



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

2017-2018



**Office of the
Registrar of Lobbyists
Saskatchewan**



July 31, 2018

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, 2017 to March 31, 2018.

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

Table of Contents

Commissioner and Registrar’s Message	5
Mandates	6
Saskatchewan Conflict of Interest Commissioner	
Responsibilities of the Conflict of Interest Commissioner	9
Obligations of Members	9
Advising Members	10
Advice from the Commissioner	11
Of Interest	12
Public Disclosure	13
Gifts	14
Opinions Provided	15
Education	15
Recommendations for Legislative Amendments.....	16
End Note	25
Office of the Registrar of Lobbyists	
History	27
Registry Update	28
Registry Statistics	28-29
Education and Outreach	30
Of Interest	32
Recommendations for Legislative Amendments	33
Financial Statement	34
Audited Financial Statements	35



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 seventh annual report as the Conflict of Interest Commissioner and Registrar of Lobbyists for the Province of Saskatchewan. This report also includes a summary of activities for both offices.

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, 2015.

In December 2, 2015 I also assumed the duties as Registrar of Lobbyists, the term to coincide with my mandate as Conflict of Interest Commissioner.

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.



Commissioner Ronald L. Barclay, Q.C and
Deputy Registrar of Lobbyists, Sandra Arberry

SASKATCHEWAN CONFLICT OF INTEREST COMMISSIONER



RESPONSIBILITIES OF THE CONFLICT OF INTEREST COMMISSIONER

The Conflict of Interest Commissioner is an Officer of the Legislative Assembly and is independent of Government. In my view, the complete independence granted to the Commissioner and the Office is essential in the carrying out of the statutory requirements detailed in *The Members' Conflict of Interest Act*.

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 FROM THE COMMISSIONER

The role of Conflict of Interest Commissioner is varied and challenging.

With a change in leadership for both the Saskatchewan and New Democrat parties and three newly elected members in March the last 3 months of the 2017/2018 year were busy. The Commissioner provided advice on a variety of matters including the acceptance of gifts, sponsored travel, attendance at or participation in events, business and financial interests. Further, with a cabinet shuffle and the official opposition reassigning duties a number of MLA's in both parties sought advice on how to fully participate in their new obligations without being in a conflict.

Advice sought can generally be placed 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 has to be reported to the Commissioner and what is disclosed to the 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.

This year the policy has changed and those assets are now being disclosed on the public statement to increase transparency and to ensure public confidence by citizens in their elected officials.

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. On several occasions this past year, as their legislative duties have changed, the Commissioner advised several members to divest themselves of investments that may otherwise be perceived as conflicts of interest.

OF INTEREST

Of particular interest this year were a number of inquiries from Members and other public office holders who were leaving politics and inquired as to the restrictions and responsibilities they were subject to when seeking other employment.

As mentioned, *The Members' Conflict of Interest Act* applies strictly to Members of the Legislative Assembly. Therefore, the Commissioner has no mandate or authority to provide opinions and advice to ex-members and other public office holders. In the Commissioner's opinion this is an oversight and thought has been given in the Recommendation section to expanding the scope of the Act.

PUBLIC DISCLOSURE

In Saskatchewan, within 90 days after an 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.

Once the private disclosure statement has been filed with our Office, the member (and spouse if available) meets with the Commissioner to discuss their obligations under the Act. This annual meeting with the Commissioner is required for all members.

Beginning in March 2017 the Commissioner received private disclosure statements from all sitting members and from March to June met with each member personally to discuss his or her disclosure.

This meeting with the members helps develop a good working relationship between the Commissioner and the members. It permits the Commissioner to raise any issues he may have concerning the member's private disclosure statement and to ensure that the information is accurate and complete.

After meeting with the member, a **Member's Public Disclosure Statement** is prepared. This statement contains all relevant information provided by the member (and spouse if applicable) as set out in the legislation. These statements are filed online and a hard copy resides with the Office of the Clerk of the Legislative Assembly. By law Member's Public Disclosure Statements are filed with the Clerk of the Legislative Assembly prior to June 30.

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, custom or social obligation 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?***

In September and again in March 2018 by-elections were held in four Saskatchewan constituencies. Each of the newly elected members received the booklet called “Accepting and Disclosing Gifts: A Guide for Members” along with a letter outlining their disclosure obligations under the *Act*.

OPINIONS PROVIDED

It was reassuring to see that the four new members elected during the timeframe covered by this report, along with the already sitting members consulted with me on a variety of topics. Some consultations were formally initiated by a letter to me while others were initiated by a phone call or email inquiry. Either method of initiating a consultative conversation reinforces the commitment of the members to abide by the spirit and intent of the Act.

EDUCATION

In September 2017, the Commissioner attended the annual conference of the Canadian Conflict of Interest Network (CCOIN) which took place in Charlottetown, Prince Edward Island.

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. These meetings are very beneficial as there are many Canadians who carry out legislative and executive responsibilities similar to the Members of the Saskatchewan Legislative Assembly and it is helpful to learn at the annual conference how colleagues deal with issues that are common or unique to this aspect of the democratic process.

This 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.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

The following are topics being recommended for possible amendments to *The Members' Conflict of Interest Act*.

1. Private and Public Disclosure statements
2. Departing Members Disclosure
3. Advice to former members
4. Gifts
5. Renaming of Act and Commissioner
6. Term of Commissioner
7. Administrative matters

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 statement 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".

Term of Commissioner

s.18(5) of the Act would require amendment

In Saskatchewan the Commissioner is appointed by the Legislative Assembly for a term of 5 years and may be reappointed for an additional term of 5 years.

Legislation in some of the other provinces provides that after the initial appointment the Commissioner may be reappointed for a further term or terms.

By way of example, the relevant sections of the British Columbia *Members' Conflict of Interest Act* provides in part;

s.14 (1) There must be appointed a commissioner who is an officer of the Legislative Assembly.

s. 14 (3) the commissioner holds office for a term of 5 years and may be reappointed for a further term or terms.

If our Act is amended accordingly it is still the prerogative of the Legislative Assembly to appoint the commissioner for a further term or terms.

I would therefore recommend that section 18 of the Members' Conflict of Interest Act be amended to authorize the Legislative Assembly to reappoint the Commissioner for a further term or terms.

With the proposed amended section 18 (4) and (5) of the Act would then read:

s.18 (4) subject to sections 19 and 20, unless he or she resigns, dies or is removed from office, the commissioner holds office for a term of five years.

(5) the commissioner may be reappointed for a further term or terms.

In making this amendment the Legislative Assembly has more discretion in making the appointment and as I stated earlier it is consistent with a number of other jurisdictions in Canada.

Administrative matters

Synchronization of Private and Public Members disclosure statements

The prescribed forms should also be amended so they are consistent with the wording and requirements of the Act. The private disclosure form should mirror the public disclosure form so that information is not lost or inaccurately transcribed between these forms. This would also facilitate the members' understanding of what will be reported to the public.

The private and public member's disclosure statements need to be amended to synchronize the information being disclosed in the private statement with the information being made public.

END NOTE

I 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 Statement 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.



Ron Samways working diligently on behalf of the Commissioner and members



Office of the
Registrar of Lobbyists
Saskatchewan

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.

It is critical to underscore that to lobby is an integral part of the democratic process and to lobby public officer holders is a legitimate activity in a democratic system of free and open access to government.

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

The last few months of 2017-2018 were challenging for the Lobbyists office. As mentioned previously, the Registry provides a summary of issues that are currently topical in the province and particularly the business environment. With the completion of the two leadership races and the resulting change in Cabinet Ministers and senior public office holders the office was quite busy as lobbyists updated their registrations accordingly.

In the Resource Library section on our website there is a “registry reports” tab. Under this tab are a number of reports the public can access which provides a quick 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.

A quick search through the reports illustrates the Ministries being targeted and subject matter is largely consistent with last year.

Ministers most Lobbied in their capacity as Members of the Executive Council As of March 31, 2017

Minister	Responsible Ministry	Times mentioned
Jeremy Harrison	Economy	85
Brad Wall	Executive	77
Kevin Doherty	Finance	56
Jim Reiter	Health	51
Scott Moe	Environment	49

Ministers most Lobbied in their capacity as Members of the Executive Council As of March 31, 2018

Minister	Responsible Ministry	Times mentioned
Donna Harpauer	Finance	70
Scott Moe	Executive	62
Jim Reiter	Health	61
Dustin Duncan	Environment	58
Dustin Duncan	SaskPower	42

**Members most Lobbied in their capacity as MLA
As of March 31, 2017**

Member of Legislative Assembly	Times mentioned
Trent Wotherspoon	45
Ken Cheveldayoff	43
Bill Boyd	40
Brad Wall	40
Gordon Wyant	40

**Members most Lobbied in their capacity as MLA
As of March 31, 2018**

Member of Legislative Assembly	Times mentioned
Gordon Wyant	47
Don Morgan	45
Scott Moe	42
Trent Wotherspoon	42
Ken Cheveldayoff	41

Most common areas of interest Lobbied on as of March 31, 2017

Subject matter	Times mentioned
Economic Development	75
Finance & Budget	55
Environment	53
Health	50
Energy	48

Most common areas of interest Lobbied on as of March 31, 2017

Subject matter	Times mentioned
Economic Development	78
Health	62
Finance	60
Energy	54
Environment	54

EDUCATION AND OUTREACH

Annual LRCN conference

In October we hosted the annual Lobbyist Registrar and Commissioner's conference in Regina.

The theme of the conference was "Effective Governance." The need for governance exists anytime a group of people come together to accomplish an end. Though the governance literature proposes several definitions, most rest on three dimensions: authority, decision-making and accountability.

*Keynote Speaker Ken Rasmussen
Professor
Johnson Shoyama Graduate School
discussing Effective Governance*



For three days our colleagues from across Canada attended presentations, academic sessions and debates on topics exploring those three dimensions. We were fortunate to have a number of engaging panelists and guest speakers present at the conference and are very appreciative of their time and contributions. Their thoughtful and knowledgeable presentations made for lively discussions, engaging sessions and after conference conversation.



*LRCN panel enjoying a social media
presentation by Justin Reve
Pidgeon Social*

We received very positive feedback from our colleagues and wish to thank all who attended, both as participants and presenters.



2017 Lobbyist Registrar and Commissioners conference
Regina, Saskatchewan

OF INTEREST

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 comparable. It also raised some issues that will need to be revisited prior to the next provincial general election.

RECOMMENDATIONS FOR LEGISLATIVE AMENDMENTS

The Act recognizes that lobbying of public office holders is a legitimate activity but one that should be done in a transparent way.

Gifts

The Saskatchewan lobbyists act does not address the acceptance or giving of gifts from lobbyists. In discussions with my colleagues respecting this issue I have always maintained that the gift clauses in *The Member's Conflict of Interest Act* provide sufficient information to ensure that any member who receives any gift will report it. However, *The Lobbyists Act* affects more than members and I must be cognizant that lobbyists may, either willingly or unwittingly, provide what would be characterized as a "gift" to a public office holder.

As my colleague from Manitoba states in his report Modernizing Manitoba's Conflict of Interest Legislation "The very essence of lobbying public office holders is to persuade and to influence policies, decisions, funding, etc. It is therefore reasonable to assume that any gifts from lobbyists are in support of those objectives. Even if taken in value, gifts from lobbyists inevitably create a negative public perception and should not be permitted.

As the lobbyist registry illustrates, lobbyists communicate with a large number of public office holders who are not bound by *The Members' Conflict of Interest Act*. Public Office Holders are not required to report any gifts received. In order to ensure clarity and consistency among all public office holders and lobbyists I recommend a clause be added to *The Lobbyists Act* prohibiting lobbyists from giving any gifts to any public office holder. Further, a definition of gift must be added to *The Lobbyists Act*. This definition should mirror the one recommended for *The Members' Conflict of Interest Act*.

FINANCIAL STATEMENT

The fiscal year for the office runs from April 1, 2017 – March 31, 2018.

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, 2018

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, 2018



INDEPENDENT AUDITOR'S REPORT

To: The Members of the Legislative Assembly of Saskatchewan

I have audited the accompanying financial statements of the Office of the Conflict of Interest Commissioner, which comprise the statement of financial position as at March 31, 2018, and the statements of operations and accumulated surplus, changes in net debt, 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, 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 the Office of the Conflict of Interest Commissioner as at March 31, 2018, 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.

Regina, Saskatchewan
July 10, 2018

Judy Ferguson, FCPA, FCA
Provincial Auditor

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

	<u>2018</u>	<u>2017</u>
Financial assets		
Due from General Revenue Fund	\$ <u>33,328</u>	\$ <u>74,519</u>
Liabilities		
Accounts payable and accrued liabilities	22,213	42,401
Accrued leave entitlements	<u>11,115</u>	<u>32,118</u>
	33,328	74,519
Net debt (Statement 3)	<u>-</u>	<u>-</u>
Non-financial assets		
Tangible capital assets (Note 3)	<u>160,566</u>	<u>195,011</u>
Accumulated surplus (Statement 2)	\$ <u><u>160,566</u></u>	\$ <u><u>195,011</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>2018</u>		<u>2017</u>
	<u>Budget</u> (Note 4)	<u>Actual</u>	<u>Actual</u>
Revenues			
General revenue fund appropriation	\$ 539,000	\$ 501,523	\$ 642,015
Miscellaneous revenue	-	6,175	-
Total revenue	<u>539,000</u>	<u>507,698</u>	<u>642,015</u>
Expenses			
Salaries	336,000	331,919	362,411
Contractual services	55,800	45,727	88,046
Office space and equipment rentals	52,980	52,192	49,707
Travel	11,795	6,854	12,957
Amortization (Note 3)		35,717	35,591
Advertising and printing	13,000	14,314	5,176
Office supplies and expenses	6,785	6,598	9,384
Dues and fees	3,500	2,004	4,226
Communication	7,200	10,332	3,754
Repairs and maintenance	<u>51,940</u>	<u>36,486</u>	<u>5,177</u>
Total expenses	<u>539,000</u>	<u>542,143</u>	<u>576,429</u>
Operating (deficit) surplus for the year	<u>-</u>	<u>(34,445)</u>	<u>65,586</u>
Accumulated surplus, beginning of year		<u>195,011</u>	<u>129,425</u>
Accumulated surplus, end of year (Statement 1)		<u>\$ 160,566</u>	<u>\$ 195,011</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>2018</u>	<u>2017</u>
Operating (deficit) surplus for the year	\$ <u>(34,445)</u>	\$ <u>65,586</u>
Acquisition of tangible capital assets (Note 3)	(1,272)	(101,177)
Amortization of tangible capital assets (Note 3)	<u>35,717</u>	<u>35,591</u>
	<u>34,445</u>	<u>(65,586)</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>2018</u>	<u>2017</u>
Cash from (used in) operating activities:		
General Revenue Fund appropriation received	\$ 541,763	\$ 749,179
Miscellaneous revenue received	6,175	-
Salaries paid	(352,922)	(354,544)
Supplies and other expenses paid	<u>(193,744)</u>	<u>(293,458)</u>
Cash from operating activities	<u>1,272</u>	<u>101,177</u>
Cash from (used in) capital activities:		
Acquisition of tangible capital assets (Note 3)	<u>(1,272)</u>	<u>(101,177)</u>
Cash used in capital activities	<u>(1,272)</u>	<u>(101,177)</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, 2018

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) Accounting Standards Adopted

On April 1, 2017, the Office adopted Public Sector Accounting Standards PS 2200 Related Party Disclosures, PS 3210 Assets, PS 3320 Contingent Assets, PS 3380 Contractual Rights, and PS 3420 Inter-Entity Transactions. Adoption of these standards has not resulted in any changes to financial results or disclosures.

3. Tangible Capital Assets

	2018				Total 2018	Total 2017
	Hardware & Software	Equipment & Furniture	System Development	Leasehold Improvements		
Cost, April 1	\$ 7,607	\$ 18,370	\$ 213,362	\$ 60,063	\$ 299,402	\$ 207,275
Additions	-	-	1,272	-	1,272	101,177
Disposals	-	-	-	-	-	(9,050)
Cost, March 31	<u>7,607</u>	<u>18,370</u>	<u>214,634</u>	<u>60,063</u>	<u>300,674</u>	<u>299,402</u>
Accumulated amortization, April 1	4,448	12,126	44,147	43,670	104,391	77,850
Annual amortization	1,319	2,704	20,122	11,572	35,717	35,591
Adjustment for disposals	-	-	-	-	-	(9,050)
Accumulated amortization, March 31	<u>5,767</u>	<u>14,830</u>	<u>64,269</u>	<u>55,242</u>	<u>140,108</u>	<u>104,391</u>
Net Book Value, March 31	<u>\$ 1,840</u>	<u>\$ 3,540</u>	<u>\$ 150,365</u>	<u>\$ 4,821</u>	<u>\$ 160,566</u>	<u>\$ 195,011</u>

OFFICE OF THE CONFLICT OF INTEREST COMMISSIONER
NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED MARCH 31, 2018

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 \$539,000.

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 February 8, 2016 the Office signed a new lease covering the period February 1, 2016 to August 31, 2018. Annual commitments under the signed lease agreement for fiscal 2018-19 are projected to be \$49,354.

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 2018-19 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 years 2018-19 and 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).

