

Province of Alberta

Office of the
ETHICS COMMISSIONER



ANNUAL REPORT
2012/2013

under the *Conflicts of Interest Act* and the *Lobbyists Act*

FORTIS ET LIBER



November 2013

Hon. Gene Zwozdesky
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

It is my honour and privilege to submit to you the Annual Report of the Office of the Ethics Commissioner, covering the period from April 1, 2012 to March 31, 2013.

This report is submitted pursuant to section 46(1) of the *Conflicts of Interest Act*, Chapter C-23 of the 2000 Revised Statutes of Alberta. The Office is responsible for the administration of both the *Conflicts of Interest Act* and the *Lobbyists Act*.

Yours very truly,

A handwritten signature in black ink that reads "Neil Wilkinson".

Neil Wilkinson
Ethics Commissioner

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I am pleased to submit my final annual report for the Office of the Ethics Commissioner. As I reflect on the last five years, there has been a great deal of change in the Office. We implemented the Lobbyists Registry, performed two legislative reviews, conducted investigations under both pieces of legislation, underwent a general election resulting in 39 new Members and provided numerous letters of advice to our stakeholders. It has been a great privilege to serve Albertans, our elected Members and our senior officials to further accountability, transparency and integrity of the Legislative Assembly and the Alberta public service.

THE YEAR IN REVIEW

A general election brings change to the Legislature and increased activity for my Office. I am grateful to the Speaker of the Legislative Assembly for allowing me to speak at an orientation session for new Members on May 1, 2012 to provide an overview of Members' obligations under the *Conflicts of Interest Act*. Several new Members took the initiative of meeting with me very early in the disclosure process, often with the Member's spouse also in attendance. The eagerness with which compliance was met was appreciated.

Members and senior officials have approached our annual meetings as opportunities to discuss their work and their concerns. It is encouraging to see how they are taking proactive roles in issues of conflict and the enthusiasm they have for their work. Through general conversations, potential areas of concern are identified and alternative courses of action are discussed to avoid actual conflicts. Members and officials understand their obligations and strive to meet them.

A further sign of trust in my Office has been in the large number of questions I receive from individuals who are not covered by the Cabinet directive for senior officials. Although these individuals acknowledge they are not required to seek the approval of this Office for their actions, they expressed appreciation for the unofficial advice they received.

During 2012/13, we continued to experience a substantial increase in individuals seeking advice and recommendations. Reflecting on the last five years, the number of requests has doubled. This significant increase is a result of several factors:

- 45% of MLAs are new and are ensuring they fully understand their obligations;
- the increase in departing Ministers, senior officials and political staff who are subject to post-employment provisions; and
- the knowledge that if the individual requesting advice provides complete information and acts on the advice and recommendations of this Office, no proceeding or prosecution shall be taken against the Member, former Minister or former political staff.

ETHICS COMMISSIONER REMARKS

INVESTIGATIONS

Under the *Conflicts of Interest Act*, we initiated an investigation, after receiving three requests, into a possible breach by the Honourable Alison Redford, QC, who was Minister of Justice at the time of the alleged breach and is now Premier of Alberta. This investigation is still underway and therefore will be reported on in next year's annual report.

In compliance with section 25(4)(b) of the *Act*, we refused to investigate an alleged breach against the Honourable Donald Scott, QC, Member for Fort McMurray-Conklin. There were insufficient grounds to warrant an investigation. Detailed information on both requests for investigation can be found on pages 13 and 14.

Under the *Lobbyists Act*, three requests for investigation were received by the Registrar; one resulted in a formal investigation. Page 21 provides detailed information on these requests.

Seven jurisdictional requests for investigation were received this year.

LOOKING FORWARD

It is important that legislation is reviewed and updated to reflect societal expectations relating to transparency, accountability, integrity and ethical behaviour. The Select Special *Conflicts of Interest Act* Review Committee was established on October 23, 2012 and commenced their review on November 27, 2012. Legislation stipulates the Committee has one year to submit a final report of recommendations to the Legislative Assembly.

Our Office was pleased to provide technical support to the all-party committee and we are grateful they allowed us to participate at the table with them. We made a written submission to the Committee in March 2013 and we continue to participate in all committee meetings. All submissions and related documents are on the Committee's website at <http://www.assembly.ab.ca/committees/conflictsofinterestact/index.html>.

Our submission highlighted issues we have encountered administering the *Act*, identified areas where the *Act* may be improved and put forward concerns received in our Office by Members, senior officials and the public. I look forward to reviewing the final report, the government's response and working with legislative counsel on drafting any necessary amendments to our legislation.

IN CONCLUSION

My term of appointment as Ethics Commissioner expires November 18, 2013. I have informed the Select Standing Committee on Legislative Offices I will not be seeking reappointment. Under legislation, I may continue holding office for a period of six months or until a successor is appointed, whichever occurs first. I have offered my services to the Legislative Assembly through the Standing Committee during this six-month period.

I have informed the Standing Committee I will not seek reappointment.

I wish to express my appreciation to the Legislative Assembly and to the Select Standing Committee on Legislative Offices for the opportunity to serve as Alberta's Ethics Commissioner. Albertans have been extremely well served by committed

ETHICS COMMISSIONER REMARKS

elected officials and public servants who have been cooperative with my Office and conscientious in bringing matters to my attention.

Special thanks to the Canadian Conflict of Interest Network colleagues across the country and our Legislative Officers: Jill Clayton, Brian Fjeldheim, Del Graff, Peter Hourihan and Merwan Saher. The ability to share situations and learn from others who have experienced similar issues or concerns has been invaluable. Thank you for your wisdom, good common sense and friendship.

I am very proud of the service we provide to Albertans and it would not be possible without the dedication, expertise, advice and support of the staff: Glen Resler, Chief Administrative Officer; Brad Odsen, General Counsel and Lobbyists Registrar; and Louise Read, Executive Support. I have enjoyed working with them and appreciate their tremendous work.



*Staff of the Office of the Ethics Commissioner:
(L-R) Brad Odsen, Louise Read and Glen Resler*

The Office of the Ethics Commissioner is unique in its relationship with MLAs and senior officials. I feel privileged to learn so much about government and the truly exceptional people involved within Alberta's public service. My tenure as Commissioner has been a highlight of my life. I will treasure the good work being done by MLAs and senior officials to ensure the highest standards of the *Conflicts of Interest Act* are met, thereby justifying the respect in which society holds the Assembly, its Members and the public service. Our ability to help achieve that goal, in some small way, has been very rewarding.

Best wishes to Alberta's next Ethics Commissioner.

A handwritten signature in black ink that reads "Neil Wilkinson". The signature is written in a cursive style with a horizontal line underneath.

Neil Wilkinson
Ethics Commissioner

VISION, MISSION, VALUES AND PRINCIPLES

VISION

Albertans have confidence and trust in the integrity of their public institutions.

MISSION

Foster and encourage ethical conduct through education, public disclosures, provision of advice and investigations.

VALUES

Our values:

- Collaborative
- Confidentiality
- Dependability
- Impartiality
- Integrity
- Leadership
- Respectful
- Selflessness
- Supportive
- Trustworthy

PRINCIPLES

Guiding public officials to reflect the values of our legislation in their every day decision-making.

Serving the legislature, senior officials and the public with impartiality and independence.

Fostering integrity in a respectful and supportive environment.

Leading by providing service that is responsive, innovative, dependable and helpful.

Embracing confidentiality as paramount to our trusted relationships.

MANDATE

The Office of the Ethics Commissioner exists as a result of, and operates under, the *Conflicts of Interest Act*, Revised Statutes of Alberta 2000, Chapter C-23 (“*COI Act*”). The Office is also responsible for the administration of the *Lobbyists Act*, Statutes of Alberta 2007, Chapter L-20.5 (“*Lobbyists Act*”).

The Ethics Commissioner is an Officer of the Legislature and is appointed by Order-in-Council following passage of a motion in the Legislative Assembly approving the appointment. The motion follows a report and recommendation from the Special Committee appointed to search for and recommend the appointment of the Ethics Commissioner.

The Ethics Commissioner reports to the Legislative Assembly through the Speaker on annual reports, investigation reports and matters relating to the Commissioner’s jurisdiction or authority, excluding administrative matters. The Ethics Commissioner presents budgetary estimates through the Standing Committee on Legislative Offices. The Legislative Assembly approves the budget for the Office of the Ethics Commissioner.

The Ethics Commissioner may delegate some of his functions under the *Lobbyists Act* to the Registrar.

CONFLICTS OF INTEREST ACT

The preamble of the *Conflicts of Interest Act* describes its basic principles as follows:

- the ethical conduct of elected officials is expected in democracies;
- Members of the Legislative Assembly serve Albertans most effectively if they come from a broad spectrum of occupations and continue to participate actively in the community;
- Members of the Legislative Assembly are expected to perform their duties of office and arrange their private affairs in a manner which promotes public confidence and trust in the integrity of each Member, maintains the Assembly’s dignity and justifies the respect in which society holds the Assembly and its Members; and
- Members of the Legislative Assembly, in reconciling their duties of office and their private interests, are expected to act with integrity and impartiality.

Through the *COI Act*, the Ethics Commissioner:

- promotes understanding of the Members’ obligations under the *Act*;
- receives disclosure statements from all 87 MLAs and from designated ‘senior official’ public servants;
- provides advice to MLAs under the *Act*, either on an individual basis or generally to all or groups of MLAs (including former Members) and to current or former political staff and senior officials as defined in the *Act*;
- provides advice under the Alberta Public Service Post-Employment Restriction Regulation to individuals governed by post-employment restrictions; and
- investigates any matter of an alleged breach of this *Act* by a Member, former Minister or former political staff member.

Upon receiving a report from the Ethics Commissioner, the Speaker is required to release the report publicly. If the Legislature is in session, the report is tabled in the

Legislature. If the Legislature is not in session, the report is released publicly and tabled when the Legislature next sits (per section 28 of the *COI Act*). Under the *COI Act*, if the Ethics Commissioner recommended a sanction in an investigation report, the Legislative Assembly debates and votes on the investigation report within 15 days after the report is tabled, or at such other time determined by a resolution of the Legislative Assembly.

Under section 29 of the *COI Act*, the Legislative Assembly may accept or reject the findings of the Ethics Commissioner or substitute its own findings. If the Legislative Assembly determines there is a breach, it may impose the sanction recommended by the Ethics Commissioner or any other sanction referred to in section 27(2) which it considers appropriate. The Legislative Assembly may also refrain from imposing a sanction. The Ethics Commissioner reports and recommends to the Assembly but the Legislative Assembly has full and final authority about disciplinary matters relating to its Members.

The Legislative Assembly has full and final authority about Member disciplinary matters.

LOBBYISTS ACT

The *Lobbyists Act* is intended to enhance the integrity and accountability of government by fostering openness and transparency about who is influencing decisions made by public office holders. The *Lobbyists Act* establishes two categories of lobbyists: consultant lobbyists and organization lobbyists. The *Lobbyists Act* forbids a person from performing the activities of lobbying and providing paid advice on the same subject matter at the same time, unless an exemption is granted.

The *Lobbyists Act* preamble describes its basic principles:

- free and open access to government is an important matter of public interest;
- lobbying public office holders is a legitimate activity;
- the public and public office holders should know who is engaged in lobbying activities;
- a registration system of paid lobbyists should not impede free and open access to government; and
- the public and public office holders should know who is contracting with the Government of Alberta and provincial entities.

The Office of the Ethics Commissioner maintains a web-based Lobbyists Registry enabling real-time registration by lobbyists. It is searchable by the general public. The Registry provides openness and transparency by:

- recording the identities and activities of people paid to influence decisions made by public office holders;
- recording the identities of organizations and clients who pay lobbyists to influence the activities of public office holders on their behalf;
- allowing lobbyists to register, update, renew and terminate their own registrations on the system; and
- allowing public scrutiny. The public can view, search and obtain statistics and reports about lobbyists free of charge over the Internet.

This convenient, accessible, web-based registry allows access 24 hours per day, seven days per week, for both the public and lobbyists.

The Ethics Commissioner may authorize any individual in the Office of the Ethics Commissioner to act as Registrar and to perform any of the powers, duties or functions of the Registrar under this *Act*. The Ethics Commissioner delegated the administrative and enforcement responsibilities of the Registrar to Bradley V. Odsen, QC, per section 11(2) of the *Lobbyists Act*.

Under the *Act*, certain powers and responsibilities are reserved for the Ethics Commissioner and cannot be delegated, including:

- exemptions from the contracting prohibition, with or without conditions;
- issuing Advisory Opinions and Interpretation Bulletins; and
- banning serious offenders from lobbying.

The Ethics Commissioner reports to the Legislative Assembly through the Speaker on investigations under the *Lobbyists Act*. The Ethics Commissioner provides the report to the Speaker and if the House is sitting, the report is tabled. If the House is not sitting, the report is distributed to MLAs after which, the Ethics Commissioner may make the report public. A report provided when the House is not sitting is tabled when the House next sits (per section 17 of the *Lobbyists Act*).

The Ethics
Commissioner
delegated the
administrative
and enforcement
responsibilities of the
Lobbyists Registry to
Bradley V. Odsen, Q.C.

CONFLICTS OF INTEREST ACT

DISCLOSURE PROCESS

This year, all MLAs and senior officials complied with their obligation to file disclosure statements within the appropriate timelines. Compliance is dependent on the support of caucus whips along with reminders from our Office. There was a noticeable improvement in the timeliness of filings by MLAs this year which reduced the effort required by our Office.

The Ethics Commissioner received private disclosure from all 87 Members and met with each Member to discuss their disclosure. MLA public disclosure statements were released through the Office of the Clerk of the Legislative Assembly.

Senior officials are also required to submit disclosure statements in addition to their obligations under the Code of Conduct and Ethics for the Public Service of Alberta. We conducted 71 disclosure meetings this year with senior officials. When reviewing disclosure by senior officials of agencies, boards and commissions, we also review compliance with their internal conflict of interest policies. The disclosure directive does not require the public release of senior official disclosure statements.

Disclosure statements include:

- the Member or senior official, their spouse or adult interdependent partner and minor children disclosing all assets, liabilities and financial interests of any private corporation in their control;
- identifying any legal proceeding brought against them; and
- ensuring no ownership of publicly-traded securities which could be materially affected by decisions made in the course of carrying out their duties, excluding investments in a blind trust.

DISCLOSURE STATEMENT COMPLIANCE

Category of Filer	Forms Distributed	Submission Deadline	Compliance
Members of the Legislative Assembly	May 8, 2012	July 9, 2012	100%
Senior Officials	September 21, 2012	December 3, 2012	100%

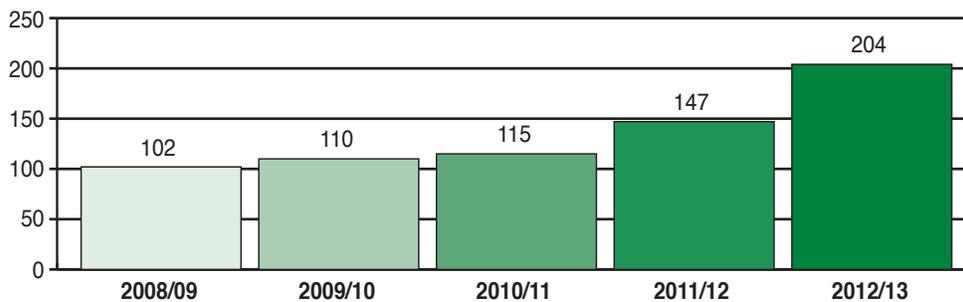
PROVISION OF ADVICE

If Members, senior officials or political staff seek and follow advice from the Ethics Commissioner, the person is protected against allegations of a breach of the *Act*, directive or post-employment regulation resulting from the substance of that advice and no proceedings or prosecution are taken against them. Advice is given in writing. A confidential and searchable database of requests and responses is maintained by our Office for future reference to ensure consistent responses to similar requests for advice.

In the last five years:

- The number of requests for advice has doubled; and
- 63% of annual requests fall into four categories: gifts, post-employment, investments and outside activities.

Total Requests For Advice



In 2012/13, requests for advice increased by 39%. The large number of new MLAs resulted in an increased educational component on advice matters regarding gifting, investments, outside activities and family matters.

Specific Requests for Advice

Types of Advice	2012/13	2011/12
Gifts	58	25
Post Employment	37	38
Outside Activities	27	23
Investments	17	19
Family	15	5
Constituency Issues	12	5
Codes of Conduct	12	14
Contracts with the Crown	9	4
Taking Part in Decisions	9	1
Other	8	13
Total	204	147

CONFLICTS OF INTEREST ACT

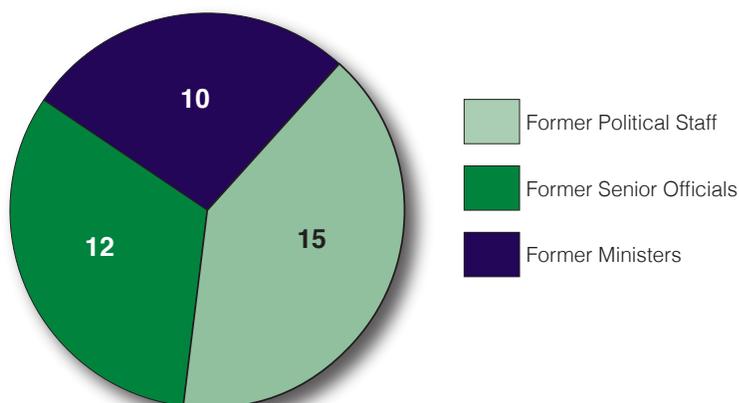
Gifts

Questions are raised about accepting tickets to sports events, fundraisers, conferences and non-commercial flights. Members are advised to track all gifts, including event tickets, to ensure they are mindful of both the value of cumulative gifts they receive from one source in a calendar year and any connection between a source and the Member's public responsibilities.

Post-Employment

Post-employment questions are raised by departing Ministers, senior officials and political staff.

Post-Employment Questions by Category, 2012/13 (Total: 37)



Outside Activities

Questions regarding outside activities almost exclusively deal with volunteer board activities in community organizations and clarification on external business activities.

Investments

Investment requests remained stable in 2012/13, attributed to the change in Ministers, Associate Ministers and senior officials. Advice was sought on matters relating to blind trusts and personal investments. Where potential conflicts existed, appropriate steps were taken by the parties to remove themselves from the situation prior to a conflict arising.

Family

Questions involving family members relate to either the employment or activities of a spouse or child. If the question involves a family member's investments, the question is included under Investments.

Constituency Issues

Questions relate to assisting constituents, using the constituency allowance or social obligations within the constituency. Where questions about the Member's constituency allowance fall more within the mandate of the Office of the Speaker, the Member is referred to Legislative Assembly staff.

Codes of Conduct

Several boards and senior officials sought informal confidential advice on conflict of interest matters relating to their agency's code of conduct. The Ethics Commissioner has no legislative authority to provide formal advice. We assist agencies and senior officials upon request but the advice provided is not binding. All informal advice includes referral to their agency's code administrator.

Contracts

Contract questions are often raised by new Members about their dealings with ATB Financial or other Crown contracts.

Taking Part in Decisions

Generally, Members consider their personal holdings and those of close family members and ask whether it is appropriate to participate in a decision before the Legislative Assembly or one of its committees, or before Executive Council or one of its committees. Our Office advises whether a private interest is involved or whether the matter is a general application which affects the Member only as a broad class of the public, thereby allowing the Member to participate and vote.

Other

This category includes requests about disclosure statements, hiring staff and other miscellaneous matters.

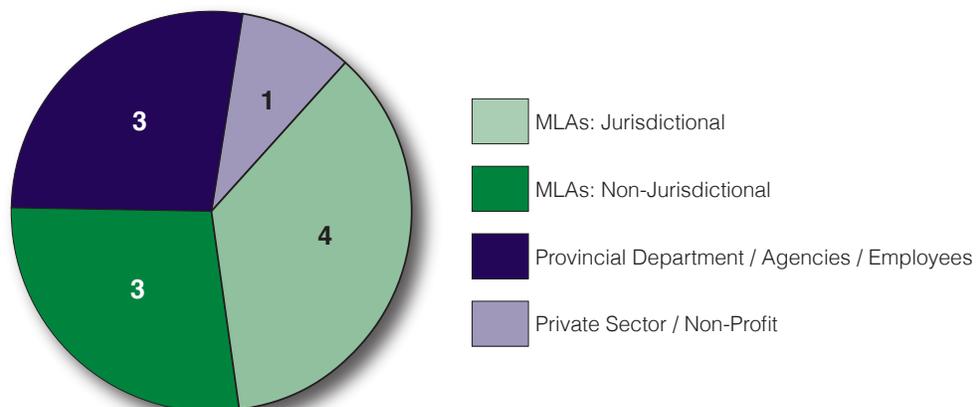
Our Office advises whether a private interest is involved or whether the matter is a general application.

CONDUCT OF INVESTIGATIONS

The majority of requests for investigation involve matters that are non-jurisdictional. One investigation commenced under the *Conflicts of Interest Act* in 2012/13; no investigations were carried forward from last year.

Eleven requests for investigations were received; seven involved MLAs. The balance related to provincial departments and private sector matters. Citizens were referred to an appropriate office for assistance in non-jurisdictional requests.

Request for Investigations by Category (Total: 11)



Jurisdictional Requests for Investigation

Of the four jurisdictional requests for investigation, three involved one matter: a possible breach of the *COI Act* by the Honourable Alison Redford, QC. Hon. Redford was Minister of Justice at the time of the alleged breach of the *Act* and is now Premier of Alberta. The alleged breach relates to the engagement of a particular consortium to represent Her Majesty the Queen in Right of the Province of Alberta in litigation against major tobacco companies. The suit seeks recovery of damages and health costs borne by Alberta citizens arising from the use of tobacco products. The investigation is ongoing.

On February 13, 2013 our Office received a request for investigation under section 8(1)(f) of the *COI Act* regarding the Honourable Donald Scott, QC, Associate Minister of Accountability, Transparency and Transformation and Member for Fort McMurray-Conklin. This matter involved the renewal of a government contract for the facilitation of the *Parenting after Separation Course* in Fort McMurray.

In this case, we did not conduct an investigation. Pursuant to section 25(4)(b) of the *Act*, the Commissioner may decline to investigate if there are insufficient grounds to warrant an investigation. Under section 25(6), if the Commissioner refuses to conduct an investigation, he must inform the Speaker of the Legislative Assembly and the Member against whom the allegation was levied of his refusal. A letter was submitted to the Speaker for tabling on March 11, 2013.

The Commissioner
may decline to
investigate

The following reasons supported the Commissioner's decision to forego an investigation:

- Minister Scott sought and received written advice on matters relating to his business partnership. It has been publicly reported the Member's professional corporation is a partner in a law firm and that by partnership agreement, the Member does not participate in any of the firm's activities, either legal or business related. The Member maintains a private interest with the partnership, defined as a person directly associated with the Member, and any potential conflicts such as potential Crown contracts are managed accordingly.
- Section 8(3) of the *COI Act* states a Member or his direct associate cannot receive preferential treatment from the Crown. A department awarding a contract to a Member must advise the Ethics Commissioner of the contract and provide a statutory declaration detailing the procedure for awarding the contract, stating that no preference was given under the contract that was not available to members of the public under contracts of the same class. In this case, the Statutory Declaration was provided by Alberta Justice and Solicitor General.

CONFLICTS OF INTEREST ACT

Based on advice provided to the Member, section 43(5) applies in this instance:
Section 43(5) If a Member, former Minister or former political staff member has, with respect to advice and recommendations under this section,

(a) communicated the material facts to the Ethics Commissioner, and

(b) complied with any recommendations contained in the advice and recommendations of the Ethics Commissioner,

no proceeding or prosecution shall be taken against the Member, former Minister or former political staff member under this Act by reason only of the facts so communicated and the compliance of the Member, former Minister or former political staff member with the recommendations.

Minister Scott complied with advice he received from this Office and therefore no investigation of his behavior can be taken. The Commissioner was satisfied that the advice was sought, the material facts were communicated and Minister Scott complied with the advice.

Length of Time to Respond to Requests for Investigation

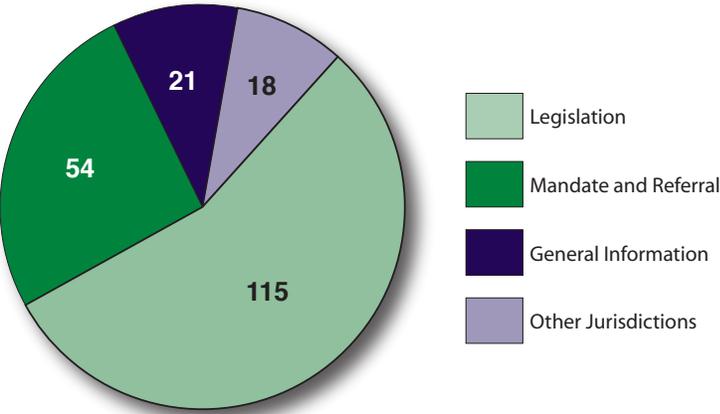
Method of Request (Number of Requests)	Same Day	24-48 Hours	One Week or More
Phone Call (3)	3	0	0
E-mail (2)	2	0	0
Letter (6)	0	0	6
TOTAL (11)	5	0	6

CONFLICTS OF INTEREST ACT

REQUESTS FOR INFORMATION

We received 208 requests for information this year, a 119% increase over last year. The majority of requests were from callers seeking clarification about the Ethics Commissioner’s mandate and the relevant legislation. Information requested concerned employment standards, professional standards and conduct, MLA compensation, post-employment, blind trusts, gift acceptance, public disclosure, conduct in non-profit organizations and legislation surrounding investigations. Callers who we are unable to assist are referred to the appropriate office.

Request for Information (Total: 208)



COMPARATIVE STATISTICS

Total Requests Received for:	2012/13	2011/12
Advice	204	147
Investigations	11	20
Information	208	95
TOTAL	423	262

Total requests in 2012/13 were up 61% over last year.

EVENTS AND CONFERENCES

Participating in annual conferences is very beneficial to our small office. This provides the Commissioner and staff the opportunity to exchange information with peers on issues of common interest and review legislative and regulatory differences and trends.

This year, the Office attended the annual Canadian Conflicts of Interest Network conference, the Council of Governmental Ethics Laws conference and the Lobbyist Registrars and Commissioners Conference.

SPEAKING ENGAGEMENTS / PRESENTATIONS

Date	Presentation, Speech or Caucus Session
May 1, 2012	MLA Orientation

The Speaker of the Legislative Assembly invited the Office to participate in MLA orientation after the 2012 general election. The session provided an opportunity for new MLAs to become familiar with their obligations under the *COI Act*.

PUBLICATIONS

Our performance measurement process includes a routine review of our brochures and guides to ensure they are current to the relevant legislation or regulation. We also review our educational information to ensure it is as user-friendly as possible.

We currently produce the following brochures under the *COI Act*:

- *Background and Role of the Ethics Commissioner*
- *Conflicts of Interest*
- *Disclosures Statements / Gifts*
- *Members of Executive Council*
- *Investigations / Inquiries*
- *Ethics—School Presentation*
- *Alberta Public Service Post-Employment Restriction Regulation*
- *Public Service Post-Employment Obligations for Political Staff Members*
- *Quick Guide #1: Determining Whether My Interest is a “Private Interest”*
- *Quick Guide #2: Gift Acceptance and Disclosure*
- *Information for Candidates Seeking Election*
- *Integrity, Accountability, Transparency*

Under the *Lobbyists Act*:

- *Am I a Lobbyist?*
- *Are You a Lobbyist?*
- *What is Lobbying?*
- *Contracting Prohibitions*

All publications are available on our website at www.ethicscommissioner.ab.ca

2012/13 was the third full year of operation of the Lobbyists Registry. It continues to be effective in achieving the public policy expectations set out in the *Lobbyists Act*.

OUTREACH

The Registrar began educational activities in 2008/09. They reached their pinnacle in 2009/10 and have since steadily declined. This continuing decline in educational outreach reflects the fact that the majority of those affected by the *Lobbyists Act* are aware of it and its requirements and are in compliance.

Three presentations were made in Calgary between April 1, 2012 and March 31, 2013. The most common form of outreach is telephone and electronic communications with individual lobbyists, both consultant and organization, who are new to the business of lobbying and reporting on lobbying activities.

Media in 2012/13 included interviews given for articles published in the *Edmonton Journal*, *Edmonton Sun*, *Calgary Herald*, *Fast Forward Magazine*, *The Armet Report*, *Saskatoon Star Phoenix*, *Insight Into Government* and *The Lobby Monitor*. Interviews were also given to *CBC/Radio-Canada*, *CBC Radio*, *Global TV*, *CTV*, and *CBC Radio* online.

Presentation Comparison Chart

Number of Presentations	2012/13	2011/12
Associations	2	1
Businesses	0	0
MLAs & Staff	0	0
Government*	1	2
Junior High School Classes	0	3
University of Alberta MBA Class	0	1
TOTAL	3	7

* Delivered to Executives of the Energy Resources Conversation Board.

A total of 46 attendees participated in presentations in 2012/13. More than 1,150 people have attended presentations in the four years from April 1, 2009 through March 31, 2013.

REQUESTS FOR INFORMATION

We continue to receive requests for information from consultant and organization lobbyists and other interested parties about the obligations and requirements under the *Act*. As expected, requests continue to decline since proclamation of the *Act* in September 2009. Other communications concerned:

- effecting notices of change;
- semi-annual renewals;
- terminating registrations of lobbying activities which were concluded;
- advice and assistance on completing the registration form online; and
- support for minor technical difficulties, which were usually resolved in less than one working day.

Communications about the *Act* and Registry were conducted electronically via email and by telephone. Communications were consistently effected in a timely manner and in every instance, the performance target was exceeded.

Performance Measures

Activity Measure	2012/13 Actual Percentage (Target)	2011/12 Actual Percentage (Target)
Respond to voicemails within four hours	98 (90)	98 (90)
Respond to emails within one business day	97 (90)	96 (90)
Respond to service request within two hours	99 (95)	99 (95)
Resolve service issue within two days	89 (75)	92 (75)

STATISTICAL YEAR IN REVIEW

Telephone Inquiries	2012/13	2011/12
Total calls	407	534
Average per week	7.8	10.3

Email Inquiries	2012/13	2011/12
Total emails	1,916	1,690
Average per month	160	141

As previously mentioned, 2012/13 is the third full year of Registry operations. Most of the people and organizations subject to the *Act* are now familiar with its application to their circumstances and are also familiar with the online registry. It should be noted the email count includes only messages received; it does not reflect responses to inquiries or emails originating with the Registrar.

LOBBYISTS REGISTRATIONS

The response from the lobbying community to the *Act* and the Registry continues to be overwhelmingly positive.

Registration Activities April 1, 2012 - March 31, 2013

Consultant Lobbyists	Updates	Undertakings
Registered undertakings carried forward from previous year		145
Current Year Activities:		
- New undertakings	44	44
- Change notices	57	
- Terminations	11	(11)
Undertakings as at March 31, 2013		<u>178</u>

Organization Lobbyists	Updates	Registrations
Registered organizations carried forward from previous year		134
Current Year Activities:		
- New organizations	49	49
- Change notices	60	
- Semi-annual notices	234	
- Terminations	8	(8)
Registrations as at March 31, 2013		<u>175</u>

463 registrations required review, approval and posting for an average of about nine per week.

REGISTRY WEBSITE ACTIVITY

Whether the *Act* and the Registry are fulfilling its public policy purpose can be measured, in part, by tracking the registry website activity.

Registry Website Activity April 1, 2012 – March 31, 2013

	Unique Visitors	Number of Visits	Pages Viewed	Hits
Total	15,539	30,108	377,394	832,654
Average per month	1,295	2,509	31,450	69,388

This level of activity clearly indicates those with an interest in using the website extends well beyond the lobbying community. Therefore, the purpose of the legislation is being met.

INVESTIGATIONS

Section 15 of the *Lobbyists Act* sets out when the Registrar shall conduct an investigation and when the Registrar can exercise discretion to decline an investigation. It states:

Investigations

15(1) *The Registrar shall conduct an investigation if the Registrar has reason to believe that an investigation is necessary to ensure compliance with this Act.*

(2) *The Registrar may refuse to conduct or may cease an investigation with respect to any matter if the Registrar is of the opinion that*

(a) the matter is one that could more appropriately be dealt with according to a procedure provided for under another enactment,

(b) the matter is minor or trivial,

(c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose, or

(d) there is any other valid reason for not dealing with the matter.

When an allegation and a request for an investigation is received, it must first be determined if the allegation falls within the jurisdiction of the *Lobbyists Act*. If it does, it is then determined if there is evidence to support the allegation included with the request for investigation. If there is some evidence that appears to support the allegation, then an investigation is commenced. If there is no such evidence, the Registrar initiates an administrative inquiry to determine whether there may be sufficient grounds to commence an investigation.

In 2012/13, the Registrar received three requests for investigation:

- Firstly, copies of documents were obtained through an Access to Information Request which appeared to support the allegation. This was sufficient evidence to commence an investigation. The matter resulted in the Investigation Report Concerning Joe Lougheed; no breach of the *Act* was found.
- Secondly, there was no supporting evidence provided by the complainant so an administrative inquiry was conducted. The inquiry found the organization lobbyist against whom the complaint was made had not met the 100-hour threshold above which registration is required; no investigation was commenced.
- Thirdly, there appeared to be a technical breach of a consultant lobbyist failing to register an undertaking within the timeline specified in the *Act*. However, the administrative inquiry determined this was an exceptional instance, with extenuating circumstances, and the consultant had policies and processes in place to comply with the limitation requirements of the *Act*. As such, there was no need to launch an investigation “to ensure compliance with the *Act*”.

Since the *Lobbyists Act* was proclaimed, there has been at least one investigation every year as well as other jurisdictionally-sound requests which subsequently did not require investigation. This volume of investigations and requests clearly demonstrates the *Act* is serving its purpose.

LEGISLATIVE REVIEW

As noted in the 2011/12 Annual Report, the legislation was reviewed by the Standing Committee on Legislative Officers, culminating in a report issued in November, 2011.

Following the 2012 General Election, the Honourable Donald Scott, QC, was appointed the Associate Minister of Accountability, Transparency and Transformation. We understand Minister Scott is reviewing the full suite of legislation applicable to his Ministerial mandate, which includes the *Lobbyists Act*. This office looks forward to working with the Minister when the time comes to consider the *Lobbyists Act*.

REGISTRAR'S REMARKS

It is clear the *Lobbyists Act* and Registry have made a significant contribution to openness, transparency and accountability of government in Alberta. It is noteworthy that others from across Canada are implicitly acknowledging this through their demonstrated interest in the Alberta experience. For example, officials from the Government of Saskatchewan contacted the Registrar several times in 2012/13 as part of that government's examination of the possibility of introducing comparable legislation in Saskatchewan.

The past year has seen the Registrar continue to review submissions for posting to the Registry, respond to telephone and electronic queries and address technical issues in a timely and effective manner.

These accomplishments could not have been achieved without the diligent support and efforts of:

- Neil Wilkinson, Ethics Commissioner – constant support, encouragement, and critical advice;
- Glen Resler, Chief Administrative Officer, Office of the Ethics Commissioner – business support and encouragement;
- Louise Read, Executive Support, Office of the Ethics Commissioner – administrative support;
- Rob Wright, AAD Inc. – website design, hosting and web master;
- Longview Systems – IT support; and
- The many lobbyists for their cooperation, patience and understanding.

The value of the team approach taken by this office cannot be over-emphasized; it is this teamwork that enables the smooth functioning of the Registry.

Finally, we gratefully acknowledge the valuable advice and counsel provided without hesitation by the other Lobbyist Registrars and Commissioners in Canada and their General Counsel.

Bradley V. Odsen, QC
Registrar



OFFICE OF THE ETHICS COMMISSIONER

Financial Statements - March 31, 2013

OFFICE OF THE ETHICS COMMISSIONER
Financial Statements
March 31, 2013

Independent Auditor's Report

Statement of Operations

Statement of Financial Position

Statement of Cash Flows

Notes to the Financial Statements

Schedule 1 – Salary and Benefits Disclosure

Schedule 2 – Allocated Costs

Independent Auditor's Report

To the Members of the Legislative Assembly

Report on the Financial Statements

I have audited the accompanying financial statements of the Office of the Ethics Commissioner, which comprise the statement of financial position as at March 31, 2013, and the statements of operations 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 audits 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 Ethics Commissioner as at March 31, 2013, and the results of its operations and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

[Original signed by Merwan N. Saher, FCA]

Auditor General

June 12, 2013
Edmonton, Alberta

STATEMENT OF OPERATIONS

YEAR ENDED MARCH 31, 2013

	2013		2012
	Budget	Actual	Actual
Revenue			
Other Revenue	\$ -	\$ 46	\$ 206
Total Revenue	-	46	206
Expenses – Directly Incurred (Note 3(b) and Schedule 2)			
Salaries, Wages, and Employee Benefits	609,000	589,534	560,065
Supplies and Services	331,000	183,664	174,087
Amortization of Tangible Capital Assets	29,000	30,399	57,715
Total Expenses	969,000	803,597	791,867
Net Operating Results	<u>\$ (969,000)</u>	<u>\$ (803,551)</u>	<u>\$ (791,661)</u>

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF FINANCIAL POSITION

AS AT MARCH 31, 2013

	<u>2013</u>	<u>2012</u>
Assets		
Prepaid Expenses	\$ 6,189	\$ 6,189
Tangible Capital Assets (Note 4)	56,553	43,635
	<u>\$ 62,742</u>	<u>\$ 49,824</u>
Liabilities		
Accounts Payable and Accrued Liabilities	\$ 1,038	\$ 1,772
Accrued Vacation Pay	46,469	43,721
	<u>47,507</u>	<u>45,493</u>
Net Assets		
Net Assets at Beginning of Year	4,331	21,017
Net Operating Results	(803,551)	(791,661)
Net Financing Provided from General Revenues	814,455	774,975
	<u>15,235</u>	<u>4,331</u>
Net Assets at End of Year	<u>\$ 62,742</u>	<u>\$ 49,824</u>

The accompanying notes and schedules are part of these financial statements.

STATEMENT OF CASH FLOWS

YEAR ENDED MARCH 31, 2013

	<u>2013</u>	<u>2012</u>
Operating Transactions		
Net Operating Results	\$ (803,551)	\$ (791,661)
Non-Cash Items included in Net Operating Results		
Amortization of Tangible Capital Assets	30,399	57,715
Gain on Disposal of Capital Assets	-	(206)
Valuation Adjustments	<u>2,748</u>	<u>1,461</u>
	(770,404)	(732,691)
Decrease in Accounts Payable and Accrues Liabilities	<u>(734)</u>	<u>(36,322)</u>
Cash Applied to Operating Transactions	<u>(771,138)</u>	<u>(769,013)</u>
Capital Transactions		
Proceeds on Disposal of Tangible Capital Assets	-	245
Acquisition of Tangible Capital Assets	<u>(43,317)</u>	<u>(6,207)</u>
Cash Provided by Capital Transactions	<u>(43,317)</u>	<u>(5,962)</u>
Financing Transactions		
Net Financing Provided From General Revenues	<u>814,455</u>	<u>774,975</u>
Increase in Cash	-	-
Cash, Beginning of Year	-	-
Cash, End of Year	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes and schedules are part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

YEAR ENDED MARCH 31, 2013

NOTE 1 AUTHORITY

The Office of the Ethics Commissioner (the Office) operates under the authority of the *Conflicts of Interest Act* and the *Lobbyists Act*. The net cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

NOTE 2 PURPOSE

The Office of the Ethics Commissioner enhances public confidence in the integrity of Members of the Legislative Assembly, former Ministers and former political staff members, and of the public service of Alberta by providing advice and guidance to Members and senior officials regarding their private interests in relation to their public responsibilities, by conducting investigations into allegations of conflicts of interest against Members, and by promoting the understanding by Members, senior officials and the public of the obligations regarding conflict of interest contained in legislation or directive.

The Office of the Ethics Commissioner is responsible for creating and maintaining a publicly-accessible lobbyists registry; providing advice and information to lobbyists and citizens on matters covered by the Lobbyists Act; and conducting investigations into possible contraventions of the Act which may require payment of an administrative penalty.

NOTE 3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with Canadian Public Sector Accounting Standards.

(a) Reporting Entity

The reporting entity is the Office of the Ethics Commissioner, for which the Ethics Commissioner is accountable.

The Office operates within the General Revenue Fund (the Fund). The Fund is administered by the President of Treasury Board and Minister of Finance. All cash receipts are deposited into the Fund and all cash disbursements are paid from the Fund. Net Financing provided from General Revenues is the difference between all cash receipts and all cash disbursements made.

(b) Basis of Financial Reporting

Revenue accounting policy

All revenues are reported on the accrual basis of accounting.

NOTE 3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

Expenses

Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- amortization of tangible capital assets.
- pension costs, which are the cost of employer contributions for current service of employees during the year, and
- valuation adjustments which include changes in the valuation allowances used to reflect financial assets at their net recoverable or other appropriate value. Valuation adjustments also represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. Financial assets of the Office are limited to prepaid expenses for office equipment.

Tangible capital assets of the Office are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets. The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000.

Liabilities

Liabilities are recorded to the extent that they represent present obligations as a result of events and transactions occurring prior to the end of fiscal year. The settlement of liabilities will result in sacrifice of economic benefits in the future.

Net Assets

Net Assets represent the difference between the Office's carrying value of assets held by the Office and its liabilities.

Canadian Public Sector Accounting Standards require a "net debt" presentation for the statement of financial position in the summary financial statements of governments. Net debt presentation reports the difference between financial assets and liabilities as

FINANCIAL STATEMENTS

NOTE 3 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

“net debt” or “net financial assets” as an indicator of the future revenues required to pay for past transactions and events. The Office operates within the government reporting entity, and does not finance its expenditures by independently raising revenues. Accordingly, these financial statements do not report a net debt indicator.

Valuation of Financial Assets and Liabilities

Fair value is the amount of consideration agreed upon in an arm’s length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of Prepaid Expenses and Accounts Payable and Accrued Liabilities are estimated to approximate their carrying values because of the short-term nature of these instruments.

NOTE 4 TANGIBLE CAPITAL ASSETS

	Office Equipment And Furniture	Computer Hardware and Software	Total
Estimated Useful Life	10 years	3 years	
Historical Cost			
Beginning of Year	\$ 28,517	\$ 174,895	\$ 203,412
Additions		43,317	43,317
	<u>\$ 28,517</u>	<u>\$ 218,212</u>	<u>\$ 246,729</u>
Accumulated Amortization			
Beginning of Year	\$ 12,110	\$ 147,667	\$ 159,777
Amortization Expense	2,238	28,161	30,399
	<u>\$ 14,348</u>	<u>\$ 175,828</u>	<u>\$ 190,176</u>
Net Book Value at March 31, 2013	<u>\$ 14,169</u>	<u>\$ 42,384</u>	<u>\$ 56,553</u>
Net Book Value at March 31, 2012	<u>\$ 16,407</u>	<u>\$ 27,228</u>	<u>\$ 43,635</u>

NOTE 5 CONTRACTUAL OBLIGATIONS

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

	<u>2013</u>	<u>2012</u>
Obligations under operating leases	<u>\$ 16,502</u>	<u>\$ 24,753</u>

Estimated payment requirements for the unexpired terms of these contractual obligations are as follows:

	<u>Long-term Leases</u>
2013-14	8,251
2014-15	<u>8,251</u>
	<u>\$ 16,502</u>

NOTE 6 BENEFIT PLANS

The Office participates in the multi-employer pension plans: Management Employees Pension Plan and Public Service Pension Plan and Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$81,738 for the year ending March 31, 2013 (2011 – \$79,878).

At December 31, 2012, the Management Employees Pension Plan reported a deficiency of \$303,423,000 (2011 – deficiency \$517,726,000), the Public Service Pension Plan reported a deficiency of \$1,645,141,000 (2011 – deficiency \$1,790,383,000), and the Supplementary Retirement Plan for Public Service Managers reported a deficiency of \$51,870,000 (2011 – deficiency \$53,489,000)

At December 31, 2011, the Supplementary Retirement Plan for Public Service Managers had a deficiency of \$53,489,000 (2010 – \$39,559,000).

The Office also participates in a multiemployer Long Term Disability Income Continuance Plan. At March 31, 2013, the Bargaining Unit Plan reported an actuarial surplus of \$51,717,000 (2012 – surplus of \$9,136,000) and the Management, Opted Out and Excluded Plan reported an actuarial surplus of \$18,327,000 (2012 – surplus of \$10,454,000). The expense for these two plans is limited to employer's annual contributions for the year.

NOTE 7 APPROVAL OF FINANCIAL STATEMENTS

The financial statements were approved by the Ethics Commissioner.

SALARY & BENEFITS DISCLOSURE

YEAR ENDED MARCH 31, 2013

SCHEDULE 1

	2013			2012
	Base Salary ^(a)	Other Cash Benefits ^(b)	Other Non-cash Benefits ^(c)	Total ^(d)
Senior Official Ethics Commissioner	\$ 143,150	\$ 8,919	\$ 28,933	\$ 181,002
	<u>\$ 143,150</u>	<u>\$ 8,919</u>	<u>\$ 28,933</u>	<u>\$ 181,002</u>
				<u>\$ 188,986</u>

Prepared in accordance with Treasury Board Directive 12/98 as amended.

- (a) Base salary includes regular base pay.
- (b) Other cash benefits include vehicle allowance and Health Spending Account. There was no bonus paid in 2013.
- (c) Other non-cash benefits include the government's share of all employee benefits and contributions or payments made on behalf of the Commissioner, including pension (for nine months), health care, dental coverage, group life insurance, short and long term disability plans, and professional memberships.
- (d) Prior year salary and benefits included vacation payout and pension contributions for full year.

ALLOCATED COSTS
YEAR ENDED MARCH 31, 2013

SCHEDULE 2

	2013			2012	
	<u>Expenses – Incurred by Others</u>				
<u>Program</u>	<u>Expenses</u> ^(a)	<u>Accommodation</u> <u>Costs</u> ^(b)	<u>Telephone</u> <u>Costs</u> ^(c)	<u>Total</u> <u>Expenses</u>	<u>Total</u> <u>Expenses</u>
Operations	<u>\$803, 597</u>	<u>\$ 62,707</u>	<u>\$ 2,095</u>	<u>\$ 868,399</u>	<u>\$ 852,444</u>

- (a) Expenses – Directly Incurred as per Statement of Operations.
- (b) Costs shown for Accommodation include grants in lieu of taxes.
- (c) Telephone Costs is the line charge for all phone numbers.

For information on the functions and responsibilities of the Office of the Ethics Commissioner, contact:

Office of the Ethics Commissioner

Suite 1250, 9925 - 109 Street NW, Edmonton, Alberta T5K 2J8

Phone: (780) 422-2273

Fax: (780) 422-2261

Email: info@ethicscommissioner.ab.ca

Website: www.ethicscommissioner.ab.ca

For information on the *Lobbyists Act* or the functions and responsibilities of the Registrar, *Lobbyists Act*, contact:

Registrar, *Lobbyists Act*

Suite 1250, 9925 - 109 Street NW, Edmonton, Alberta T5K 2J8

Phone: (780) 644-3879

Fax: (780) 422-2261

Email: registrar@ethicscommissioner.ab.ca

Website: www.lobbyistsact.ab.ca



Office of the
ETHICS COMMISSIONER

ANNUAL REPORT

2012/2013