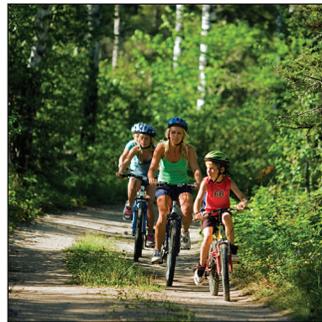


Ministry of Justice

Law Reform Commission of Saskatchewan



Annual Report for 2015-16

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This annual report is also available in electronic format from the Ministry’s website at www.saskatchewan.ca.

Letters of Transmittal



*The Honourable
Gordon S. Wyant, Q.C.
Minister of Justice and
Attorney General*

Her Honour, the Honourable Vaughn Solomon Schofield,

Lieutenant Governor of Saskatchewan

May it Please Your Honour:

I respectfully submit the Annual Report of the Law Reform Commission of Saskatchewan for the fiscal year ending March 31, 2016.

A handwritten signature in black ink, appearing to read 'Gordon S. Wyant'.

Gordon S. Wyant, Q.C.

Minister of Justice



*Michael Milani, Q.C.
Chair*

The Honourable Gordon S. Wyant, Q.C.,

Minister of Justice and Attorney General

May it Please Your Honour:

I have the honour of submitting the Annual Report of the Law Reform Commission of Saskatchewan for the fiscal year ending March 31, 2016.

A handwritten signature in black ink, appearing to read 'Michael Milani'.

Michael Milani, Q.C.

Chair

About the Commission

Objectives

The Law Reform Commission of Saskatchewan (the Commission) was established by *An Act to Establish a Law Reform Commission*, proclaimed in force in November 1973. The Commission began functioning in February 1974.

The purpose of the Law Reform Commission of Saskatchewan is set out in *The Law Reform Commission Act*:

The Commission shall take and keep under review all the law of the province, including statute law, common law and judicial decisions, with a view to its systematic development and reform, including the codification, elimination of anomalies, repeal of obsolete and unnecessary enactments, reduction in the number of separate enactments and generally the simplification and modernization of the law.

Topics for the Commission's research program are brought before meetings of the Commission for consideration. These topics may originate from a recommendation of the Minister of Justice and Attorney General (the Minister), the Commission and its staff, the judiciary, the legal profession, other professional organizations, or the public. Once the research study in a particular project is completed, the matter is placed before the Commission for discussion and consideration. The Commission may decide to issue background papers or tentative proposals for circulation to the public in order to obtain criticism and comment prior to the preparation of a final report. Consultations may entail public meetings, hearings, and workshops. The Commission's recommendations are embodied in its final report to the Minister.

The Commission works closely with the Ministry of Justice (the Ministry) in formulating research projects and facilitating adoption of its proposals. The Commission has also made an ongoing contribution on behalf of the province to the national work of the Uniform Law Conference of Canada (ULCC). Commissioners and the Director of Research have served as members of the ULCC for many years. The Commission is a member of the Federation of Law Reform Agencies of Canada.

Commissioners

- Mr. Michael Milani, Q.C., (Chair)
Practicing Lawyer
- Ms. Susan Amrud, Q.C.
Saskatchewan Ministry of Justice
- The Honourable Donald H. Layh, (Chair 2009-2014)
Justice of the Court of Queen's Bench
- Professor Ronald C. Cuming, Q.C., (Chair 1978-1982)
College of Law, University of Saskatchewan
- Dr. Barbara von Tigerstrom
College of Law, University of Saskatchewan
- Mr. Greg Swanson
Practicing Lawyer

Contact Information

The Commission may be contacted at:

Law Reform Commission of Saskatchewan
15 Campus Drive
SASKATOON SK S7N 5A6

Telephone: (306) 966-1625

Fax: (306) 966-5900

E-mail: director@lawreformcommission.sk.ca

Previous Members of the Commission

- Professor Brian A. Grosman, Q.C. (Chair 1974-1978)
- Professor Ronald C. Cuming, Q.C. (Chair 1978-1982)
Active member of the Commission
- Dr. D.A. Schmeiser, Q.C. (Chair 1982-1987)
- Mr. Dale Linn, Q.C. (Chair 1987-1992)
- Mr. Kenneth P.R. Hodges, Q.C.
(Chair 1992-2000; Member 2000-2012)
- Ms. Merrilee Rasmussen, Q.C. (Chair 2000-2008)
- Ms. Kathleen Robertson (Chair 2008-2009)
- The Honourable E.D. Bayda, Q.C. (1974-1976)
Former Chief Justice of the Court of Appeal for Saskatchewan
- Mr. George J.D. Taylor, Q.C. (1974-1982)
- The Honourable Marjorie A. Gerwing (1976-1992)
Former Justice of the Court of Appeal for Saskatchewan
- Mr. Gordon J. Kuski, Q.C. (1982-1992)
- The Honourable Gene Anne Smith (1992-1998)
Former Justice of the Court of Appeal for Saskatchewan
- Ms. Gailmarie Anderson (1992-2001)
- The Honourable Dianne Morris (1992-2002)
Former Judge of the Provincial Court of Saskatchewan
- Mr. Douglas Moen, Q.C. (2000-2002)
- Mr. Alan McIntyre, Q.C. (2000-2008)
- Professor Michaela Keet (2000-2014)
- Ms. Bonnie Missens (2002-2005)
- The Honourable Robert D. Laing (2003-2006)
Former Justice of the Court of Queen's Bench
- Professor Sarah Buhler (2003-2008)
- Ms. Carole Lavallee (2003-2009)
- Ms. Susan Bates (2003-2009)
- The Honourable Georgina R. Jackson (2006-2014)
Justice of the Court of Appeal for Saskatchewan

Financial Information

The Law Reform Commission is financed by annual grants from the Government of Saskatchewan and the Law Foundation of Saskatchewan. In the 2015-16 fiscal year, the Commission received a grant of \$60,000 from the Government of Saskatchewan (through the Ministry) and a grant of \$60,000 from the Law Foundation of Saskatchewan.

Commissioners, other than the judicial and provincial government representatives, are entitled to receive honoraria from the Law Reform Commission of Saskatchewan in the amount of \$235 per day for the Chair and \$155 per day for the Commissioners when engaged in work of the Commission. The Director of Research provides services at the rate of \$115,000 per annum.

Research Program and Activities

Consideration of Current Law Reform Issues

Community and stakeholder involvement in the consultation process is vital in raising awareness of legal issues and law reform throughout Saskatchewan and Canada. Interested and engaged individuals and groups mean better input into the process of legal reform, resulting in more effective and appropriate recommendations by the Commission.

The Commission's work is directed to legal reform in the best interests of the people of Saskatchewan. The consultation process engages the public and stakeholders in the Commission's work, thereby educating them on the current and proposed state of the law. The Commission's work is driven by research. Local experts in many fields of practice may be engaged. Libraries across the country are richer for having publications by the Commission as part of their in-house materials. Law students have access to these papers through the library system and online, encouraging the use and maintenance of Saskatchewan's legal knowledge base.

In addition to legislative reforms that might be suggested by the Minister or by legal groups, the Commission seeks the contribution and input of all citizens of the province. The Commission follows current legal issues and encourages calls from the public.

Implementation of Recent Projects

The Commission has worked closely with the Ministry by reviewing several significant pieces of legislation in recent years, including *The Powers of Attorney Act*, *The Limitations Act*, *The Evidence Act*, and amendments to *The Administration of Estates Act*. The Commission also assisted the Ministry with the finalization of *The Trustee Act, 2009* that is based on its 2002 report, *Proposals for Reform of the Trustee Act* and its 1987 report, *Proposals Relating to the Rules Against Perpetuities and Accumulations*. The new Act came into force on January 1, 2010.

In addition, amendments to *The Land Titles Act, 2000*, that came into force on March 5, 2012, implement recommendations made in the *Final Report on Private Title Insurance* issued jointly by the Commission and the Manitoba Law Reform Commission.

Specific provisions respecting reverse mortgages were included in *The Mortgage Brokerages and Mortgage Administrators Regulations* that came into force on October 1, 2010, based on the recommendations in the Commission's 2006 *Report on Reverse Mortgages*. This close collaboration continues respecting the reform of residential foreclosure law, as the Ministry is currently reviewing the Commission's 2014 report on *Reform of The Land Contracts (Actions) Act*, which was undertaken at the Minister's request.

In 2009, the Commission issued a consultation paper on administrative penalties; the final report was issued in 2012. These reports included a discussion of the use of administrative penalties in Saskatchewan, the issues of process and fairness they raise, and suggested ways in which fairness might be ensured. *The Forest Resources Management Amendment Act, 2010* and *The Environmental Management and Protection Act, 2010* both incorporated the tentative recommendations made by the Commission. All Acts passed by the Saskatchewan Legislature since that time that include provisions respecting administrative penalties have adopted the recommendations in the final report.

In response to the Commission's 2013 report: *Access to Justice – Needy Person Certificates and Waiver of Fees: Final Report* the Saskatchewan Legislature passed *The Fee Waiver Act* on March 17, 2015 and *The Fee Waiver Regulations* were passed on December 17, 2015. Both came into force on February 26, 2016. The recommendations of the Commission were intended to improve access to justice for the less advantaged members of our community through fee waivers.

Citation of Commission Reports by the Courts

Reports issued by the Commission continue to influence courts across the country in the determination of common law and statutory interpretation. A mark of success for the Commission is the number of times its reports and other publications have been referred to in judicial decisions of Saskatchewan courts and elsewhere in Canada and the Commonwealth. The Commission's work has been referred to 15 times in the past decade in courts across Canada, including two Supreme Court of Canada decisions, the most recent of which is the 2013 decision *Quebec (Attorney General) v A*.

Research Program 2015-16

Ongoing Work of the Commission

Mortgages & Foreclosures: The Commission is currently undertaking work on the second phase of this project, a study respecting real property financing law. The objective of the study is to create a comprehensive statement of mortgage law and other types of real property financing law in Saskatchewan including both the relevant statutory provisions and applicable rules of equity. During the 2014-2015 fiscal year, a contract legal researcher worked on the development of this study; this work was continued by Professor Ron Cuming. It is expected that this stage of the project will be completed in mid- 2016 with the publication of a monograph entitled *Overview of Saskatchewan Real Property Security Law* that will be available to the public. Professor Cuming has also been working on the third phase of this project, a series of reports dealing with specific aspects of Saskatchewan real property security law. The reports will address the need for changes to modernize and consolidate this area of the law.

Commercial Tenancies: This is a joint project with the ULCC. A working group chaired by the Commission's Director of Research, with representation from several provinces, meets by conference call a number of times during the fiscal year. The working group's task is to modernize and harmonize commercial tenancies law in Canada with a view to creating a comprehensive framework of statute law that will make it easier to do business in Canada, resulting in direct benefits to Canadians and the economy as a whole. During the 2015-2016 fiscal year, the working group considered the issue of bankruptcy in the context of commercial tenancies. A research memorandum was prepared to guide the group's discussion and decision-making. The Commission staff researched the law and commentary across Canada and presented the research results in a concise, digestible manner. The working group's decisions were based on the information and recommendations found in the memoranda. A progress report was presented at the August 2015 ULCC meeting. The project is a multi-year undertaking involving extensive consultation with the working group. The final result is expected to be a Uniform Commercial Tenancies Act. The final report of the working group is expected to be completed for the August 2017 ULCC meeting.

Reform of *The Intestate Succession Act, 1996*: This project was initiated by suggestion of the Public Guardian and Trustee and a Saskatchewan lawyer. The Commission has undertaken a review of this Act in its entirety. Every Saskatchewan resident could be affected by the law of intestacy as it governs how an individual's property is divided when that person dies without a valid will. Due to the important role of this Act it should be current, comprehensive, and complete. The Consultation Paper is in the process of being researched and drafted, and is expected to consider several issues, including:

- if a surviving spouse's preferential share, where all the issue of the intestate are also issue of the surviving spouse, should differ from where there are issue that are not the issue of both spouses;
- where all issue are shared, if the surviving spouse should take the entire estate;
- revising the language of the Act to reflect current family relationships;
- whether the Act should provide flexibility to recognize other types of family relationships, such as those of step-families;
- whether advancement is still a relevant concept; and
- the rights of posthumously conceived children on intestacy.

The Commission expects to release the Consultation Paper in the 2016-2017 fiscal year.

Reform of *The Homesteads Act, 1989*: The Commission received a recommendation from a practicing lawyer in Saskatchewan to review the consent provisions under this Act in relation to the use of a power of attorney. This Act requires a consent of a non-owning spouse when an owning spouse disposes of a homestead. The Commission decided to undertake a limited project on this Act. The first focus will be on whether the consent provisions should be expanded to allow an attorney appointed by power of attorney to sign a consent and if so, whether specific provisions should be included to protect the non-owning spouse. The second focus will be on the disposition of mineral rights as it is not clear under which circumstances a consent under this Act is required. The Commission expects to release the Consultation Paper in the 2016-2017 fiscal year.

Electronic copies of all Commission publications are available on the Commission's website, at lawreformcommission.sk.ca.

Management's Responsibility for the Financial Statements

Management is responsible for the integrity of the financial information reported by the Commission. Fulfilling this responsibility requires the preparation and presentation of financial statements and other financial information in accordance with Canadian public sector accounting standards. These standards are consistently applied, with any exceptions specifically described in the financial statements.

The accounting systems used by the Commission include an appropriate system of internal controls to provide reasonable assurance that:

- transactions are authorized;
- the Commission's assets are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other information; and
- the accounts are properly kept and financial reports are properly monitored to ensure reliable information is provided for preparation of financial statements and other financial information.

To ensure management meets its responsibilities for financial reporting and internal control, the members of the Commission discuss audit and reporting matters with representatives of management regularly. The members of the Commission have also reviewed the financial statements with representatives of management.

The Provincial Auditor of Saskatchewan has audited the Commission's financial statements in accordance with Canadian generally accepted standards.

The Provincial Auditor has audited the Commission's statement of financial position as of March 31, 2016, and the related statements of operations and changes in net assets and cash flows for the year then ended.

The Provincial Auditor's responsibility is to express an opinion on the fairness of management's financial statements. The Auditor's Report outlines the scope of the audit and the Provincial Auditor's opinion.

LAW REFORM COMMISSION OF SASKATCHEWAN

FINANCIAL STATEMENTS

For the Year Ended March 31, 2016



INDEPENDENT AUDITOR'S REPORT

To: The Members of the Legislative Assembly of Saskatchewan

I have audited the accompanying financial statements of the Law Reform Commission, which comprise the statement of financial position as at March 31, 2016, and the statements of operations, changes in net financial assets and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards for Treasury Board's approval, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements present fairly, in all material respects, the financial position of Law Reform Commission as at March 31, 2016, and the results of its operations, changes in net financial assets, and cash flows for the year then ended in accordance with Canadian public sector accounting standards

Regina, Saskatchewan
July 19, 2016

Judy Ferguson, FCPA, FCA
Provincial Auditor

LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF FINANCIAL POSITION
As at March 31

	<u>2016</u>	<u>2015</u>
Financial Assets		
Cash	\$ 53,734	\$ 41,813
Short-term investments (Note 4)	103,303	102,283
Accounts receivable	<u>7,545</u>	<u>902</u>
Total Financial Assets	<u>164,582</u>	<u>144,998</u>
Liabilities		
Accounts payable and accrued liabilities	<u>3,092</u>	<u>6,779</u>
Net Financial Assets (Statement 3)	161,490	138,219
Non-financial Assets		
Prepaid expenses	<u>163</u>	<u>608</u>
Accumulated surplus (Statement 2)	<u>\$ 161,653</u>	<u>\$ 138,827</u>
Commitments (Note 6)		

(See accompanying notes to the financial statements)

**LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF OPERATIONS
For the Year Ended March 31**

	Budget (Note 7)	2016	2015
Revenue			
Ministry of Justice - grant	\$ 60,000	\$ 60,000	\$ 60,000
Law Foundation - grant	60,000	\$ 60,000	56,670
Interest and miscellaneous	<u>1,000</u>	<u>\$ 1,031</u>	<u>1,086</u>
 Total revenue	 <u>121,000</u>	 <u>\$ 121,031</u>	 <u>117,756</u>
Expenses			
Salaries and employee benefits	102,070	\$ 71,765	87,878
Worker's compensation board premium	-	\$ 162	222
Contract labour	11,400	\$ 14,034	7,181
Conference and travel	11,650	\$ 5,980	3,191
Commissioner's honoraria	3,500	\$ -	155
Office supplies and services	2,050	\$ 505	756
Online Research	1,300	\$ 1,314	1,270
Marketing	1,000	\$ -	-
Professional fees	3,150	\$ -	8,208
Office rent	3,755	\$ 3,515	3,581
Miscellaneous	2,000	\$ 899	667
Website design and admin	<u>-</u>	<u>\$ 31</u>	<u>231</u>
 Total expenses	 <u>141,875</u>	 <u>\$ 98,205</u>	 <u>113,340</u>
 Surplus (Deficit) for the year	 <u>\$ (20,875)</u>	 \$ 22,826	 4,416
Accumulated surplus, beginning of year		<u>\$ 138,827</u>	<u>134,411</u>
Accumulated surplus, end of year (Statement 1)		<u>\$ 161,653</u>	<u>\$ 138,827</u>

(See accompanying notes to the financial statements)

**LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CHANGES IN NET FINANCIAL ASSETS
For the Year Ended March 31**

	<u>2016</u>	<u>2015</u>
Surplus for the year	\$ 22,826	\$ 4,416
Decrease to prepaid expense	<u>445</u>	<u>1,819</u>
Increase in net financial assets	23,271	6,235
Net financial assets, beginning of year	<u>138,219</u>	<u>131,984</u>
Net financial assets, end of year (Statement 1)	<u>\$ 161,490</u>	<u>\$ 138,219</u>

(See accompanying notes to the financial statements)

**LAW REFORM COMMISSION OF SASKATCHEWAN
STATEMENT OF CASH FLOWS
For the Year Ended March 31**

	<u>2016</u>	<u>2015</u>
Cash generated by operating activities		
Ministry of Justice - grant	\$ 60,000	\$ 60,000
Law Foundation - grant	60,000	56,670
Interest and miscellaneous revenue	(5,612)	906
Cash paid to suppliers and employees	<u>(101,447)</u>	<u>(114,854)</u>
Cash generated by operating activities	<u>\$ 12,941</u>	<u>\$ 2,722</u>
Cash used in investing activities		
Purchase of short-term investments	(103,303)	(102,283)
Proceeds from disposal and redemption of investments	<u>102,283</u>	<u>102,283</u>
Cash used in investing activities	<u>\$ (1,020)</u>	<u>\$ -</u>
Increase in cash	11,921	2,722
Cash, beginning of year	<u>41,813</u>	<u>39,091</u>
Cash, end of year	<u>\$ 53,734</u>	<u>\$ 41,813</u>

(See accompanying notes to the financial statements)

**LAW REFORM COMMISSION OF SASKATCHEWAN
NOTES TO THE FINANCIAL STATEMENTS
March 31, 2016**

1. Incorporation

The *Law Reform Commission Act* was amended effective November 6, 1987. At that date the Commission became a body corporate and continued the operation of the Law Reform Commission of Saskatchewan.

The purpose of the Commission is to review all the laws of the Province with a view to its systematic development and reform and generally the simplification and modernization of the law.

The Commission is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian public sector accounting standards. The Commission is responsible to maintain a system of accounting and administrative controls to ensure that accurate and reliable financial statements are prepared and to obtain reasonable assurance that transactions are authorized, assets are safeguarded, and financial records are maintained.

2. Significant Accounting Policies

The Commission is classified as an other government organization. Accordingly, the financial statements have been prepared in accordance with Canadian public sector accounting standards, issued by the Public Sector Accounting Board and published by the Chartered Professional Accountants of Canada.

a) Basis of accounting

The financial statements are prepared on the accrual basis of accounting.

b) Revenue Recognition

The Commission recognizes contributions as revenue when received and receivable.

c) Financial Instruments

Classification

Cash and short-term investments are classified in the fair value category. Accounts receivable, and accounts payable and accrued liabilities are carried at amortized cost. Due to their short-term nature, the amortized cost of these instruments approximate their fair value. Carrying amounts are in each instance disclosed in the Statement of Financial Position.

Significant terms and conditions

There are no significant terms and conditions related to the financial instruments that may affect the amount, timing and certainty of future cash flows.

Interest rate risk

The Commission is exposed to interest rate risk when the value of its financial instruments fluctuates due to changes in market interest rates.

The Commission does not have any long-term investments that may be affected by market pressures.

The Commission's receivables and payables are non-interest bearing.

Credit risk

The Commission is exposed to credit risk from potential non-payment of accounts receivable or investment income and principal.

The Commission rarely has accounts receivable. Most of the Commission's receivables are from provincial agencies, federal government and commission members; therefore credit risk is minimal.

All investments are purchased from and held with major banks; therefore, credit risk for investments and related accrued interest receivables is minimal.

d) Use of estimates

The preparation of financial statements in accordance with Canadian public sector accounting standards require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the period. These estimates are reviewed periodically, and, as adjustments become necessary, they are reported in the period in which they become known.

e) Remeasurement gains and losses

The Commission has no transactions that would result in remeasurement gains and losses therefore a statement of remeasurement gains and losses has not been prepared.

3. Designated Assets

The Commission has designated assets to finance future research projects and initiatives at the discretion of the Commission. These designated assets are not available for other purposes without approval of the Commission.

<u>Research Projects and Initiatives</u>	<u>2016</u>	<u>2015</u>
Balance at Beginning of Year	\$ 59,729	\$ 73,346
Disbursements	\$ (14,047)	(13,617)
Balance at End of Year	<u>\$ 45,682</u>	<u>\$ 59,729</u>

4. Short-term investments

Short-term investments consist of a guaranteed income certificate with an effective interest rate of 0.95% (2015 - 1.0%).

5. Related Party Transactions

Included in these financial statements are transactions with various Saskatchewan Crown corporations, ministries, agencies, boards and commissions related to the Commission by virtue of common control by the Government of Saskatchewan and non-Crown agencies subject to joint control and significant influence by the Government of Saskatchewan (collectively referred to as related parties).

Routine operating transactions with related parties are recorded at agreed upon exchange amounts and settled under normal trade terms.

Other related party transactions at year-end are as follows:

	<u>2016</u>	<u>2015</u>
Revenues		
Ministry of Justice	\$ 60,000	\$ 60,000
Expenses		
Saskatchewan Archives Board	150	15
Saskatchewan Workers' Compensation Board	162	222
Saskatchewan Queen's Printer	0	57
University of Saskatchewan	3,751	3,681

In addition, the Commission pays Provincial Sales Tax to the Ministry of Finance on all its taxable purchases. Taxes paid are recorded as a part of the cost of those purchases.

6. Commitments

The Commission has entered into an agreement to lease office space from the University of Saskatchewan. The lease is for a period of 11 months, expiring on February 28, 2017. The future minimum lease payment is as follows:

2016-17	\$3,222
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7. Budget

The Commission approved the 2015-16 budget on March 26, 2015.

