



**Annual
Report of the
Saskatchewan
Conflict of Interest Commissioner
And Registrar of Lobbyists**

2018-2019



**Office of the
Registrar of Lobbyists
Saskatchewan**



July 31, 2019

The Honourable Mark Docherty
Speaker of the Legislative Assembly of Saskatchewan
Room 129 Legislative Assembly Building
2405 Legislative Drive
Regina, SK S4S 0B3

Dear Mr. Speaker:

I have the pleasure and honour to present to you the *Annual Report of the Conflict of Interest Commissioner and Registrar of Lobbyists* for the period of April 1, 2018 to March 31, 2019.

This Report is submitted pursuant to Section 25 of *The Members' Conflict of Interest Act*, Chapter M -11.11, Statutes of Saskatchewan, 1993.

Yours respectfully,

Ronald L. Barclay, Q.C.
Saskatchewan Conflict of Interest Commissioner
and Registrar of Lobbyists

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COMMISSIONER AND REGISTRAR'S MESSAGE

Ronald L. Barclay, Q.C.
Saskatchewan Conflict of Interest Commissioner
and Registrar of Lobbyists

It is an honor and privilege to submit my final annual report as the Conflict of Interest Commissioner and Registrar of Lobbyists for the Province of Saskatchewan.

I was formally appointed to a five-year term by Resolution of the Legislative Assembly of Saskatchewan on April 29, 2010.

On December 2, 2015, I was re-appointed by the Legislative Assembly of Saskatchewan as Conflict of Interest Commissioner for the Province of Saskatchewan for a further period of five years which second term commenced on April 29, 2016.

Accordingly, I am serving my final year as the Conflict of Interest Commissioner and Registrar of Lobbyists.

It has been a distinct pleasure to serve the Members of the Legislative Assembly of Saskatchewan. I thoroughly enjoyed my relationship with the Members and I found my experience as Conflict of Interest Commissioner challenging and rewarding.

My primary role is that of an advisor to members. The soul of *The Members' Conflict of Interest Act* is the provision that permits the Commissioner to give advice to members when requested.

During my term, I have rendered numerous opinions to members on both sides of the House and I take pride in stating that in the last nine years there have only been two incidents where members were in a serious conflict of interest.

The public has always had the expectation that those in public service will act ethically and with integrity.

In my experience, the members who attain high office do so for the right and honorable reasons. They are men and women of integrity and conscience and all are committed to serving their constituents.

Acting as Registrar of Lobbyists has been a further challenge. The purpose of a lobbyist registry is to promote transparency and accountability by providing the public with easily accessed information about who is lobbying the Saskatchewan government and on what topics. I am proud to state that the lobbyist registry has been well received by our stakeholders and the public.

I have always been of the opinion that to lobby is an integral part of the democratic process and to lobby public office holders is a legitimate activity in a democratic system of free and open access to government.

I am an officer of the Legislative Assembly and independent of Government. In my view, the complete independence granted to these offices is essential in the carrying out of the statutory requirements prescribed in the Acts that govern both the positions. My office is analogous to the position of a Queen's Bench Judge. I have always been cognizant of the importance of the independence of the judiciary and its effect on the rule of law in a democratic society. Those principles equally apply to my present mandates.

I wish to acknowledge that throughout my term the Members on both sides of the House, on all occasions were supportive of my independence. It is deeply appreciated.

FONDEST FAREWELL

I would be remiss if I did not pay tribute to my Deputy Registrar of Lobbyists, Sandra Arberry. I am grateful for her advice and candor as well as her insights, professionalism and sensibility. Our achievements could not have been possible without her dedication. She has made an immense contribution as Deputy Registrar and Executive Operations Officer.

I also wish to express my appreciation to Ron Samways who assisted me in respect to my duties as Commissioner and in particular my responsibilities to the filing by members of their Private Disclosure Statements and preparation of the Public Disclosure Statements. He also arranged my meetings with members. His contributions were immense and my achievements could not have been possible without his assistance.

Together, the three of us made a cohesive group that accomplished many things and made going to work each day a pleasure.



Ron Samways, Ron Barclay, Sandra Arberry

MANDATES

The Legislative Assembly is assisted in its duties by many officers who fulfill a variety of roles. These include the Officers of the Legislative Assembly who assist the Legislative Assembly in making government accountable and responsive to the public. These officers help to monitor government spending, assist individual citizens with concerns about their treatment by government entities, protect the interests of children, receive concerns about the release of government information and other privacy matters and assist Members of the Legislative Assembly to avoid conflicts of interest.

Conflict of Interest Commissioner

Since 1993, Members of the Legislative Assembly of Saskatchewan have been governed by legislation regarding their conduct as members. *The Members' Conflict of Interest Act* includes specific prohibitions regarding conflicts of interest and the use of insider information. It regulates member participation in government contracts and provides general disclosure requirements for all members.

The Commissioner performs a variety of roles under the Act. One such role is that of assisting members in understanding their obligations under the Act.

To assist in the understanding of their obligations the Commissioner may provide written advice or recommendations. The Commissioner is also available to meet with members to clarify this advice when requested or required.

Each year, members must complete and file a confidential disclosure statement with the Commissioner. From the detailed private disclosure statement, the Commissioner prepares public disclosure statements. The public disclosure statements are deposited with the Clerk of the Legislative Assembly and are available for public inspection.

After filing a private disclosure statement, the member and, if available, the member's spouse must meet with the Commissioner to ensure that adequate disclosure has been made and to obtain advice on the member's obligations under the Act.

The Commissioner may determine that the advice and recommendations provided to individual members have a broader general application and may therefore provide the advice as guidelines to all members.

The Commissioner may also conduct investigations and inquiries under the Act.

In essence, it is the responsibility of the Commissioner to ensure that each member of the Legislative Assembly maintains a high standard of ethical conduct.

Registrar of Lobbyists

In 2014, *The Lobbyists Act* established that the Conflict of Interest Commissioner would also serve as Saskatchewan's Registrar of Lobbyists.

In August 2016 the Saskatchewan lobbyists act came into force. In accordance with the legislation, Ronald L. Barclay, the current Conflict of Interest Commissioner, commenced his duties as Registrar of Lobbyists under *The Lobbyists Act*.

The Office of the Registrar of Lobbyists is responsible for designing, implementing and operating the province's lobbyist registry; promoting and educating the general public, stakeholders and the lobbyist community about *The Lobbyists Act*, and ensuring compliance and conformity of lobbyists to *The Lobbyists Act*.

The Registrar provides directions to lobbyists and may conduct an investigation if there is reason to believe one is necessary to ensure compliance with the Act. The Registrar also has the authority to level an administrative penalty up to \$25,000 on those who are found to be in breach of the Act.

SASKATCHEWAN CONFLICT OF INTEREST COMMISSIONER



RESPONSIBILITIES OF THE CONFLICT OF INTEREST COMMISSIONER

The duties of the Commissioner are to:

- Act as an advisor to members to ensure they meet their obligations under the Act;
- Meet with each member at least annually to review the disclosure of the member's financial interests;
- Gather information in response to requests made under the Act; and
- Undertake a formal inquiry into alleged contraventions of the Act.

OBLIGATIONS OF MEMBERS

Persons elected to the Legislative Assembly of Saskatchewan are subject to statutory obligations designed to avoid any conduct that may constitute a conflict of interest on the part of the member. These statutory obligations are set forth in *The Members' Conflict of Interest Act* (the Act).

Members are prohibited from using information that they have acquired as Members of the Legislative Assembly and which is not available to the general public, for the purpose of advancing their private interests or the private interests of a family member or associate.

Additionally, a member must not use his or her position to influence other decision makers to advance the private interest of the member, his or her family or an associate.

Members are prevented by statute from accepting, except in specific circumstances, any gifts or benefits offered to them in respect to carrying out of the member's duties.

ADVISING MEMBERS

The Commissioner's primary role is that of an advisor to members. He encourages all members to consult with him at the earliest possible opportunity if they have questions or concerns about their obligations so that a potential conflict of interest can be avoided.

Requests for opinions come in various forms. Members may have an informal conversation with the Commissioner, or may make a formal request for a written response. After inquiry and research, the Commissioner provides an opinion as to whether there is a conflict. If a member has or may have a conflict of interest, the Commissioner can make recommendations specifying a timeframe for compliance.

It is critical to observe that the Commissioner's mandate only extends to current Members of the Saskatchewan Legislative Assembly

ADVICE AND OPINIONS FROM THE COMMISSIONER

The Commissioner's primary role is that of an adviser to Members.

The Conflict of Interest Commissioner receives enquiries on an interesting variety of matters. For a majority of citizens of the province these matters would pose no real or perceived problem. Members of the Legislative Assembly, however, must deal with matters through a different lens and they rely on this office for guidance.

This is particularly true for new members and the Conflict of Interest Commissioner ensures that he discusses the obligations, responsibilities and expectations of their new role with regard to *The Members' Conflict of Interest Act*.

Further, as cabinet responsibilities change and duties of other government and opposition members are reassigned, MLAs seek advice to avoid any real or perceived conflicts with their new responsibilities.

During this reporting period it was reassuring to see the members seek consultation with me on a variety of topics. Consultations can be initiated through formal means, such as a letter or by a phone call or email enquiry. Either avenue of initiating a consultative conversation reinforces the commitment of members to abide by the spirit and intent of the Act.

Although advice can be provided on any topic, in general, advice sought can generally be characterized within the following categories:

Gifts

Inquiries concerning gifts include whether they can be accepted and under what circumstances.

Eligible gifts received from a single source must be reported when the value is \$200 or more for a single gift or the cumulative value of gifts from a single source reaches that threshold.

Outside Activities

Inquiries regarding outside activities concerning volunteer board activities in community organizations, sponsoring charitable events and attendance at events.

Reporting and Disclosure

What is required to be disclosed to the Commissioner and what becomes public generates a fair number of inquiries. Assets of private companies held by members have always had to be disclosed to the Commissioner but not to the public.

Last year this policy changed and members are now disclosing those assets on the public statement to increase transparency and to ensure public confidence. It is anticipated *The Members' Conflict of Interest Act* will be amended to require a member to publicly disclose a list of the assets of any private company that is controlled by the member or his/her family.

Business and Financial interests

Questions around investments relate to blind trusts, business dealings, and personal investments made by the member or his/her family.

Family

Questions regarding family members involve a myriad of issues including the employment or activities of a spouse, child or other family members.

Taking part in decisions

Members often seek advice on when it is appropriate to participate in a decision before the Legislative Assembly, the Executive Council or one of their respective committees. Questions related to personal investments tend to be the most often asked question of the Commissioner.

“My opinions and recommendations are confidential unless released by the Member or with the Member’s consent”

Exemptions

No member may enter into a contract with the Crown for any purpose.

The Members' Conflict of Interest Act is quite specific regarding the prohibition of participation in government contracts. This prohibition adds a level of accountability and ensures members are looking after the interests of their constituents and not attending to their own personal business while employed as an MLA.

In very rare instances, and usually because a person is entering into public service for their first time, some members may require time to wrap up their pre-election business affairs, which may include government contracts.

Section 16 of *The Members' Conflict of Interest Act* provides for a member to apply to the commissioner for approval to participate in a government contract. The commissioner may approve a member's participation in a government contract, if, in the opinion of the commissioner:

- (a) The consideration and terms of the government contract are fair and reasonable; and
- (b) It is not contrary to the public interest to allow the member to participate.

The commissioner may impose any terms or conditions on an exemption given to a member.

In 2018 the newly elected member for Regina Northeast requested, and received, an exemption to participating in a government contract in order to complete a minor business transaction he was involved in prior to being elected. As has been the practice of this office my full order granting Mr. Yens Pedersen, Member of the Legislative Assembly, a limited extension to participate in a government contract is included in this report.

**APPROVAL OF YENS PEDERSEN, MEMBER OF THE LEGISLATIVE ASSEMBLY
PARTICIPATING IN A GOVERNMENT CONTRACT**

On September 12, 2018, Yens Pedersen was elected to the Saskatchewan Legislature in a by-election in the constituency of Regina North East. Before being elected Mr. Pedersen was practicing law in the City of Regina. Prior to the election he represented Saskatchewan Government Insurance (SGI) in respect to files involving collections of outstanding judgement indebtedness. Almost all of the files are inactive except for two (2) which have work remaining. The fees involved are consistent with what other Saskatchewan law firms would charge. Mr. Pedersen has advised SGI that the corporation should refer future legal work to other counsel.

Under Saskatchewan law, no member of the Saskatchewan Legislative Assembly shall participate in a government contract, which would include the legal work that Mr. Pedersen had undertaken with SGI.

Mr. Pedersen has applied to the Conflict of Interest Commissioner to approve his participation in a government contract for the work remaining pursuant to section 16(1) of the *Members' Conflict of Interest Act* (the Act).

The relevant sections of the Act are section 15(5) and section 16(1), (2) and (4). These sections provide as follows:

Prohibition of participation in government contracts

Subsection 15(1) provides that “government contract” means a contract entered into with the Crown for any purpose including the sale, lease or other disposition of any real property to or by the Crown.

s. 15(5) Except as specifically provided in this or any Act, no member shall participate in a government contract.

Exemption from Prohibition

s. 16(1) A member may apply to the commissioner for approval to participate in a government contract.

s. 16(2) The commissioner may approve a member's participation in a government contract, if in the opinion of the commissioner:

(a) the consideration and terms of the government contract are fair and reasonable; and

(b) it is not contrary to the public interest to allow the member to participate.

s. 16(4) Notwithstanding section 15, a member may participate in a government contract if;

(a) the commissioner has given his or her approval pursuant to this section.

As there were only two remaining files that Mr. Pedersen had with SGI, and as he has advised SGI that any future work should be referred to different counsel, and as the fees are modest, I conclude that it is not contrary to the public interest to allow Mr. Pedersen to participate in the two SGI contracts. Furthermore, the consideration and terms of the government contract are fair and reasonable.

I therefore allow the necessary exemption.

Dated this 6th day of October, 2018.



Ronald L. Barclay, Q.C.
Conflict of Interest Commissioner

PUBLIC DISCLOSURE

In Saskatchewan, within 90 days after an election or by-election and every year by March 31 while they are a member, each member must file a **Member's Private Disclosure Statement** with the Commissioner.

The disclosure requirements are the same for all Members.

On September 12, 2018 a by-election was held in the constituency of Regina Northeast. The newly appointed member was required to file his Member's Private Disclosure Statement within 90 days of being elected. The Member for Regina Northeast did fulfill this requirement.

For the 2018 reporting period, the Commissioner began receiving private disclosure statements on January 16, 2019. I am pleased to report that all members' private disclosure statements were received in compliance with the legislation.

Once the private disclosure statement has been filed, the Member's Public Disclosure Statement is prepared. The next step in the disclosure process requires all members meet with the Commissioner to review their private disclosure statements and the initial public disclosure statement. This ensures that all the information disclosed is sufficient, accurate and complete.

Members began meeting with the Commissioner to review their public disclosure statements on March 6, 2019 and all meetings were concluded before the end of session on May 16.

Finally, all of the Members' Public Disclosure Statements are filed with the Clerk of the Legislative Assembly. The law mandates that this must be completed by June 30.

These disclosure statements are then available for public viewing in the Office of the Clerk during normal office hours. At the same time, the statements are filed with the Clerk they are also posted on the website of the Saskatchewan Legislative Assembly.

It is critical to observe that the Commissioner was satisfied that each member was aware of his or her statutory obligations to avoid actual or perceived conflicts of interest in the carrying out of their legislative and executive responsibilities, and each was desirous of observing the letter and spirit of the Act.

GIFTS

Every year all members receive a booklet called “Accepting and Disclosing Gifts: A Guide for Members”. This booklet provides examples of instances when it is appropriate or inappropriate for an MLA to accept gifts and/or benefits. As to when a member can accept gifts is an ongoing concern.

The legislation provides that members are permitted to accept only those gifts or benefits that are received as an incident of protocol, customs or social obligations that normally accompany the responsibilities of office. This applies to gifts given to the member either directly or indirectly. In the absence of protocol, custom or social obligation, the gift is not allowed under section 7 of the Act.

The legislation prescribes that all gifts received with a value over \$200 must be disclosed. However, in order to be transparent, the office encourages members to disclose all gifts regardless of their value.

Members should avoid circumstances where a reasonable person might conclude that the gift or benefit given was intended to influence the member in carrying out his or her duties.

In general, members should ask themselves these questions when offered a gift or benefit:

- 1. How is this gift connected to my responsibilities as a Member?***
- 2. Can the gift or benefit reasonably be seen to be given to influence me in the exercise of my official responsibilities of office (either as a Member or Minister)?***
- 3. Is there an expectation that I will do something for the donor in return?***

EDUCATION

In September 2018, the Commissioner attended the annual conference of the Canadian Conflict of Interest Network (CCOIN) that took place in St. John's, Newfoundland.

CCOIN is comprised of the various Ethics and Conflict of Interest Commissioners across the country at the federal, provincial and territorial levels of government and primarily those who have jurisdiction over members of legislative bodies.

The organization meets on an annual basis to discuss issues of common interest and to seek the advice and view of colleagues concerning matters related to conflicts of interest and ethics in our changing society.

Some topics on the 2018 CCOIN agenda, which were of particular interest and value to this office were:

- Reporting Material Changes
- The Power of a Legislature to Deal with an Investigation Report by the Ethics Commissioner
- Penalties and the Power to Order or Recommend

These presentations generated insightful discussions. Participants found it very beneficial to learn how their colleagues deal with issues such as these and whether these issues are specific to a particular jurisdiction or common across the country.

The CCOIN information network is also a valuable resource throughout the year. Commissioners stay in touch via e-mail and are able to connect with colleagues to seek their views on issues as they arise.

2019 ANNUAL CONFERENCE

Although not within the timeframe of this annual report, I take pleasure in announcing that I am hosting the 2019 CCOIN conference in September. As this is my last year as Commissioner I feel it is critical to leave a Saskatchewan imprint with my colleagues.

The agenda has been set and includes such current topics as:

- Conflicts and Ethics, actual and perceived post employment
- The Conciliation of Business and Politics – ethical issues
- Methodology of Investigations & Impacts on Timeliness of Reports
- Parliamentary Privilege – a review of recent decisions

I am looking forward to hosting my colleagues and engaging in discussions on current and emergent issues.

“The desire for ethics is like a swinging pendulum. Once ethics programs are in place, people say that you do not need them, they require too much time and money, or we have too much legislation. Then all of a sudden, there are so many scandals. The pendulum itself is the challenge.” [A Strong Foundation](#), Report of the Task Force on Public Service Values and Ethics, 1996; John C. Tait, Q.C. Chair

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

In my annual report last year, I made a number of recommendations for legislative amendments to *The Members' Conflict of Interest Act*. Although these amendments have not been implemented as of the writing of this report I am cautiously optimistic these amendments will be presented to the House during the fall session 2019.

The five most important recommendations I made were as follows:

1. Private and Public Disclosure statements
2. Departing Members Disclosure
3. Advice to Former Members
4. Gifts
5. Renaming of Act and Commissioner

Private and Public Disclosure Statements

s. 11 and 13 would require amendment

Under *The Members' Conflict of Interest Act* (the Act) the Member must disclose in their Members' Private Disclosure statement a report of the assets, liabilities and financial interests of the member, of the member's family and of any private companies that are controlled by all or any of them. There is no such requirement in the legislation to include a description of the assets of the private company that is controlled by the member or his family in the public statement. This would include numbered companies.

It is not without significance that I review members' private disclosure statements to determine whether or not there are potential conflicts of interest. In the interests of transparency however, I am of the view that this information should be included in the public statement and in particular, the assets of numbered companies.

As a matter of transparency and on my recommendation, we have published this information in the members' public statements this year.

Other jurisdictions require the public disclosure of information. I would therefore recommend that s.11 and 13 of *The Members' Conflict of Interest Act* be amended to require a member to publicly disclose a list of the assets of any private company that is controlled by all or any of them. This amendment would formalize the recent practice.

Departing Members Disclosure

s. 11 would require amendment

When a member ceases to become a member there is no obligation to file a Member's Private Disclosure Statement.

As the current disclosure enactments only apply to sitting members, ex-members are not required to disclose their financial interests for the period between their last disclosure and the date they leave office. On occasion these statements could be several months out of date.

I am of the view that once a member leaves office he or she should file a statement for the current year. There are some jurisdictions that require a member to file an exit disclosure statement within 30 days after ceasing to be a member. This would cover both members who resign before their term is over, as well as those who are not running or re-elected. This would ensure the transparency of member's financial statements for the entire time they are elected officials.

I echo the comments of the Office of the Conflict of Interest Commissioner for British Columbia in their submission to the Standing Committee on Parliamentary Reform and Ethical Conduct in 2012:

“This does not have to be an onerous process for members. For example, departing members could be required to simply sign a Declaration stating they have reviewed their most recent Private Members Disclosure statement and they confirm that it is still accurate; or if there are material changes that they have not reported, they must file a Statement of Material Change. Members should be required to submit either the Declaration or the Statement of Material Change within 60 days of leaving office. I further recommend that members' compliance with this requirement be publicly reported.”

I therefore recommend that section 11 of the Act be amended accordingly, using a 60 day timeframe.

Advice to Former Members

New section would be required

The Act does not permit the Commissioner to give advice to former members. Section 27 of the Act permits a member to request that the Commissioner give an opinion and recommendations on a matter respecting the obligations of a member. This section does not apply to former members.

As the Commissioner, one of my primary roles is that of an advisor to members. I therefore recommend that the Act be amended as follows:

Former members should be able to obtain advice from the Commissioner regarding their obligations at any time during the cooling off period as prescribed by the Act in the same way that members can obtain this advice while in office.

This is of critical importance as former members from time to time may want advice on their obligations under the Act in respect to the cooling off period.

Gifts

s. 7 would require amendment

Definition section would require amendment

The current threshold for reporting of gifts is \$200. The general principle surrounding disclosure of gifts is that the threshold should be low enough to capture significant gifts but not so low as to burden members with constant reporting. This amount is in line with other jurisdictions across Canada and I am not recommending any change.

However, to be consistent with other jurisdictions across Canada it would be prudent to include definitions of “gift” and “personal benefit” for further clarity as to their meaning. Currently gift and personal benefit are subjective terms. It would be less confusing if these terms were clearly defined. I would adopt wording from other jurisdictions which is:

- (a) an amount of money if there is no obligation to repay it;
- (b) hospitality, entertainment, service, property, including the use of property, that is provided without charge or at less than its commercial value but does not include a gift or personal benefit
- (c) received in the context of a purely private relationship; or
- (d) that is of such a nature that it could not reasonably be regarded as likely to influence the member in the performance of the member’s duties

Additional exemptions and alternative wording is provided below, which could be included in the definition:

- food, lodging, transportation and entertainment provided by provincial, regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country, or by a conference, seminar or event organizer where the member is either speaking or attending in an official capacity;
- tokens exchanged as part of protocol;
- the normal presentation of gifts to persons participating in public functions;

- the normal exchange of gifts between friends.

I would therefore recommend that the gift section in the Act be amended to include the above suggestions.

It is critical to note that the Act currently prohibits members and their families from accepting gifts or benefits. I am not recommending any change to this accepted practice.

This issue has been a frequent topic of discussion amongst our lobbying colleagues. It would be prudent to consider including a gift clause in *The Lobbyists Act* for greater clarification and compliance. I include a discussion on this topic in the lobbyist section of this report under “Recommendations.”

Changing Title of the Act and Commissioner

Our Act does permit the Assembly by resolution to request the Commissioner give an opinion on any matter that relates to the conduct of a member (section 32).

In addition, the President of Executive Council may request that the Commissioner give an opinion on any matter that relates to the conduct of a member of the Executive Council.

Furthermore, if the Commissioner is conducting an inquiry pursuant to section 32 (supra) the Commissioner may comment with respect to the conduct of former members of the Assembly.

With this statutory focus on ethics and integrity it follows that the name of the Act and Commissioner should be updated to reflect a focus on ethics and integrity generally. One solution would be to rename the Act *The Members' Ethics and Conflict of Interest Act*, and designate the commissioner as the "Ethics and Conflict of Interest Commissioner".



Office of the
Registrar of Lobbyists
Saskatchewan

DID YOU KNOW?

All of our colleagues and jurisdictions are diligent in reinforcing and reiterating the understanding that lobbying is a legitimate activity in a democratic society.

The origin of lobby was a term to describe the anteroom of the British House of Commons where politicians met with petitioners dates back to 1640.

This democratic tradition of lobbying is deeply rooted in the Magna Carta which confirmed the right of nobles to seek redress of grievances with the King and the Bill of Rights, 1689, which declares “that it is the right of the subjects to petition the King”

Lobbying creates a forum to discuss adverse points of view and the opportunity for the public office holder to discern additional information to assist them in making an informed decision.

“When disclosed publicly and conducted according to the law, lobbying does not impede access to government but instead guarantees a window of transparency for lobbying communications.” (Cristina De Caprio, Lobbyist Registrar for Toronto, 2018 Annual Report)

HISTORY

The Saskatchewan Lobbyists legislation came into force August 23, 2016.

The purpose of *The Lobbyists Act* is to enhance the integrity and accountability of government by fostering openness and transparency about who is attempting to influence decisions made by provincial public office holders.

The Saskatchewan legislation defines lobbying in a manner consistent with the definition in other provinces. In order to be considered lobbying there must be:

- a) Communication with;
- b) A public office holder, by;
- c) A person who is paid to conduct the communication;
- d) In an attempt to influence a government decision or outcome

In Saskatchewan lobbying may be done by consultant lobbyists or in-house lobbyists. If you are characterized as a lobbyist you must create an account on the Lobbyist Registrar's website and then regularly disclose details of your lobbying activities with provincial public office holders by registering this information on the lobbyists' registry. This information becomes available to the public as soon as it has been accepted by the Registrar.

The Saskatchewan Lobbyists Act should be seen as a companion piece to The Members' Conflict of Interest Act with the similar goal of building public confidence in democratic institutions.

REGISTRY UPDATE

Lobbying can occur in both planned and unplanned scenarios. The purpose of the legislation and registry is to capture all instances of lobbying. Public office holders are empowered to remind lobbyists to register their activities and approach the Office of the Registrar of Lobbyists in cases of non-compliance.

The disclosure of lobbying activities occurs through the online public Registry. The lobbyist registry is one tool available to stakeholders to ensure lobbying activities are transparent and public office holders are accountable. This registry is available online 24/7 @ www.sasklobbyistregistry.ca

In an effort to assist stakeholders and make information as accessible as possible in the Resource Library section on our website we offer quick access to commonly asked questions, the legislation, exemptions and registry reports. Under the Registry Report tab are a number of reports the public can access which provides a current summary of what is in the registry. These reports include the lobbying of ministers, members, and government institutions. It also reflects the most popular subject matters.

New reports added to our Resource Library include one that lists the Senior Public Office Holders that are being lobbied. As the Act requires lobbyists to include the names and titles of senior public office holders they may be communicating with there has been interest from the public in knowing which senior public officer holders are being lobbied. It is recognized that communicating with senior government officials is often more efficient and easier to access than elected members.

As of June 10, 2019

Senior Public Office Holder and Associated Responsibility	Active Registrations
Shannon Andrews - Executive Council	21
Grant McLellan - Government Relations	20
Jason Wall - Executive Council	20
Laurie Pushor - Energy & Resources	18
Stacey Ferguson - Finance	18
Graham Stewart - Executive Council	17
Rupen Pandya - Finance	17
Jeremy Brick - Energy & Resources	16
Richard Davis - Export and Trade Development	15
Lin Gallagher - Environment	14

Although the website and registry are only two years old, we are constantly seeking feedback to improve our user experience in respect to the Lobbyist Registry application.

During the 2018-2019 year the office received many calls and emails for direction and assistance in using the Registry. Common requests for support include:

- Retrieving a forgotten user name and/or password. It is critical to observe that the Registrar of Lobbyists only has access to a registered lobbyist's user name, not password. The Registrar of Lobbyists can reset a password but for security purposes it should be changed immediately upon the user gaining access to their personal dashboard.
- Updating, ending or reactivating a lobbyist registration. Despite the inclusion of a user manual, available on every registered lobbyist's dashboard, which sets out step-by-step instructions for how to update, end or reactivate a registration the majority of calls handled by the office are in respect to these areas of registration. It is apparent a better source of written information be accessible to users and the office continues to consider how best to facilitate support in this area
- Advice or direction on interpreting certain steps in the registration form. From these enquiries, the office has undertaken a project to update the form and provide more plain language information, along with visual cues, that will assist the user in understanding what is required in a certain step. These improvements will be complete and actuated in the coming year.

Despite the advancement and placement of online support, the Office of the Registrar of Lobbyists encourages and appreciates direct communication from lobbyists with the office. We feel this provides an invaluable opportunity to educate, inform and establish a professional relationship with our stakeholders.

EDUCATION AND OUTREACH

The Saskatchewan Provincial General Election will be in the fall of 2020. In last year's annual report we included a section titled "Of Interest" which showed the inter-relationship between the COIC and Lobbyists mandate, along with the comment that this relationship raised some issues that needed to be examined prior to the next provincial general election.

Inter-relationship between COIC and Lobbyists mandate

Aside from the usual questions received from lobbyists and non-elected public office holders there was a flurry of activity in January and February from persons campaigning for the various leadership candidates for the Saskatchewan Party. The question surrounded the various transition teams and whether participating on a team would affect a person's ability to lobby after the new leader was elected.

These conversations reinforced our position that the dual role of Conflict of Interest Commissioner and Registrar of Lobbyists is compatible. It also raised issues that will need to be revisited prior to the next provincial general election.

Recognizing that the general election will create the need for specific, election related materials in order to ensure stakeholders understand the rules and regulations surrounding lobbying prior to and during an election, this office has created an educational outreach strategy and educational materials which will be available in early 2020.

It is critical that lobbyists and public office holders understand and comply with their obligations during the election in order to ensure compliance and avoid conflicts of interest.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

In the 2016-2017 annual report I made two recommendations for legislative amendments.

The opinion I expressed then, and reiterate now are as follows:

1. Remove the 100 hour threshold for in-house lobbying

Under the legislation an in-house lobbyist who is an employee, officer or director of a corporation, must register once the organization collectively reaches a threshold of 100 hours of lobbying per annum.

Although the government of Saskatchewan emphasized the fact that the Provinces of British Columbia, Alberta and Manitoba have similar provisions as to the 100 hour threshold other provincial jurisdictions along with the Federal government have more stringent requirements.

Furthermore, the Lobbyist Registrars in both Alberta and British Columbia** have each made representations to their governments to review the 100 hour threshold.

** it is not without significance that since making this recommendations two years ago British Columbia has passed amendments to their Act and there is now a zero hour threshold for in-house lobbyists in that Province.

The concerns I have are as follows:

1. The two types of lobbyists are not treated equally in the Act. Consultant lobbyists are always required to register their activities.

In-house lobbyists on the other hand are required to register only after they have met the 100 hours threshold. This creates a two-tier system.

2. Although some in-house lobbyists register immediately to demonstrate transparency or because it is easier to register than to account for lobbying hours while other in-house lobbyists in the same industry will not register because the legislation does not require them to do so. **In my view this undermines**

transparency and is confusing to the public. ** per submission by Lynn Morrison, [former] Lobbyist Registrar of Ontario to Ontario Government, November 24, 2014.

3. A great number of in-house lobbyists will not require 100 hours to achieve their company or employers interests and therefore will never reach the 100 hour requirement.

The whole purpose of the lobbyist's legislation is to enhance the integrity and accountability of government by fostering openness and transparency about who is attempting to influence decisions made by provincial public office holders.

The 100 hour threshold that permits lobbying to go undisclosed is not in keeping with the purpose of the Act, which is to promote transparency. It is quite feasible for a company to achieve their mandate with far less than 100 hours of lobbying by an in-house lobbyist.

I concur with the comments of Guy Giorno, an Ottawa lawyer who specializes in lobbying and public accountability, while speaking about the Saskatchewan Lobbyists legislation he stated:

"It's quite possible for companies to achieve their goals with less than 100 hours of lobbying. The current 100 hour threshold means the public has, to some degree, no knowledge of who, if anyone has paid to influence which decisions.

We just know that the more information that's out there, the more people know what's going on, the more things are open, the better off we are and the more confident we can be in our institutions."

The 100 hour threshold was necessary prior to the pre-internet age when registering as a lobbyist was complicated and time consuming. Today, the Saskatchewan on-line registry is designed to accommodate a small business with few resources to register within minutes and at no cost.

2. Require non-profits to register

It is concerning that when large nonprofit organizations have paid employees engaged in lobbying and are not required to register under the Act because they are exempt (section 4(1)(i)), it does not provide transparency. In many cases lobbying is the main purpose of the association.

I am therefore of the view that the current exemption section 4(1)(i) should be revisited.

In order to answer this concern one suggestion would be that only charitable nonprofit associations that have 5 or less lobbyists would be exempt from registering unless those individuals lobby for more than 30 or more hours a year.

Therefore, if the association has more than 5 lobbyists it would not be exempt from registering and the associations would be subject to the same registration provisions that apply to for-profit entities.

Furthermore, nonprofit associations that do not have a charitable mandate who have paid employees who lobby for any amount of time would also not be exempt from lobbying regardless of the number of lobbyists they employ.

If these amendments are enacted it would promote transparency as it would require all nonprofit associations except for the smaller entities to register.

It is critical to underscore that the process to register has been simplified. We have a modern system which results in fast data retrieval for public searches. The simple search function retrieves results in seconds. Furthermore, the registration process is without cost to those registering online.

This recommendation is consistent with the position taken by the Alberta Registrar in respect to their submission to the Alberta government.

Status of Recommendations

As with the recommendations made to *The Members' Conflict of Interest Act*, I have made a number of recommendations to *The Lobbyists Act* that have not yet been implemented. I am cautiously optimistic they will be introduced in this upcoming Fall session and they will be in force as of December 2019.

FINANCIAL STATEMENT

The fiscal year for the office runs from April 1, 2018 – March 31, 2019.

The Commissioner is always conscious of expending public funds and strives to conduct the administration of this office in an efficient and economical manner.

Financial transactions are subject to audit by the Office of the Provincial Auditor.



July 31, 2019

Responsibility for the Financial Statements

The accompanying financial statements are the responsibility of the Office of the Conflict of Interest Commissioner and Registrar of Lobbyists (Office). The financial statements have been prepared in accordance with Canadian public sector accounting standards.

The Office maintains appropriate systems of internal control, including policies and procedures which provide reasonable assurance that the Office's assets are safeguarded and that financial records are relevant and reliable.

The Provincial Auditor of Saskatchewan conducts an independent audit of the financial statements. Her examination is conducted in accordance with Canadian generally accepted auditing standards and includes tests and other procedures which allow her to report on the fairness of the financial statements.



Ronald L. Barclay, Q.C
Saskatchewan Conflict of Interest Commissioner
and Registrar of Lobbyists.

OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER

FINANCIAL STATEMENTS

For the Year Ended March 31, 2019



INDEPENDENT AUDITOR'S REPORT

To: The Members of the Legislative Assembly of Saskatchewan

Opinion

We have audited the financial statements of the Office of the Conflict of Interest Commissioner, which comprise the statement of financial position as at March 31, 2019, and the statements of operations and accumulated surplus, changes in net debt and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Office of the Conflict of Interest Commissioner as at March 31, 2019, and the results of its operations, changes in its net debt, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Basis for Opinion

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are independent of the Office of the Conflict of Interest Commissioner in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of Management and Those Charged with Governance 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 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.

In preparing the financial statements, management is responsible for assessing the Office of the Conflict of Interest Commissioner's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Office of the Conflict of Interest Commissioner or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Office of the Conflict of Interest Commissioner's financial reporting process.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.



- Obtain an understanding of internal control relevant to the audit 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 Office of the Conflict of Interest Commissioner's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Office of the Conflict of Interest Commissioner's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Office of the Conflict of Interest Commissioner to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control identified during the audit.

Regina, Saskatchewan
June 27, 2019

Judy Ferguson, FCPA, FCA
Provincial Auditor
Office of the Provincial Auditor

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
STATEMENT OF FINANCIAL POSITION
AS AT MARCH 31**

	<u>2019</u>	<u>2018</u>
Financial assets		
Due from General Revenue Fund	\$ <u>38,797</u>	\$ <u>33,328</u>
Liabilities		
Accounts payable and accrued liabilities	25,822	22,213
Accrued leave entitlements	<u>12,975</u>	<u>11,115</u>
	38,797	33,328
Net debt (Statement 3)	<u>-</u>	<u>-</u>
Non-financial assets		
Tangible capital assets (Note 3)	<u>154,189</u>	<u>160,566</u>
Accumulated surplus (Statement 2)	\$ <u><u>154,189</u></u>	\$ <u><u>160,566</u></u>
Contractual obligations (Note 8)		

(See accompanying notes to the financial statements)

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
STATEMENT OF OPERATIONS AND ACCUMULATED SURPLUS
FOR THE YEAR ENDED MARCH 31**

	<u>2019</u>		<u>2018</u>
	<u>Budget</u> (Note 4)	<u>Actual</u>	<u>Actual</u>
Revenues			
General revenue fund appropriation	\$ 544,000	\$ 508,473	\$ 501,523
Miscellaneous revenue	-	-	6,175
Total revenue	<u>544,000</u>	<u>508,473</u>	<u>507,698</u>
Expenses			
Salaries	353,000	357,783	331,919
Contractual services	43,900	27,177	45,727
Office space and equipment rentals	52,680	40,059	52,192
Travel	14,780	12,993	6,854
Amortization (Note 3)	-	32,209	35,717
Advertising and printing	3,000	1,142	14,314
Office supplies and expenses	6,050	6,013	6,598
Dues and fees	3,820	4,073	2,004
Communication	5,700	5,706	10,332
Repairs and maintenance	<u>61,070</u>	<u>27,695</u>	<u>36,486</u>
Total expenses	<u>544,000</u>	<u>514,850</u>	<u>542,143</u>
Operating (deficit) surplus for the year	\$ <u>-</u>	<u>(6,377)</u>	<u>(34,445)</u>
Accumulated surplus, beginning of year		<u>160,566</u>	<u>195,011</u>
Accumulated surplus, end of year (Statement 1)		\$ <u>154,189</u>	\$ <u>160,566</u>

(See accompanying notes to the financial statements)

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
STATEMENT OF CHANGES IN NET DEBT
FOR THE YEAR ENDED MARCH 31**

	<u>2019</u>	<u>2018</u>
Operating (deficit) surplus for the year	\$ <u>(6,377)</u>	\$ <u>(34,445)</u>
Acquisition of tangible capital assets (Note 3)	(25,832)	(1,272)
Amortization of tangible capital assets (Note 3)	<u>32,209</u>	<u>35,717</u>
	<u>6,377</u>	<u>34,445</u>
Decrease (increase) in net debt	-	-
Net debt, beginning of year	<u>-</u>	<u>-</u>
Net debt, end of year (Statement 1)	\$ <u><u>-</u></u>	\$ <u><u>-</u></u>

(See accompanying notes to the financial statements)

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED MARCH 31**

	<u>2019</u>	<u>2018</u>
Cash from (used in) operating activities:		
General Revenue Fund appropriation received	\$ 503,003	\$ 541,763
Miscellaneous revenue received	-	6,175
Salaries paid	(355,922)	(352,922)
Supplies and other expenses paid	<u>(121,249)</u>	<u>(193,744)</u>
Cash from operating activities	<u>25,832</u>	<u>1,272</u>
Cash from (used in) capital activities:		
Acquisition of tangible capital assets (Note 3)	<u>(25,832)</u>	<u>(1,272)</u>
Cash used in capital activities	<u>(25,832)</u>	<u>(1,272)</u>
Increase (decrease) in cash and cash equivalents	-	-
Cash and cash equivalents, beginning of year	<u>-</u>	<u>-</u>
Cash and cash equivalents, end of year	<u>\$ -</u>	<u>\$ -</u>

(See accompanying notes to the financial statements)

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED MARCH 31, 2019**

1. Authority and Description of Operations

The *Members' Conflict of Interest Act* establishes the Office of the Conflict of Interest Commissioner. The Commissioner is an officer of the Legislative Assembly and is appointed by resolution of the Assembly. The mandate of the Office is to coordinate disclosure of assets held by Members, provide advice on conflict of interest issues, conduct inquiries and provide opinions on compliance with the *Members' Conflict of Interest Act* if requested by a Member, the President of Executive Council or the Legislative Assembly. The Conflict of Interest Commissioner also serves as the Lobbyist Registrar and oversees the lobbyist registry, promotes and educates the general public, stakeholders, and the lobbyist community about *The Lobbyist Act* and ensures compliance and conformity of lobbyists to *The Lobbyist Act*. Under the provisions of *The Lobbyist Act*, the Conflict of Interest Commissioner promotes transparency about people and organizations who are attempting to influence government decision making.

2. Significant Accounting Policies

The Office uses Canadian public sector accounting standards to prepare its financial statements. These statements do not include a Statement of Remeasurement Gains or Losses as the Office has no activities that give rise to remeasurement gains or losses. As a result, its accumulated surplus is the same as its accumulated operating surplus. The following accounting policies are considered to be significant.

(a) Revenue

The Office receives an appropriation from the Legislative Assembly to carry out its work. General Revenue Fund appropriations are included in revenue when amounts are spent or committed.

(b) Tangible Capital Assets

Tangible capital assets are reported at cost less accumulated amortization. Tangible capital assets are capitalized when the purchase amount is at or above the thresholds noted below for each category and amortized on a straight-line basis over the indicated time period:

Computer Hardware	\$1,000 / 5 years
Computer Software	\$1,000 / 5 years
Furniture and Equipment	\$1,000 / 5 years
Leasehold Improvements	\$1,000 / Lesser of remaining useful life or current lease term
System Development	\$1,000 / 10 years

(c) Sick Leave Benefit Obligation

The Office has an obligation to record a sick leave benefit obligation based on accumulated employee sick leave entitlements. A liability for vesting or accumulating sick leave is recorded in the year the employee provides services in return for the sick leave benefits. This liability is only recorded if it is expected to be significant to the organization.

3. Tangible Capital Assets

	2019				Total 2019	Total 2018
	Hardware & Software	Equipment & Furniture	System Development	Leasehold Improvements		
Cost, April 1	\$ 7,607	\$ 18,370	\$ 214,634	\$ 60,063	\$ 300,674	\$ 299,402
Additions	5,267	1,326	19,239	-	25,832	1,272
Disposals	-	-	-	-	-	-
Cost, March 31	<u>12,874</u>	<u>19,696</u>	<u>233,873</u>	<u>60,063</u>	<u>326,506</u>	<u>300,674</u>
Accumulated amortization,						
April 1	5,767	14,830	64,269	55,242	140,108	104,391
Annual amortization	2,373	2,970	22,046	4,821	32,209	35,717
Adjustment for disposals	-	-	-	-	-	-
Accumulated amortization, March 31	<u>8,140</u>	<u>17,800</u>	<u>86,315</u>	<u>60,063</u>	<u>172,317</u>	<u>140,108</u>
Net Book Value, March 31	<u>\$ 4,734</u>	<u>\$ 1,896</u>	<u>\$ 147,558</u>	<u>\$ -</u>	<u>\$ 154,189</u>	<u>\$ 160,566</u>

**OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED MARCH 31, 2019**

4. Budget

These amounts represent funds approved by the Legislative Assembly to enable the Commissioner to carry out his duties under *The Members' Conflict of Interest Act* and *The Lobbyist Act*. The Office's expenditures are limited to the amount appropriated to it by the Legislative Assembly.

The amount appropriated for the year was \$544,000.

5. Lapsing of Appropriation

The Office follows *The Financial Administration Act, 1993* with regards to its spending. If the Office spends less than its appropriation by March 31, the difference is not available to acquire goods and services in the next fiscal year.

6. Costs Borne by Other Agencies

The Office has not been charged with certain administrative costs and employee benefit costs. These costs are borne by the Legislative Assembly and the Ministry of Finance. No provision for these costs has been made in these financial statements.

7. Financial Instruments

The Office's financial instruments include Due from the General Revenue Fund and accounts payable and accrued liabilities. The carrying amount of these instruments approximates fair value due to their immediate or short-term maturity. These instruments have no significant interest rate or credit risk.

8. Contractual Obligations

On August 14, 2017 the Office signed a new Accommodation Space and Services Agreement (ASSA) covering the period September 1, 2018 to August 31, 2023. Annual commitments under the signed lease agreement for fiscal 2019-20 are projected to be \$36,684.

On April 17, 2017 the Office signed an agreement for the rental of art work covering the period May 1, 2017 to April 30, 2020. Annual commitments under the signed agreement for fiscal 2019-20 are \$1,794.

On January 11, 2016, the Office signed an agreement for licence, maintenance and support services to the Lobbyist Registry for the period January 4, 2016 to March 31, 2020. Annual commitments under the signed agreement are \$17,277 for fiscal year 2019-20.

9. Pension Plan

The Office participates in a defined contribution pension plan for the benefit of its employees. The Office's financial obligation of the plan is limited to making payments of 5% of employee's salaries for current service. Pension costs are not included in the Office's financial statements as the costs are borne by other agencies (Note 6).

