related to procuring storage space are reimbursable. Long term space or storage rental contracts should be submitted to the CAO Office of Administrative Counsel for review and approval, and may not exceed the Member's term.

Telecommuting

Ordinary and necessary telecommuting expenses incurred in compliance with the Committee on House Administration telecommuting policy are reimbursable.

Telecommunications

Ordinary and necessary expenses related to the official use, including periodic or flat service fees, of telecommunications lines (voice and data) in the residence of a Member or employee are reimbursable. The cost of installation of such lines is not reimbursable.

Audio and Video Expenses

Ordinary and necessary expenses related to audio and video recording and materials,

including but not limited to the following, are reimbursable:

1. Production of public service announcements for distribution to the stations serving the Member's district; or
2. Filming related to the appearance of a Member or the Member's employee at an official event; or
3. Videotapes and transcripts of commercial broadcasts related to the Member or the Member's district for in-office use; or
4. Videotapes that are produced by the Member or videotapes that are provided to a Member and authorized by the providing entity to be reproduced for official distribution; or
5. Video teleconferencing services incurred in support of the Member's official and representational duties.

Except where authorized, the costs related to purchasing television broadcast time are not reimbursable. Members are subject to copyright laws when utilizing outside materials.

In Washington, D.C., the House Recording Studio is available for audio and video services. Contact the House Recording Studio at x53941 for information on services, charges, and availability.

There are certain election-related restrictions on mass communications. Audio and video content must relate to official and representational duties to the district and must comply with Commission content regulations if sent out as an unsolicited mass communication.

Printing and Production

Reimbursable printing and production expenses include, but are not limited to:

1. Newsletters, postal patron mailings, mass mailings, notices of town hall meetings or notices of personal appearance of the

- Member at an official event
- 2. Administrative papers (casework tracking forms, personnel record forms, etc.)
- 3. Legislative papers (bills, drafts, summaries, amendments, etc.)
- 4. Business cards for Members and their employees
- 5. Stuffing, sealing, and associated expenses relating to printing and sending official mail
- 6. Stationery

Printed materials only require an Advisory Opinion when they are distributed as an unsolicited mass communication. Items not distributed as a mass communication do not require an Advisory Opinion but must still meet Commission content standards.

Stationery

Pursuant to 44 U.S.C. § 734, ordinary and necessary expenses associated with the printing and production of official stationery are reimbursable. Official stationery may be procured from the Government Publishing Office.

Contact the Congressional Printing Management Division at 202-512-0224 and the Office of Publication Services at x65200 for stationery requests.

Additional stationery requests (writing paper, bond, etc.) are reimbursable.

Appearance

Official stationery must contain the following information:

1. Member's name;
2. Member's district and state;
3. Congress of the United States, House of Representatives, or comparable language;

Official stationery may contain the following information:

1. Leadership-appointed positions; and
2. Congressional Member Organization membership.

Official stationery may include professional license(s).

Official stationery may not contain the following information:

1. Seals other than the Great Seal, Congressional Seal, or State Seal
2. Member's political party identification
3. Slogans
4. Private entity information or endorsement
5. Campaign contact information (e.g., address, phone number, email address)
6. Greetings
7. Picture or likeness of the Member
8. Family crest

Use

Official stationery may be used only for a letter or other document the content of which must be official in nature. When sent out under the frank, content must comply with Commission content regulations. For questions related to official communications content, contact the Commission by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

Contact the Committee on Ethics at x57103 for information on the use of official stationery.

Business Cards

Ordinary and necessary expenses for business cards for Members and employees are reimbursable. Business cards must contain the name of the employing authority and accurately describe the position to which the employee has been appointed.

The MRA may not be used to purchase business cards for individuals not on House

payroll. Please consult the Committee on Ethics for regulations on use of Congressional information on personal business cards.

Business cards may be obtained through Office Supply Service at x53321.

Postal Expenses

Postal expenses incurred only when the frank is insufficient, such as certified, registered, insured, express, foreign mail, and stamped, self-addressed envelopes related to the recovery of official items, are reimbursable. Postage may not be used in lieu of the frank. All mailings initiated by a Member must be in compliance with the House of Representatives Communications Standards Manual.

Members must return unused postage stamps to CAO First Call (x58000) at the end of a Member's service in the House.

Postage expenses up to \$100 per month are reimbursable to return items not authorized as gifts under House Rules for purposes of returning the item(s) to the donor.

Equipment

All official work of the House of Representatives is to be performed and maintained on House equipment, except for Members' handheld personal devices. Ordinary and necessary expenses for equipment for use in the Member's congressional offices are reimbursable subject to Committee regulations. Equipment used for remote work purposes can only be issued to paid House staff or vendors. For all questions relating to equipment and equipment-related issues, refer to the Guide to Outfitting and Maintaining an Office, available at (<https://cha.house.gov>). For further information relating to any of the CAO's services, please refer to HouseNet or call First Call at x58000.

District Office

Booths

Ordinary and necessary expenses associated with renting or outfitting a booth to provide

public information directly related to the Member's official and representational duties are reimbursable. While the booth may be located outside the district, it must serve your district's constituency.

Cable

Costs of cable television subscriptions in support of official and representational duties in the district office(s) are reimbursable.

Itemized premium channels and sports packages are not reimbursable.

Custodial Services

Ordinary and necessary expenses for custodial services for district office(s) are reimbursable.

Furniture

If available, GSA will provide furniture to district offices at no cost to the Member's MRA.

Otherwise, these expenses are reimbursable for Congressional district offices. Furniture requests for district Congressional offices can be processed through First Call at x58000 and charged to the MRA. Please contact First Call prior to the purchase of any furniture for district offices.

Prior to the purchase of any furnishing exceeding \$5000 per item, written approval must be obtained from the Committee on House Administration. Contact the Committee on House Administration at x52061 for more information.

Leases

Rental expenses related to district offices, except for security deposits, are reimbursable. There is no limit on the number and size of district offices a Member may establish. No lease may extend beyond the Member's elected term. Members must notify the Office of Finance at x57474 in writing when a lease is terminated.

District offices may be located in:

1. Federal buildings;

2. Commercial buildings; and
3. State, county, or municipal buildings.

District office space must be located within a Member's district unless there is no suitable office space in a federal building in the Member's district. In that event, a district office may be located in a federal building serving the Member's district.

Members may not accept free office space from private entities. Private office space must be leased at a fair market value as the result of a bona fide, arms-length, marketplace transaction. The Committee on Ethics has ruled that Members may accept free office space, located in their district, when such space is provided by a federal, state, or local government agency.

All leases must include a House lease attachment. Leases and lease attachments must be submitted to the CAO Office of Administrative Counsel at x56969 for review and processing. The Committee recommends that Members submit such leases for review prior to being signed by the Member and lessor, because the Member is personally liable for payments under any lease not in compliance with House Rules and Committee regulations.

The House will authorize disbursement of funds under the terms of the lease agreement only if the lease agreement complies with House Rules and Committee regulations. The House will not authorize disbursement of funds to make payments under the terms of the lease agreement until the CAO Office of Administrative Counsel has reviewed the lease agreement and has signed the attachment. Similarly, the CAO Office of Administrative Counsel must review any proposed substantive amendment and sign the attachment for the amendment before the House will authorize any payment pursuant to such an amendment. Any amendment to a lease agreement must be in writing.

Contact the CAO Office of Administrative Counsel at x56969 for lease standards.

Mobile District Offices

Mobile district offices must remain in the Member's district unless they are being stored, receiving maintenance and repair, or traveling between points in the district. If signs are used to identify the mobile district office, they must be removed if they contain the Member's name when the vehicle is in transport.

Parking

Parking should be negotiated as part of the district office lease. However, if parking is unavailable or insufficient through the district office lease, Members may pay for parking expenses at the district office or may negotiate a separate parking space lease and submit it to the CAO Office of Administrative Counsel for review and processing.

Contact the CAO Office of Administrative Counsel at x56969 for lease standards.

Repairs

Ordinary and necessary expenses for minor office repairs that are the responsibility of the tenant, or cosmetic changes that are requested by the tenant and are not covered in the lease are reimbursable. The expenses of capital improvements to district offices are not reimbursable.

Contact the CAO Office of Administrative Counsel at x56969 to determine if a repair qualifies as a minor office repair or cosmetic change.

Security

Ordinary and necessary expenses associated with security measures necessitated by official duties are reimbursable. For questions concerning security equipment and services in the district, please call the District Security Service Center maintained by the House Sergeant at Arms at 202-225-3380.

Non-Capital Improvements

The House Sergeant at Arms (HSAA) will provide certain security enhancements for district offices. For any additional expenditures,

the MRA is available if the item or expenditure has received approval from the HSAA.

Capital Improvements

The costs of security enhancements considered capital improvements (e.g., constructing a new doorway, installing bulletproof glass) are not reimbursable must be borne by the landlord. However, these costs can later be incorporated into the monthly rent of the district office lease. For questions on capital improvements or modifying district office leases, please contact the CAO Office of the Administrative Counsel at x56969.

Security Personnel Support

Payment for security personnel is an ordinary and necessary reimbursable expense when such personnel is hired:

1. To provide security at official, Member-hosted district events (e.g., town halls);
2. To accompany Members during the performance of their official duties; or
3. To be stationed inside or outside the district office during business hours.

Members may contract with firms or individuals to provide personal security as referenced above. Please see the *Contractors* section for additional information. Members should consult the District Security Service Center before hiring a security provider and should coordinate any security needs through the HSAA's Law Enforcement Coordinator Program: <http://saa.house.gov/members/information-for-lecs.shtml>.

Security Items

Security equipment is a high-risk category and must be added to the Member's inventory regardless of the original purchase cost. The purchase of a bulletproof vest is a reimbursable expense. Member offices should contact the Office of General Counsel concerning applicable laws for ballistic vests in their state and district.

Security Training

Security training for Members and staff is a reimbursable expense. Please contact the House Sergeant at Arms for training resources available to the D.C. and District Offices.

Sharing Offices

A Member may share office space with Members of the United States Senate from the Member's state or with state and local officials, but all expenses (including rent, utilities, etc.) and space must be kept and billed separately.

Members may share a district office with another Member of the US House of Representatives; however, they must submit a district office sharing plan to the Committee on House Administration for approval. Contact the Committee on House Administration for more information. Contact CAO Office of Administrative Counsel at x56969 to submit such leases for review, and the Office of Finance at x57474 to establish billing arrangements.

Signs

Ordinary and necessary expenses related to purchasing sign(s) to identify the location of a district office are reimbursable. Such signs may not include a picture or likeness of the Member and must identify that the premises is a district Congressional office. If a sign includes more than a Member's name and district, the content must comply with Commission content regulations.

Storage

Storage should be negotiated as part of the district office lease. However, if storage space is unavailable or insufficient within the district office space, Members may negotiate a separate storage space lease and submit it to the CAO Office of Administrative Counsel for review and processing.

GSA will provide temporary storage for up to 90 days for district offices at no cost to the Member's MRA.

Contact the CAO Office of Administrative Counsel at x56969 for lease standards.

Utilities

Utilities are reimbursable. They may be integral to the lease and included in the monthly rent, or may be vouchered separately, or processed through automatic payment. Contact the Office of Finance at x57474 for information regarding automatic payment of utilities.

COMMUNICATIONS

Official Communications Generally

Ordinary and necessary expenses related to an official communication that complies with Commission content regulations are reimbursable.

For questions about content standards, contact the Commission at x59337 (Majority) or x60647 (Minority).

For questions about the authorization of expenses, contact the Committee on House Administration at x52061 (Majority) or x58281 (Minority).

Physical Town Hall Meetings

A town hall meeting is an official meeting a Member holds within the Member's district with their constituents to facilitate the exchange of information regarding the Member's official and representational duties.

Ordinary and necessary expenses related to town hall meetings are reimbursable.

Ordinary and necessary expenses include, but are not limited to, the following:

1. Advertisements.
2. Rental of rooms, chairs, audio systems.
3. Audio/Video Expenses.
4. Interpreting Services.
5. ADA Accommodations.
6. Reporting and transcription services.
7. Electronic Transmission (not television).
8. Custodial Services.
9. Banners/leaflets/flyers that comply with Commission content regulations.
10. Security, including personal security contractors (Members are strongly urged to coordinate any security needs with the House Sergeant at Arms.) For additional information, please see the Security and Contractors sections.

11. Plants or other relevant decorative items of nominal value.

Members may invite any Member of Congress to participate in their official town hall meeting. Travel expenses for a guest Member or Senator are reimbursable from the MRA of the host Member. No other travelers are reimbursable.

Town hall meeting notices should include a contact person to arrange for accommodations for persons with disabilities.

Members and employees may not accept, from any private source, in-kind support having monetary value for a town hall meeting. Contact the Committee on Ethics at x57103.

Joint Physical Town Hall Meetings

Members may be reimbursed for ordinary and necessary expenses associated with holding joint town hall meetings with Members of the House of Representatives representing adjacent districts or United States Senators representing the same state, as specified below.

1. Joint town hall meetings must be held in one of the hosting House Members' districts, or if held jointly with the home state Senator, then the meeting must take place within the House Member's district
2. Expenses (excluding mail) may be divided to reflect an accurate representation of each Member's expenses, and may be directly vouchered through the Office of Finance with supporting documentation (invitation, agenda, etc.) for the meeting.

Members are prohibited from directing any unsolicited mass communications outside of the district from which elected. Therefore, official expenses that relate to promoting joint town hall meetings must be separately accounted for and charged to the MRA of the Member into whose district the mass communication was delivered.

Virtual Town Hall Meetings

Ordinary and necessary expenses related to conducting a virtual town hall meeting, including but not limited to, radio broadcast time, internet resources (Skype, Oovoo, streaming, etc.), or telephone town hall meetings, for constituents in the district from which the Member is elected are reimbursable. Costs related to television broadcast time are not reimbursable.

Joint Virtual Town Hall Meetings

Members may be reimbursed for ordinary and necessary expenses related to conducting joint virtual town hall meetings (via telephone or internet) with Members of the House of Representatives (from any state) or United States Senators (from the same state as the House Member), as specified below.

1. Expenses which are identical or flat-rate must be divided evenly between the two hosts. Expenses which are billed based on the number of constituents contacted must be divided to reflect an accurate representation of each Member's expenses. Joint virtual town hall meeting expenses may be directly vouchered through the Office of Finance with supporting documentation (invitation, agenda, etc.).
2. Members are prohibited from directing any unsolicited mass communications outside of the district from which elected. Therefore, official expenses that relate to advertising joint virtual town hall meetings must be separately accounted for and charged to the MRA of the Member into whose district the mass communication was delivered.

Unsolicited mass mailings and communications related to joint virtual town hall meetings may only be sent by Members to their own constituents and may only contain the sending Member's contact information.

Joint virtual town hall meetings may only target the hosts' Congressional Districts (telephone and internet) or the hosts' social media followers (internet).

Press Conferences

Ordinary and necessary expenses related to conducting an official press conference are reimbursable.

Advertisements

Ordinary and necessary expenses related to advertisements are reimbursable. Advertisements must comply with all applicable Federal laws and House rules, including Commission content and disclosure requirements. The Communications Standards Manual is available by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

For example, Members must disclose, within a television and radio advertisement, the source of payment for the official advertisement. Members may use any of the following :

1. Paid for with official funds from the office of [Member's name].
2. Paid for by the funds authorized by the House of Representatives for the [district number] District of [name of state].
3. Paid for by official funds authorized by the House of Representatives.

Certain advertisements may require an Advisory Opinion from the Commission. For details, please consult the Commission.

Inside Mail

1. Inside Mail is a delivery service for the transmittal of interoffice communications provided by House Postal Operations, pursuant to the regulations established by the Committee on House Administration. Inside mail service is available among offices in the Capitol, the House and Senate Office Buildings, the Library of Congress, the White House, the State Department, and the Social Security Administration.
2. Inside mail is provided to support the

conduct of the official business of Members, committees, Officers of the House, and Congressional Staff Organizations.

3. Inside mail service may not be used to circulate letters which are personal or campaign-related, or which constitute commercial advertising except when postage is paid for with personal expenses
4. All mail to be delivered via inside mail should be clearly marked Inside Mail and should be deposited in an Inside Mailbox.
5. Authorized items for circulation of inside mail include:
 - a. A Dear Colleague or similar correspondence relating to the official and representational business of the Member. This correspondence must be on official letterhead and signed by the Member.
 - b. A position paper, report, legislative analysis, or any material published or produced by another individual or organization that a Member wishes to circulate. This correspondence must be accompanied by a signed cover letter on official letterhead. A copy of the cover letter must be attached to each item to be distributed.
 - c. Franked mail.
 - d. Stamped mail.
 - e. Mail for which a delivery fee has been paid.
 - f. Mail in a reusable blue U.S. House of Representatives Inside Mail envelope.
 - g. Mail produced by Congressional Staff Organizations registered with the Committee on House Administration.

Dear Colleague letters and similar correspondence must be transmitted to House Postal Operations, in the appropriate quantity, with a cover letter signed by the Member, indicating to whom the mailing should be distributed. For information regarding these procedures, contact House Postal Operations at x63764.

Electronic Communications

Ordinary and necessary expenses related to electronic communications are reimbursable.

- All official electronic communication content, which is sent out as an unsolicited mass communication, must comply with Commission content regulations.
- All official electronic communications must comply with House information technology and security policies as approved by the Committee on House Administration.
- All official electronic communications sent to an email list of 100 or more individuals must include a usable opt-out in the body of the email that enables an individual to opt-out from the Member's email list. Opt-out requests must be honored. These mailings must comply with House IT Policy 007.0 – Bulk Email List Management as approved by the Committee.
- All unsolicited mass communications must be reported on the Quarterly Mass Communications Report.

Subscribed Emails

A subscribed email is an email sent to individuals who have taken a willful action to subscribe to the Member's email list. Members must notify individuals who subscribe to email updates that the individual is authorizing the Member to send regular email updates from the Member's office to the individual's email account. All email updates to subscribers must contain an option that enables the individual to unsubscribe from the email list. Members may send subscribed email updates without obtaining an advisory opinion, but the contents must still adhere to Franking regulations.

Non-subscribed Emails

If each email address used in a mass communication was not obtained with an individual subscribing for subscribed email updates, then the Member must receive a

Franking Advisory prior to the distribution of the mass communication.

Newspaper Inserts

Ordinary and necessary expenses related to the production and distribution of newspaper inserts are reimbursable. The content must be in compliance with Commission content regulations.

Unsolicited Mass Communications

Ordinary and necessary expenses related to unsolicited mass communications are reimbursable. Unsolicited mass communications are subject to regulations promulgated by the Commission, including Commission blackout dates, which can be found by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

Examples of unsolicited mass communications are:

1. Postal mail
2. Electronic mail
3. Handouts
4. Text messages (and similar electronic messaging methods)
5. Advertisements (including digital, newspaper, radio, and television)
6. Robocalls

The following are not considered unsolicited mass communications and, therefore, are not restricted during blackout periods, but must still comply with the Commission content standards:

1. Direct responses to communications, including casework and other solicited communications
2. Communications to Members of Congress and other government officials

3. News releases, press releases, interviews (initiated by an outside entity), or media releases (written or recorded communications from Members, directed at the news media), in any format. Note that expenses for production and transmittal are reimbursable; expenses for satellite downlink and broadcast are not reimbursable.
4. Websites (including a Member's official website)
5. Member's participation in a media hosted interview or program
6. Previously recorded programs and public service announcements aired at the discretion of a media outlet, when no expenses are incurred by the Member
7. Purchases of research materials, including videotapes, audiotapes, and other electronic media
8. Video teleconferencing services
9. Mass communications distributed to a subscribed list

Websites

Internet sites paid for with official funds (websites) are a series of centrally maintained Web pages, accessible to the public via the Internet and stored on a specific host. The home page is the first accessible page for that site.

1. Ordinary and necessary expenses associated with the creation and continued operation of websites, in support of the Member's official and representational duties, are reimbursable.
2. Except as noted in item 6, below, Members' Web sites must be located in the HOUSE.GOV host-domain and must be hosted in conformance with the regulations issued by the Committee on House Administration.
3. Members' websites may be maintained by either House Information Resources (HIR), the Member's Congressional office, or a

private vendor authorized to provide Web services to the House in compliance with the regulations issued by the Committee on House Administration.

4. Committee websites may not be hosted on websites paid for by the MRA.
5. Members may include information within their website about CMO issues and activities. All CMO references within a website must relate to the Member's official and representational duties.
6. In addition to their official HOUSE.GOV website, a Member may establish profiles, pages, channels or any similar presence on third-party sites that allow individuals or organizations to offer information about themselves to the public (Social Media Accounts). Member-controlled content on Social Media Accounts is subject to the same requirements as content on Member websites.
7. Websites should be compliant with the accessibility standards set out in § 508 of the Rehabilitation Act of 1973 and the World Wide Web Consortium's Web Content Accessibility Guidelines.
8. Websites may link to non-government sites, so long as the link content relates to the Member's official and representational duties to the district from which he or she is elected, and the content would not otherwise violate any other House rules, regulations, or federal laws. Internet resources may not contain content that misrepresents a Member's current role in Congress.
9. For Member internet social media accounts, Members should ensure their social media URLs and account names reflect their position. Departing Members may not maintain their official social media pages/sites after they leave the House; however, they may retain their personal accounts provided the name (and other identifying information) of such accounts clearly do not convey the impression that the former Member is still a Member of the House, or

that the account is an official account of the House.

Content

The content of a Member's official website and official social media is governed by the Communications Standards Manual. A copy of the Communications Standards Manual is available by calling x59337 (Majority) or x60647 (Minority), visiting <https://cha.house.gov/communications-guidelines> or clicking [here](#).

1. The official content of any material posted by the Member on any website must be in compliance with Federal law and House Rules and Regulations applicable to official communications and germane to the conduct of the Member's official and representational duties. Accessing a web site (whether by using a link or by other means) is to be treated as a "solicited communication" from a Member's office.
2. May not include personal (outside of incidental references), political party (except for political party affiliations), or campaign information.
3. May not include grassroots lobbying or solicit support for a Member's position.
4. May not generate, circulate, solicit, or encourage signing petitions.
5. May not include any advertisement for any private individual, firm, or corporation, or imply in any manner that the government endorses or favors any specific commercial product, commodity, or service.

Name (URL)

The URL name for an official website located in the HOUSE.GOV domain, or name of a profile, page, channel, or similar presence on a third party site, must be recognizably derivative or representative of the name of the Member or the name of the office sponsoring the website and comply with the regulations issued by the Committee on House Administration.

The URL name for an official website located in the HOUSE.GOV domain may not:

1. Be a slogan.
2. Imply in any manner that the House endorses or favors any specific commercial product, commodity, or service.
3. Be deceptive and must accurately represent the Member's name or district represented.

A Member may use personal funds to purchase a personalized URL as a locating address, so long as it points back and resolves to the official website address.

Information Security

The Committee on House Administration issues and maintains policy and standards to guide Members and staff for the protection of House information and equipment.

The purpose of these policies and standards is to protect the Members and the House from the inappropriate release of privileged or protected information. Categories of information designed to be protected include: legislative information, legally protected information such as personally identifiable information and medical information protected under HIPPA. Information related to the advance travel plans and locations of Members and staff should be protected to help ensure the safety of Members and staff.

National Security Information is protected by law and procedures established by the Sergeant at Arms' Office of House Security. Members and staff are expected to comply with applicable laws, House Rules, and House Security Policy in their daily practice of using the Internet, House computers, and mobile equipment. The House Information Security Office at x66448 offers practical guidance to assist Members in this effort.

TRAVEL

Travel by Members, Members' employees, and vendors in support of the official and representational duties of that Member to the district from which he or she is elected is official travel. At times, authorized travelers may need to travel to remote parts of the district or airline schedule may not meet the traveler's need. Members and staff may use an alternate or other convenient airport, so long as Washington, D.C., or the district is the primary destination.

Official travel includes local travel and travel away from home overnight to conduct official and representational duties, when returning to the duty station or residence is impractical.

Ordinary and necessary expenses associated with official travel (including lodging and meals) are reimbursable with the MRA.

Travel to or from a destination for the purposes of connecting to or from another official or officially-connected trip is also considered official travel. Any of the connecting/linking travel must occur within the U.S. to be reimbursed with official funds, and the primary purpose of the secondary trip must primarily relate to official business. For Members who represent the insular territories, travel expenses incurred abroad (e.g. hotels) during the normal course of travel by the Members between their two duty stations are authorized when no practical alternative is available. Living expenses and commuting expenses are not reimbursable, except in extraordinary circumstances (e.g., extreme weather conditions, staff working beyond availability of mass transit or rideshare arrangements, etc.) when a Member receives written authorization from the Committee. "Living expenses" include meals, housing, and other personal expenses incurred at the Member's or employee's residence or duty station. "Commuting expenses" are transportation expenses incurred by the Member or employee while commuting between their residence and duty station.

Official travel, paid for with the MRA, may not be for personal, campaign-related political party, campaign, or committee purposes.

Official travel cannot originate from or terminate at a campaign event. Official travel may not be combined with or related to travel or travel-related expenses paid for with campaign funds.

General

Official travel may not exceed 60 consecutive days.

Members have two duty stations: their Congressional District and Washington, D.C.. Staff duty stations are determined by their primary residence.

Vendor Official Travel

Official travel also includes travel by a vendor when traveling to provide service or training to Member offices.

A vendor is an employee of a private company that provides maintenance and support for equipment and software (computer and non-computer) under a valid House contract or working on a time and material basis.

All travel costs must be negotiated and agreed upon in writing by both parties prior to vendor travel. Offices are encouraged to utilize the federal government per diem rates established by the General Services Administration for vendor travel costs as a benchmark. For a listing of the per diem rates by state and locality, see www.gsa.gov/portal/category/21287.

Unexpected Official Travel

Official travel includes travel to an official point from a location visited on personal travel by Members and staff, if the travel to the official point is necessitated by an unexpected official duty (e.g., previously unscheduled House vote, natural disaster, or civil disorder). In such cases, return travel to the point of personal destination is considered official and reimbursable and is eligible for government rate.

Combined Travel

Combined travel is travel by a Member or their employees for the primary purpose of supporting the official and representational duties of the Member, but includes an intervening destination or an additional time period that is included for personal purposes.

Combined travel requires that:

1. The primary purpose of the travel must be official and representational. The personal segment of the combined travel may not be purchased at a government rate or be purchased with a Government Travel Card.
2. The traveler must attach the combined travel form to the voucher submitted for combined travel reimbursement, stating that the official travel and personal travel was combined for personal convenience. (Combined Travel form).
3. All travel must occur within the United States, its territories, or possessions.

Reimbursement Options for Combined Travel:

Option #1 - The traveler purchases both segments of the trip with personal funds at the commercial rate.

The traveler may then seek reimbursement for the government rate of the direct route and means to the destination required for official and representational business, or the actual traveled fare; whichever is less.

Option #2 - The traveler purchases the initial "personal" segment of the trip with personal funds at the commercial rate (no reimbursement is sought for this segment). The next "official" segment to either D.C. or the district may be purchased at either commercial or government fare.

The traveler may then seek reimbursement for the fare of the official segment, so long as the rate does not exceed the government rate between the district and D.C., or the actual traveled fare, whichever is less.

In the event of a segment of personal

travel, there is an absolute prohibition on reimbursement from official funds for the personal travel segment.

Mixed Purpose Travel

Mixed purpose trips typically involve travel that includes official, campaign and/or privately-sponsored activities. Often this travel is funded by a mix of official, campaign and/or private funds. If the primary purpose is for a non-official event/purpose, the office cannot schedule official activities around the non-official event/purpose to make the travel eligible for Congressional offices to be reimbursed. Mixed purpose trips may need to be approved by the Committee on Ethics.

Because mixed travel is so nuanced and specific, please contact the Committee on House Administration (202) 225-2061 (Majority) - (202) 225-8281 (Minority) with any initial questions you have when starting to plan the trip/event.

Official Travel Expenses

Official travel expenses including transportation, lodging, meals (excluding alcohol), fees (e.g., parking, tolls, ticket change fees, travel insurance, etc.), and other ordinary and necessary incidental expenses while on official travel status are reimbursable.

Advanced payments for tolls or transponder expenses are not reimbursable; however, monthly transponder statements with official travel tolls noted with an asterisk may be submitted for reimbursement. Transponder service or rental fees are not reimbursable unless use is entirely official.

In order to ensure the safety of Members, the MRA may be used to reimburse the cost of a Member's individual, annual CLEAR Plus membership. This plan enables individuals to access CLEAR check-in and security lines at participating airports. Official funds may not be used to pay for upgrades to a CLEAR Plus membership that enable additional travelers to access CLEAR kiosks, lines, and facilities.

Shared Official Travel Expenses

Official travel expenses may be shared by more than one Member or committee office. The division of expenses must accurately reflect each traveler's expenses, and offices may only pay for the expenses of their respective Member, staff, and authorized vendors.

Chartered Aircraft

Ordinary and necessary expenses related to chartering an aircraft for official travel are reimbursable when:

1. Passengers are restricted to Members, their employees, and their immediate family members (spouse, child, parent), the names of whom must be stated on the voucher.
2. If an immediate family member uses a chartered aircraft with the Member, the Member may seek reimbursement for the full cost of the chartered aircraft and the family member must submit a check to the Office of Finance payable to the U.S. Treasury equivalent to the cost of a comparable commercial first class fare. A letter explaining the reason for its submission must accompany the check.
3. Other non-Congressional individuals may travel on the Member chartered aircraft when the following criteria are met:
 - The chartered aircraft vendor has the ability to charge based on individual seating in the same manner as a commercial aircraft vendor; and
 - The other passengers are federal, state and local officials, and are joining the Members and staff in support of Congressional issues related to the district.

Unless prior written approval is obtained from the Committee on House Administration, a private or charter aircraft between the D.C. metropolitan area and anywhere cannot be reimbursed from official funds. Contact the Committee on House Administration at x52061 for more information.

Prior to any use of a private or charter aircraft whose anticipated cost for the total itinerary exceeds \$7,500, written approval must be obtained from the Committee on House Administration. Contact the Committee on House Administration at x52061 for more information.

The Committee recommends that charter or private aircraft be used sparingly, and only if/when the Member determines there is no suitable commercial flight available. Please contact the Committee for more information.

Corporate or Private Aircraft

Reimbursement for corporate or private aircraft is subject to House Rules. Please contact the Committee on Ethics for information regarding the permissible use of corporate or private aircraft at x57103. The Committee on Ethics may grant approval in writing for the use of corporate or private aircraft. If the Committee on Ethics approves the use of corporate or private aircraft, a Member and/or their employees who travel via corporate, business, or privately-owned aircraft in support of the conduct of official and representational duties must reimburse the entity providing the flight, for the fair market value of the flight.

To determine the fair market value of such a flight, apply the following:

1. When the travel is via a previously or regularly scheduled flight by the corporation, business, or individual, the entity must be reimbursed based on the cost of a commercial first class flight to the nearest location served by a commercial passenger airline. If only coach rates are provided at the nearest location, the Member must reimburse the cost of a commercial coach rate.
2. When the flight is scheduled specifically for Member use, payment will be made based on the cost of an equivalent commercial chartered flight to that location.

Prior to scheduling travel provided by any corporation, business, or individual, a Member or employee must verify that the person has authority under its FAA certification to accept payment for travel as set forth above.

Government Rate Eligibility

Government rates are available to Members and employees to support the conduct of official travel.

To be eligible for Government rates when purchasing tickets for official travel, Members and employees may present:

1. The Government Travel Card; or
2. An Official Travel Authorization (OTA) coupon available from the Office of Finance. (Some airlines only allow the government rate for tickets purchased with the government travel card.)

Contact the General Services Administration (GSA) to obtain a listing of schedules and fares of the federal contract air, rail, bus carriers, car rental companies, and hotels/motels. Government rates are not available for privately-sponsored officially connected travel.

Officially Leased Vehicles

Ordinary and necessary expenses related to the lease of a vehicle in support of the conduct of official and representational duties are reimbursable.

Non-governmental use of such a vehicle may be made only when such use is:

1. During the course of and generally along the route of a day's official itinerary.
2. Incidental to the day's official and representational business.
3. De minimis in nature, frequency, and time consumed.
4. Does not otherwise constitute a significant activity or event.

5. Not for any campaign/campaign-related political party purpose.

Officially leased vehicles may not be used as a personal vehicle of the Member (except where noted above).

Leased vehicles are not to exceed \$1,000.00 in lease payments, per vehicle, in any month, excluding mobile offices.

Short-Term

Ordinary and necessary expenses related to short-term vehicle rentals (including fuel) are reimbursable. Rentals may not exceed 60 consecutive days if the rental is used by only one person.

The government discount rates offered by some rental car companies include:

1. Unlimited free mileage.
2. Collision damage waiver (CDW) at no additional cost.

Cars rented at the government rate should include the CDW. Not all rental car franchises offer the government rate with CDW included. To ensure CDW coverage, offices can make their rental car reservations through the Combined Airlines Ticket Office (CATO).

If an office does not use CATO, then the Committee recommends the following:

1. At time of the reservation, indicate that the rental is for official government use at the government rate with CDW included.
2. At the time of rental, use the Government Travel Card (or present official travel authorizations (OTA) to the rental company) and confirm that the car is being rented at a government rate with CDW included. The employee must verify that collision damage waiver is included, as simply receiving the government rate does not automatically ensure inclusion of this insurance.

Offices may obtain an Official Travel Authorization coupon from the Office of Finance.

If the government rate is unavailable, the cost of CDW is reimbursable.

Personal accident insurance (PAI), personal effects coverage (PEC), and equivalent insurance policies are not reimbursable.

If an employee on official and representational business is involved in an accident with a rental car, notify the Office of General Counsel at x59700.

Long-Term

Ordinary and necessary expenses related to a long-term rental or lease of a vehicle by a Member in the Member's District are reimbursable.

1. A Member has two leasing options:
 - a. Member may lease a vehicle for a period that does not exceed the Member's Congressional term.
 - b. The Member may lease a vehicle for a period that exceeds the current Congressional term, but must submit a signed letter that acknowledges personal responsibility to fulfill any outstanding obligation stemming from such a lease in the event the Member's service to the House ends prior to the lease agreement. Such letters should be attached to the negotiated lease and submitted to the CAO Office of Administrative Counsel (217 Ford Building).
2. The Committee recommends that Members submit leases to the CAO Office of Administrative Counsel for review prior to being signed by the Member and lessor, since the Member is personally liable for payments under any lease not in compliance with House Rules and Committee regulations.
3. Termination notices should be forwarded to the CAO Office of Administrative Counsel.

4. Leases may not include a purchase option.
5. Lessor-required insurance may be reimbursed. Security deposits are not reimbursable.
6. The Committee recommends that long-term vehicle leases begin on the first day of the month.
7. Monthly payments for a long-term vehicle lease may be made in advance.

The House will authorize disbursement of funds under the terms of the lease agreement only if the lease agreement complies with House Rules and Committee regulations. The House will not authorize disbursement of funds to make payments under the terms of the lease agreement until the CAO Office of Administrative Counsel has reviewed the lease and has signed the lease attachment.

In the event of an accident with an officially leased vehicle, Members or staff may contact the Office of the General Counsel (5-9700) for guidance related to the Federal Tort Claims Act.

Expenses

Expenses related to leased vehicles (both short-term and long-term) including but not limited to the following are reimbursable:

1. The actual monthly cost of the lease (not applicable to short-term);
2. The cost of insurance incurred pursuant to the terms of the lease (not applicable to short-term);
3. Excess mileage charges incurred pursuant to the terms of the lease;
4. Incidental operating expenses (gasoline, oil, general maintenance, etc.);
5. Wear and tear (not applicable to short-term);
6. Registration fees (not applicable to short-term); and
7. Property tax during the term of the lease (not applicable to short-term).

Security deposits, termination fees, traffic violations, parking tickets, depreciation loss based on premature return, and similar fees, penalties or charges may not be reimbursed.

Global Positioning Systems

Costs for Global Positioning Systems (GPS)/ Navigational Systems in support of official and representational duties are reimbursable.

Satellite Radio Service

Costs of satellite radio service in support of official and representational duties are reimbursable.

Privately-Owned/Privately-Leased Vehicles

The cost of transportation by Member or employee via a privately-owned or privately-leased vehicle while on official and representational business is reimbursable on a rate per mile basis. The Committee on House Administration shall set maximum mileage reimbursement rates yearly and appropriately notify offices.

To confirm the current applicable rates, contact the Committee on House Administration at x52061. Each Member may establish a lower reimbursement rate.

For purposes of this paragraph, "privately-owned" and "privately-leased" vehicles do not include any vehicle owned or leased by the principal campaign of a Member, a political-action committee, or a political party.

Reimbursement for use of privately-owned or privately-leased vehicles is permitted only on a rate-per-mile basis and not for fuel purchased or on any other basis.

Only mileage for use of an aircraft that is privately owned by either a Member or the Member's employee is reimbursable.

Official mileage may not be reimbursed on a campaign vehicle.

Travel Promotional Awards

Free travel, mileage, discounts, upgrades, coupons, etc., awarded at the sole discretion of a company as a promotional award may be used at the discretion of the Member or the Member's employee. The Committee encourages the official use of these travel promotional awards wherever practicable.

VOUCHERS AND PAYMENTS

Advance Payments

There are instances in which advance payments may be required and may be paid from the MRA. All advance payments must meet all of the following criteria:

1. The vendor provides these billing options to other customers (documentation required).
2. The amount to be paid must be fixed at the time of purchase (e.g., variable cost contracts or services are ineligible).
3. All transactions for advance payments for the next legislative year must be submitted for payment before the beginning of that legislative year.
4. The vendor may not bundle items that are eligible for advance payment with items that are not eligible.

Unless specifically authorized by the Committee, only the following advance payments are reimbursable and only to the extent they last the current term of Congress (except where noted):

1. Public information booth and facility rentals and related expenses, excluding deposits
2. Educational expenses
3. Authorized insurance premiums
4. Subscriptions for print and electronic publications
5. Telecommunications devices or services
6. Post-office box rentals
7. Original Equipment Manufacturers' warranties

8. Long-term automobile leases up to the end of a Member's term, when a savings to the House may be achieved as a result of the advance payment (including GPS, and satellite radio services)
9. Web and information technology services (including cable television, website design, and software license and maintenance fees)
10. District office security enhancements, including equipment, installation, labor, monitoring, and maintenance costs
11. Correspondence Record Management systems
12. Water/coffee services
13. District office recycling and trash fees, janitorial services
14. District office rent
15. District office parking
16. Airport parking
17. Constituent databases
18. Travel screening services permitted by these regulations (may be paid after a general election only for a returning Member)

Any Member who is sworn into Congress midterm is the assignee of all advance payments of his or her predecessor.

Authorized Methods of Payment

Members and employees may pay official travel-related expenses may be paid with cash, check, personal credit card, debit card, etc., or the Government Travel Card and the Government Purchase Card. For Members and employees, these expenses are vouchered and reimbursed through the Office of Finance.

Government Travel Card

The Government Travel Card is available for Member and employee use for official travel and travel-related expenses. Travel expenses

incurred on this card are directly reimbursable to Citibank with a copy of the credit card statement, an accompanying voucher, and applicable receipts.

Members and employees are reminded that the Government Travel Card is for official travel purposes only. Use of this card for any personal or non-official purchases is prohibited. The Government Travel Card may be used by the cardholder only. The cardholder may use the card to purchase travel-related services (e.g., airline tickets, hotel expenses, etc.) for other authorized travelers.

The Office of Finance will monitor the monthly delinquency report received from the vendor and alert offices of delinquencies. The Office of Finance will not intervene with the vendor in the event of a delinquency.

Government Purchase Card

The Government Purchase Card is available for Member and employee use for the purchase of goods and services obtained in support of official business (e.g., office supplies, subscriptions, training, etc.). Expenses incurred on this card are directly reimbursable to Citibank with the completion of online expense reallocation, a copy of the credit card statement, an accompanying voucher, and applicable receipts.

Members and employees are reminded that the Government Purchase Card is for official non-travel related expenses only. Use of this card for any personal or non-official purchases is prohibited.

Reimbursement and Direct Payment

Disbursements from the MRA are paid on a reimbursement basis or by direct payment (to vendors) and require:

1. The Member's signature, certifying that the expense was incurred in support of the Member's official and representational duties to the district from which he or she is elected.

2. Supporting documentation (receipt, lease, bill etc.).

Please refer to the Voucher Documentation Standards available on HouseNet.

Seeking Reimbursement: Vouchers

For information related to submitting vouchers for reimbursement, please refer to the Voucher Documentation Standards available on HouseNet.

Expired Appropriations

The Salaries and Expenses appropriation for the House of Representatives, which includes MRA funds, is withdrawn two years after the year for which the funds were originally appropriated. This occurs on September 30 of the year.

In the unlikely event an office requests reimbursement for an official and representational expense incurred during a year for which the appropriation has been withdrawn, the Office of Finance will determine if an amount sufficient to pay the expense would have been available if the appropriation had not been withdrawn. If no funds would have been available, then the expense is the personal liability of the Member. If the expense would have been payable had it been timely submitted, notwithstanding the expired appropriation, then the expense may be paid from a currently available allowance, if available.

Tax Exempt Letters

To avoid paying unnecessary taxes, please contact the Office of the General Counsel at x59700 for tax exempt letters applicable to each state.

CONGRESSIONAL MEMBER ORGANIZATIONS

Congressional Member Organizations

General

Members of Congress may form a Congressional Member Organization ("CMO") in order to pursue common legislative objectives.

Qualifying CMOs are eligible to establish an account to pay for employees and their expenses. Contact the Committee on House Administration for more information.

Registration

Each Congress, CMOs must register with the Committee on House Administration. Registration should be done by letter request to the Chairman of the Committee.

CMOs must provide the following information:

1. Name
2. Statement of Purpose
3. Officers of the CMO
4. Employee designated to work on issues related to the CMO

To register a CMO electronically, please visit the Committee on House Administration website.

Membership

Members of both the House and Senate may participate in CMO, but at least one of the Officers of the CMO must be a Member of the House. The participation of Senators in a CMO does not impact the scope of authorized CMO activities in any regard.

Funding and Resources

CMOs have no separate corporate or legal identity. A CMO is not an employing authority. The MRA may not directly support a CMO as an independent entity. A CMO may not be assigned separate office space. Neither CMOs nor individual Members may accept goods, funds, or services from private organizations or individuals to support the CMO. Members may use personal funds to support the CMO.

A Member of a CMO, in support of the objectives of that CMO, may utilize employees (including shared employees) and official resources under the control of the Member to assist the CMO in carrying out its legislative objectives, but no employees may be appointed in the name of a CMO. Business cards for individuals who work on CMO issues must list the employing authority before the name of the CMO.

CMOs may have independent web pages when no official resources are used, outside of staff time, to create and support the site.

Members may request a URL for a CMO, provided that the request complies with the CMO domain name regulations issued by the Committee on House Administration. Web pages using such a URL need not have the same design or layout as the Web site of the sponsoring Member.

Communications

CMOs may not use the Frank, nor may a Member lend his or her Frank to a CMO.

A Member may use official resources for communications related to the purpose of a CMO. Any such communications must comply with Commission content standards.

Members may devote a section of their official website to CMO issues.

A Member may use inside mail to communicate information related to a CMO.

Members may prepare material related to CMO issues for dissemination.

Official funds may not be used to print or pay for stationery for the CMO.

Members may refer to their membership in a CMO on their official stationery.

Congressional Staff Organizations

General

A Congressional Staff Organization ("CSO") is an organization, a majority of whose members are House employees, that exists for the purpose of facilitating interaction among Congressional staff.

Each Congress, CSOs must register with the Committee on House Administration.

At least one officer of a CSO must be an employee of the House, and all officers must be employees of the House or Senate.

A CSO should contact the Committee on Ethics at x57103 before accepting anything of monetary value from a private source.

Official Resources

Other than as specified in this section, House staff that participates in a CSO may make only incidental use of official resources for activities related to a CSO. A CSO is not an employing authority of the House and may not be assigned separate office space.

Each Congress, in order to use official resources of the House (e.g., inside mail, House Intranet, etc.), a CSO must register with the Committee on House Administration. A sponsoring Member must submit a letter, on official letterhead, to the Committee with the following information:

1. Name of the staff organization;
2. Statement of purpose of the staff organization;
3. Officers of the staff organization, including contact information;
4. Specify which of the following resources the CSO requests use of:

- a. Inside mail
- b. House Intranet site
- c. House Postbox; and
- d. Individuals designated to maintain web and mail services on behalf of the CSO (if applicable)

After the CSO is registered, the sponsoring Member may submit, at any time, a letter requesting access to Inside Mail, a House postbox, or a presence on the House Intranet for CSO related activities.

MODIFICATIONS

Additional Changes

The Chairman of the Committee is authorized to make technical and conforming modifications to the Members Handbook, and to make other modifications with the concurrence of the Ranking Minority Member of the Committee and notification to all members of the Committee. In the event changes are made pursuant to this clause, the Chairman shall notify all Congressional offices by suitable means.

TWENTY-SECOND NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2021

H. B. 22- 29

A BILL FOR AN ACT

To amend 1 CMC § 121 in order to eradicate the unconstitutional public purpose presumption for legislative expenditures.

**BE IT ENACTED BY THE 22ND NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that the public
2 purpose presumption for legislative expenditures contained in 1 CMC § 121(i) is
3 unconstitutional because it allows the Legislature to essentially define expenditures
4 for a public purpose by legislative rules. The Constitution mandates that the
5 definition of public purpose must be defined by law. The relegating of the definition
6 of public purpose from a law to a legislative rule improperly evades the veto power
7 of the governor, evades judicial review, and evades the Constitutional mandate that
8 the definition of public purpose must be established by law. Accordingly, the public
9 purpose presumption for expenditures authorized and regulated by legislative rules

1 should be eradicated from the Commonwealth's definition of public purpose as set
2 forth in 1 CMC § 121, specifically at 1 CMC § 121(i).

3 Amendment 28 to the Second Constitutional Convention amended the NMI
4 Constitution by granting the power to the Legislature to define public purpose. In
5 granting that power, the members of the Second Constitutional Convention set forth
6 intended limitations to guide the Legislature in defining public purpose by stating
7 that a public purpose is one that directly and substantially benefits the public
8 welfare in a manner that is reasonably foreseeable and reasonably likely to occur.
9 A public purpose is not met when the objective only brings a benefit to a few
10 persons or corporations, when the results are profits most of which are not enjoyed
11 in the Commonwealth and instead benefit persons in other countries, or when the
12 objective redresses private wrongs or improves private property.

13 Public Law 11-84, which was subsequently amended through Public Law
14 12-2, codified at 1 CMC § 121, includes a presumption in 1 CMC § 121(i) that all
15 expenditures authorized and regulated by legislative rules are presumed to be for a
16 public purpose unless proven otherwise by clear and convincing evidence that the
17 expenditure was for personal or political activity. The Legislature finds that this
18 provision creating a presumption of public purpose for expenditures authorized and
19 regulated by legislative rules runs counter to the Constitutional mandate that public
20 purpose must be defined by law, and not by legislative rules. The Legislature further
21 finds that the public purpose presumption for legislative expenditures in 1 CMC §

1 121(i) undermines the intent of the Second Constitutional Convention, which
2 sought to limit the expansion of public purpose, and has resulted in a lack of firm
3 guidance to legislators in determining a truly public purpose of an expenditure, and
4 further has created conditions of poor public accountability.

5 **Section 2. Amendment.** Subsection (i) of Article 2 of Chapter 1 of Title 1
6 (1 CMC § 121(i)) is hereby deleted in its entirety.

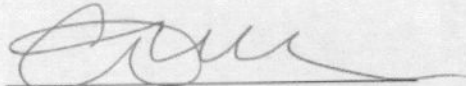
7 **Section 3. Severability.** If any provisions of this Act or the application of
8 any such provision to any person or circumstance should be held invalid by a court
9 of competent jurisdiction, the remainder of this Act or the application of its
10 provisions to persons or circumstances other than those to which it is held invalid
11 shall not be affected thereby.

12 **Section 4. Savings Clause.** This Act and any repealer contained herein shall
13 not be construed as affecting any existing right acquired under contract or acquired
14 under statutes repealed or under any rule, regulation, or order adopted under the
15 statutes. Repealers contained in this Act shall not affect any proceeding instituted
16 under or pursuant to prior law. The enactment of the Act shall not have the effect
17 of terminating, or in any way modifying, any liability, civil or criminal, which shall
18 already be in existence on the date this Act becomes effective.

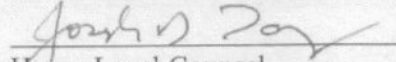
19 **Section 5. Effective Date.** This Act shall take effect upon its approval by
20 the Governor, or its becoming law without such approval.

Prefiled: 3/9/2021

Date: 3/8/2021 Introduced by:


Rep. Rep. Christina M.E. Sablan

Reviewed for Legal Sufficiency by:


House Legal Counsel

