

Province of Alberta

Office of the  
**ETHICS COMMISSIONER**



Annual Report **2010/11**

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





November 21, 2011

Hon. Kenneth R. Kowalski  
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, 2010 to March 31, 2011. Included in the Report is an update on the Lobbyists Registry.

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.

Yours very truly,

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

Neil R. Wilkinson  
Ethics Commissioner

## TABLE OF CONTENTS

- 3** Ethics Commissioner Remarks
- 5** Vision, Mission, Values and Principles
- 6** Our Role
- 9** *Conflicts of Interest Act*
  - Disclosure Process
  - Provision of Advice
  - Conduct of Investigations
  - Requests for Information
  - Comparative Statistics
- 15** Educational Initiatives
  - Ethics Events or Conferences
  - Speaking Engagements / Presentations
  - Publications
- 17** *Lobbyists Act*
  - Registry Operations and Administration
  - Contracts and RFPs
  - Education
  - Requests for Information
  - Statistical Year in Review
  - Lobbyists Registrations
  - Registry Website Activity
  - Investigations
  - Legislative Review
  - Registrar's Remarks
- 24** Financial Statements
- 37** Contact Us

It is my pleasure to submit the 2010/11 Annual Report for the Office of the Ethics Commissioner. I am committed to promoting public confidence and trust in the integrity of elected Members of the Legislative Assembly and senior officials of the Alberta public service by ensuring obligations under the *Conflicts of Interest Act* are met. In addition, I promote the accountability and transparency of the Lobbyists Registry.

The *Conflicts of Interest Act* is self-governing legislation. The obligation to avoid conflicts of interest rests with Members of the Legislative Assembly (MLAs) and senior officials. The Office of the Ethics Commissioner's role is to assist in the interpretation of the *Act* and provide advice. If advice is followed, no proceedings or prosecution is taken. An alleged breach of the *Act* may result in an investigation.

## THE YEAR IN REVIEW

I previously spoke about our Office being asked to assume some responsibility for code of conduct matters involving the Government of Alberta's various agencies, boards and commissions. Our role was to be set out in regulation under the *Alberta Public Agencies Governance Act*, but the *Act* has not been proclaimed. As a result, our Office has no legislative authority to provide advice and assistance to agencies in matters of conflict of interest. Due to the continued delay in proclaiming the *Alberta Public Agencies Governance Act* and regulations, we met with the Agency Governance Secretariat and agreed all references to the Ethics Commissioner in an agency's code of conduct must be removed. Our Office will continue to provide informal confidential advice on conflict of interest matters to the Chairs of public agencies.

2010/11 was the first full year of operation of the Lobbyists Registry. The lobbyist community continues to be engaged and in compliance with this new legislation which promotes ethical leadership by its openness and accountability in government. Our Office will participate in a mandated legislative review of the *Lobbyists Act* commencing in 2011. In anticipation of this review, our Office facilitated stakeholder consultations in January 2011 to provide lobbyists an opportunity to engage with our Office about potential improvements to the legislation and the online registry.

We also completed our first investigation under the *Lobbyists Act*. No breach of the legislation was identified. See page 22 for further details.

With the introduction of the Lobbyists Registry within our Office, we consulted with Alberta Infrastructure and Shelterbelt Architecture to address our space limitations. We were pleased to incorporate the Registry within the same office footprint and we have improved the effective use of our space, negating the cost of moving to larger premises. In addition, a new lease was signed with our landlord.

All MLAs and senior officials annually submit disclosure statements, meet with me to discuss these statements and, on their own initiative, contact my Office for advice. Public disclosure is part of the sacrifice Members make for public service. To gain the trust and confidence of the public, Members must demonstrate a high standard of ethical conduct not only in their public lives but also in their private lives. We believe Members and senior officials effectively reconcile their duties of office and their private interests with integrity and impartiality in a manner that promotes public confidence and trust.

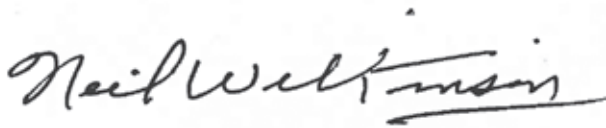
We are approached for advice by MLAs, senior officials, the public service and persons seeking elected office. Since my appointment, the requests for advice have increased by 13%. I am pleased with the impartial and independent service our Office provides, the trusted relationships that have developed over the years and the adherence paid to my advice.

We continue to focus on outreach activities to raise the awareness of the Office and reflect positively on the Legislative Assembly and its Members. As we move towards the next general election, we will make ourselves available to candidates seeking election to the Legislative Assembly of Alberta, to parties requesting group presentations to their candidates on the requirements under the *Conflicts of Interest Act* upon election to the Assembly and to former Ministers and political staff members regarding post-employment obligations.

## IN CONCLUSION

The Office of the Ethics Commissioner serves Albertans by a small and dedicated staff. Our administrative support was provided by two part-time staff. We say farewell to Val Henkel and welcome Louise Read in a full-time role within the Office. I wish to also thank Glen Resler, Chief Administrative Officer and Brad Odsen Q.C., Registrar, *Lobbyists Act* and General Counsel. I wish to acknowledge their professionalism and dedication in fulfilling their duties.

I am grateful for the opportunity to serve this Office and for the support and co-operation received by the Legislative Assembly and senior officials.



Neil R. Wilkinson  
Ethics Commissioner

## 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

- 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, with the exception of 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 that promotes public confidence and trust in the integrity of each Member, that maintains the Assembly’s dignity and that 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 the understanding of the Members’ obligations under the Act;
- receives disclosure statements from all 83 MLAs and from those public servants whose positions are designated as Senior Official positions;
- 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 members and senior officials as defined in the *COI Act*;
- provides advice under the Alberta Public Service Post-Employment Restriction Regulation to those individuals who are covered by post-employment restrictions as set out in that Regulation; 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 make the report public. 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 (Reference: section 28 of the *COI Act*). Under the *COI Act*, if the Ethics Commissioner has 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 it 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) it considers appropriate, or impose no 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.

## **LOBBYISTS ACT**

The *Lobbyists Act* is intended to enhance the integrity and accountability of government by fostering openness and transparency about who is influencing the decisions of 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, unless an exemption is given.

The preamble of the *Lobbyists Act* 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 Lobbyists Registry provides openness and transparency by:

- recording the identities and activities of people paid to influence the decisions of 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 as the public can view, search and obtain statistics and reports about lobbyists free of charge over the Internet.

The convenient, accessible web-based registry allows access 24 hours per day, seven days a 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 exercise or perform, subject to any restrictions or limitations that the Ethics Commissioner may specify, any of the powers, duties or functions of the Registrar under this *Act*. The Ethics Commissioner delegated the administrative and enforcement responsibilities of Registrar to Bradley V. Odsen, Q.C. (section 11(2) of the *Lobbyists Act*).

However, under the *Act*, certain powers and responsibilities are reserved to the Ethics Commissioner and cannot be delegated:

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

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

## DISCLOSURE PROCESS

All MLAs and senior officials have complied with their obligations to file disclosure statements within the appropriate timelines. Compliance is still dependent on the support of caucus whips along with reminder letters and phone calls from our Office. I wish to thank caucus staff for their efforts to ensure Members continue to comply at the 100% level.

The Ethics Commissioner received private disclosure forms from all 83 Members and met with each Member to discuss their forms. MLA public disclosure statements were made available through the Office of the Clerk of the Legislative Assembly. In January 2011, the Office asked the Standing Committee on Legislative Offices to allow us to post public disclosure forms on our website. The Committee deferred the issue of electronic posting of Members' disclosure statements to the legislative review of the *Conflicts of Interest Act* which is scheduled for 2012.

Senior officials are also required to submit disclosure statements, similar to MLAs. This is in addition to their obligations under the Code of Conduct and Ethics for the Public Service of Alberta. A total of 82 disclosure meetings were held with senior officials. When reviewing disclosure by senior officials of agencies, boards and commissions, we will also look at compliance with their internal conflict of interest policies. The disclosure directive does not require senior official statements to be made public.

The 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, excluding investments in a blind trust;
- identifying any legal proceeding brought against them; and
- stating whether maintenance payments are in arrears.

The following is a measure of the compliance in reporting financial disclosure.

### Disclosure Statement Timelines

Category of Filer	Forms Distributed	Submission Deadline	Compliance
Members of the Legislative Assembly	March 22, 2010	June 1, 2010	100%
Senior Officials	September 24, 2010	December 1, 2010	100%

## PROVISION OF ADVICE

If Members, senior officials or political staff members seek and follow advice from the Ethics Commissioner, the person is provided protection against allegations of a breach of the Act, directive or post-employment regulation and no proceedings or prosecution are taken against the official. This advice is given in writing. A confidential searchable database of requests and responses is maintained by our Office for future reference. When providing advice, we ensure consistent responses to similar requests for advice.

The following chart shows the most common types of advice provided by our Office in 2010/11 compared to 2009/10 followed by a brief description of each type of advice. In 2010/11, requests for advice increased by 5%.

### Requests For Advice

Types of Advice	2010/11	2009/10
Gifts	39	36
Taking Part in Decisions	11	15
Investments	6	13
Other	7	10
Outside Activities	21	9
Codes of Conduct	4	8
Family	13	7
Contracts with the Crown	1	6
Constituency Issues	7	3
Post Employment	6	3
Total	115	110

#### *Gifts*

As noted in previous annual reports, the most frequently asked questions are about gifts. Questions continue to be raised about the acceptability of tickets to sports events, various fundraisers and acceptance of non-commercial flights. Many Members track all gifts, including tickets to events, to ensure they are mindful of both the value of cumulative gifts they receive from one source and any connections between a source and the Member's public responsibilities.

#### *Taking Part in Decisions*

Generally, Members consider their personal holdings or 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.

## *Investments*

A total of five requests were made in 2010/11 regarding investments. 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.

## *Other*

This category includes requests about disclosure statements and Members participating on boards of charities or other not-for-profit entities.

## *Outside Activities*

Questions regarding outside activities are almost exclusively raised by private Members. For new Members, the question is most frequently about what they may continue to do and whether there are identifiable conflicts if they continue to have outside employment. There may be a link between these questions and questions about a Member's obligation to withdraw where a private interest has been identified.

## *Codes of Conduct*

Under the *Alberta Public Agencies Governance Act* and regulations, our Office has been asked to assume some responsibility for code of conduct matters involving the Government of Alberta's various agencies, boards and commissions. Several boards sought our advice on aspects of their agency's code of conduct. The *Act* received Royal Assent on June 4, 2009 and has not yet been proclaimed.

Without proclamation, the Ethics Commissioner has no legislative authority to provide advice and assistance to agencies regarding conflict of interest. Due to the continued delay in proclaiming the *Alberta Public Agencies Governance Act* and regulations, the Commissioner and the Agency Governance Secretariat agreed all references to the Ethics Commissioner must be removed from an agency's code of conduct. Our Office will continue to provide informal confidential advice on conflict of interest matters to the Chairs of public agencies.

## *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 in the investments category.

## *Constituency Issues*

Constituency issues relate to the provision of assistance to constituents, the use of a constituency allowance or social obligations within the constituency. Where questions about the Member's constituency allowance are more within the mandate of the Office of the Speaker, the Member is referred to that Office.

## *Contracts*

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

## *Post-Employment*

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

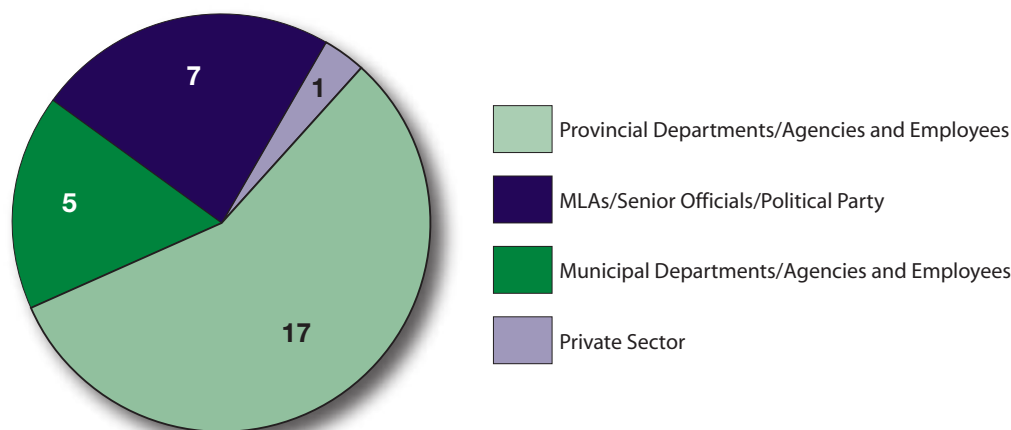
## CONDUCT OF INVESTIGATIONS

No investigations were commenced under the *Conflicts of Interest Act* during 2010/11, nor were any investigations carried forward from last year.

The majority of requests for investigation to this Office involve matters which are non-jurisdictional. Where a request involves an MLA, the matter may not fall under the *Conflicts of Interest Act*. The incident usually involves the decision of a department or a citizen's view that the Member took inappropriate actions. When requests are non-jurisdictional, citizens are referred to the appropriate office for assistance.

The following chart illustrates the categories of jurisdictions in which we are requested to investigate. The total number of requests for investigations has increased by 4% over the previous year.

**Requests for Investigations (Total: 30)**



The following table illustrates the length of time to respond to requests for investigation. Letters tend to be more detailed, resulting in a longer time to respond.

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 Calls (6)	5	0	1
E-mails (14)	5	6	3
Letters (10)	1	1	8
<b>TOTAL</b>	<b>11</b>	<b>7</b>	<b>12</b>

Under the Code of Conduct and Ethics for the Public Service of Alberta, an employee may apply to the Ethics Commissioner for a ruling about a conflict of interest by a Deputy Head. In 2010/11, an application was made, an investigation was conducted and as per the Code, recommendations were provided to the Minister of the department.

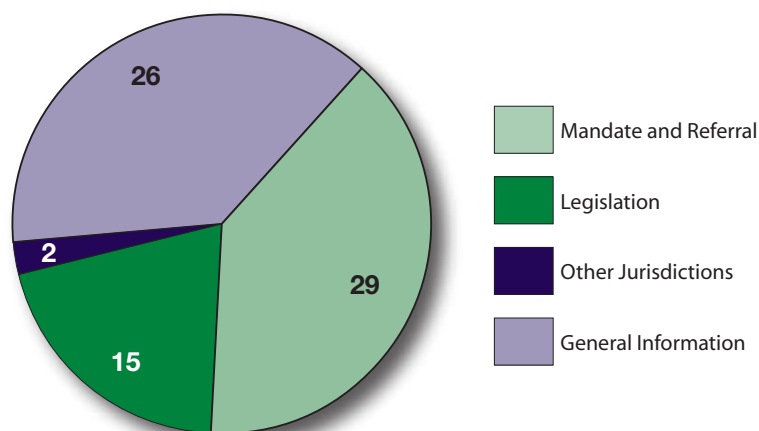
Although the *Alberta Public Agencies Governance Act* has not been proclaimed, we assist agencies upon request but the advice provided is not binding on the agency making the request. Before we commence a review, agreement to proceed is requested from both parties involved in a conflict of interest decision. This year, two requests were received by our Office. In both instances, the Ethics Commissioner was identified in the agency's code of conduct as a level of review for a decision made by a Board Chair. Recommendations were provided and accepted in both instances.

## REQUESTS FOR INFORMATION

The majority of requests for information received by this Office are from callers seeking clarification about the Ethics Commissioner's mandate. Callers are referred to the appropriate office if we are unable to assist them.

There were 72 requests for information this year, representing a 9% increase over last year. The following chart categorizes the requests:

### Requests for Information (Total: 72)



## COMPARATIVE STATISTICS

The chart below reflects the volume of requests received by our Office that deal with the total requests for advice, investigation and information.

<b>Total Requests Received for:</b>	<b>2010/11</b>	<b>2009/10</b>
<b>Advice</b>	115	110
<b>Investigations</b>	28	27
<b>Information</b>	72	66
<b>TOTAL</b>	215	203

Total requests were up 6% in 2010/11 over last year.



## ETHICS EVENTS OR CONFERENCES

Participating in annual conferences is very beneficial to our small office as it 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 Lobbyists Registrars and Commissioners conferences and the Council of Governmental Ethics Laws conference.

## SPEAKING ENGAGEMENTS / PRESENTATIONS

Date	Presentation, Speech or Caucus Session
May 26, 2010	American Society for Industrial Security – Edmonton Chapter
October 27, 2010	School at the Legislature, George P. Nicholson School
February 17, 2011	American Society for Industrial Security – Calgary Chapter

Presentations by the Lobbyist Registrar are detailed on page 18 of this report.

## 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.

Because conflicts of interest about gifts continues to be our most frequently asked question, we issued *Quick Guide #2: Gift Acceptance and Disclosure*. This guide provides Members detailed information on the legislation, its exemptions and examples.

We currently produce the following brochures under the *Conflicts of Interest 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 our publications are on our website at:

[www.ethicscommissioner.ab.ca](http://www.ethicscommissioner.ab.ca)

**REGISTRY OPERATION AND ADMINISTRATION**

2010/11 was the first full year of operation of the Lobbyists Registry and it has been an unqualified success.

The Preamble to the Lobbyists Act, S.A. 2007, Cap. L-20.5 states:

**Preamble**

*WHEREAS free and open access to government is an important matter of public interest; and*

*WHEREAS lobbying public office holders is a legitimate activity; and*

*WHEREAS it is desirable that the public and public office holders be able to know who is engaged in lobbying activities; and*

*WHEREAS a system for the registration of paid lobbyists should not impede free and open access to government; and*

*WHEREAS it is desirable that the public and public office holders be able to know who is contracting with the Government of Alberta and Provincial entities.*

This preamble provides a clear statement of the public policy served by the Act and helps gauge the qualitative effectiveness of the Registry to date.

Desired Outcome	Demonstrated Effectiveness
Free and open access to government is an important matter of public interest.	In our democratic society, the right to “petition the Crown” dates back to the <i>Magna Carta</i> . There is nothing in the Act which limits or constrains that fundamental right.
Lobbying public office holders is a legitimate activity.	The requirement that lobbyists provide particulars of lobbying activity and subject matter in the registration posted on the Registry website demonstrates the legitimacy of the represented interests and the methods used to convey information to government.
It is desirable that the public and public office holders be able to know who is engaged in lobbying activities.	Lobbyists conducting lobbying activities must be named in the registration posted on the Registry website which enables the public and public office holders to access that information at any time.

Desired Outcome	Demonstrated Effectiveness
A system for the registration of paid lobbyists should not impede free and open access to government.	The requirements of lobbyists contained in the <i>Act</i> do not impede free and open access to government. Further, the exceptions and exemptions contained in the <i>Act</i> encourage stakeholder participation in the process of government policy development.
It is desirable that the public and public office holders be able to know who is contracting with the Government of Alberta and Provincial entities.	Lobbyists or their clients are required to disclose the existence of government contracts on their registration which is posted on the Registry website. This makes this information available to the public and public office holders at any time.

## CONTRACTS AND RFPs

No RFPs were issued in 2010/11. There was one contract valued at \$8,000 entered into with AAD Inc., our website host and service provider, to enhance functionality of the website. These enhancements were identified by users as increasing their ease of use of the site.

## EDUCATION

Educational activities were begun by the Registrar in 2008/09, reached their pinnacle in activity terms in 2009/10, and began to decline in frequency in 2010/11. The decline in presentations in 2010/11 is the result of the vast majority of those affected by the *Act* are aware of it and its requirements and are in compliance. Ten presentations were delivered in Edmonton between April 1, 2010 and March 31, 2011.

Media in 2010/11 included interviews given for articles published in the *Edmonton Journal*, *Calgary Herald*, *Edmonton Sun*, *Alberta Views Magazine*, *The Lawyers' Weekly*, *Insight Into Government*, and the *Armet Report*. The Registrar also appeared on *Alberta Prime Time*, an Access TV program, to discuss the *Act* and the Registry.

Presentation Comparison Chart

Total Requests Received for:	2010/11	2009/10
Associations	6	22
Businesses	0	6
MLAs & staff	0	5
Government*	4	5
<b>TOTAL</b>	<b>10</b>	<b>38</b>

\* Delivered jointly with Joan Neatby, Senior Legislative Counsel, Alberta Justice

A total of 229 attendees participated in presentations in 2010/11 or 844 attendees in the two years from April 1, 2009 through March 31, 2011.

Number of Attendees	2010/11	2009/10
Associations	159	228
Businesses	0	93
MLAs & staff	0	195
Government*	70	99
<b>TOTAL</b>	<b>229</b>	<b>615</b>

\* Delivered jointly with Joan Neatby, Senior Legislative Counsel, Alberta Justice

We continue to deliver presentations in 2011/12 and opportunities for presentations continue to be explored. However, presentation frequency continues to decline as there are few organizations engaging in lobbying activities that are still unaware of the Act and its implications.

## REQUESTS FOR INFORMATION

Requests for information from consultant and organization lobbyists and other interested parties about the obligations and requirements under the *Act* continued in 2010/11 but to a lesser degree than in the period following proclamation of the *Act* in September 2009. Other communications concerned effecting notices of change, semi-annual renewals, terminating registrations of lobbying activities that had been concluded, advice and assistance on applying to register and completing the registration form online, and providing support for minor technical difficulties, which were usually resolved in less than one working day.

Communications concerning the *Act* and Registry were conducted electronically via email and by telephone. Communications were consistently effected in a timely manner as in each instance, the performance target was met or exceeded.

### Performance Measures

Activity Measure	2010/11 Actual Percentage (Target)	2009/10 Actual Percentage (Target)
Respond to voicemails within 4 hours	98 [90]	98 [90]
Respond to emails within 1 business day	96 [90]	95 [90]
Respond to service request within 2 hours	99 [95]	99 [95]
Resolve service issue within 2 days	90 [75]	85 [75]

## STATISTICAL YEAR IN REVIEW

Telephone Inquiries	2010/11	2009/10
<b>Total calls</b>	701	627
<b>Average per week</b>	13.5	13.6*

\* Based on 46 weeks

Email Inquiries	2010/11	2009/10
<b>Total emails</b>	3,546	3,773
<b>Average per month</b>	296	343*

\* Based on 11 months

## LOBBYISTS REGISTRATIONS

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

### Registration Activities by Category of Lobbyist and Type of Activity April 1, 2010 through March 31, 2011

<b>Consultant Lobbyists</b>	<b>Updates</b>	<b>Undertakings</b>
Registered undertakings carried forward from previous year		149
Current Year Activities:		
- New undertakings		53
- Change notices	18	
- Terminations		0
Registered undertakings as at March 31, 2011		<u>202</u>

<b>Organization Lobbyists</b>	<b>Updates</b>	<b>Registrations</b>
Registered organizations carried forward from previous year		110
Current Year Activities:		
- New organizations		7
- Change notices	11	
- Semi-annual notices	34	
- Terminations		0
Registered undertakings as at March 31, 2011		<u>117</u>

A total of 123 registrations required review, approval, and posting, or an average of more than two per week.

## REGISTRY WEBSITE ACTIVITY

The question of whether the Act and the Registry are succeeding in fulfilling its public policy purpose can be measured, in part, by tracking the registry website activity.

### Registry Website Activity April 1, 2010 – March 31, 2011

	<b>Unique Visitors</b>	<b>Number of visits</b>	<b>Pages</b>	<b>Hits</b>
<b>Total</b>	17,266	27,571	538,511	1,201,507
<b>Average per month</b>	1,439	2,298	44,876	100,126

With about 400 registered users in this period, the numbers clearly demonstrates those with an interest in using the website extends beyond the lobbying community and the purpose of the legislation is being met.

## INVESTIGATIONS

On October 6, 2010 the Ethics Commissioner submitted a report to the Speaker of the Legislative Assembly on the investigation into allegations involving Ian Murray and Company Ltd. (IMC), a consultant firm registered under the *Lobbyists Act*.

Our Office was asked to ensure IMC was in compliance with Section 6 of the *Lobbyists Act*. Section 6 of the *Act* prohibits lobbying activity on a subject matter in which the person holds a contract to provide paid advice on the same subject matter.

The evidence clearly showed IMC did not breach section 6 of the *Act*. A complete copy of the investigative report is available at [www.lobbyistsact.ab.ca](http://www.lobbyistsact.ab.ca) under the tabs Enforcement/Investigative Reports.

## LEGISLATIVE REVIEW

The *Lobbyists Act* was Proclaimed on September 28, 2009. Section 21 of the *Act* states:

### Review of Act

*Within 2 years after this Act comes into force and every 5 years after that, a special committee established by the Legislative Assembly shall begin a comprehensive review of this Act and shall submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.*

Though the *Act* is not lengthy, it is nonetheless detailed and complex; the majority of issues arising relate to its interpretation and application are questions of fact. Telephone and email logs and the database of queries and responses provide a picture of the issues arising most often for lobbyists and the Registrar.

In anticipation of the legislatively-mandated review in the fall of 2011, two half day workshops were held in January 2011, with selected representatives of organization and consultant lobbyists in Calgary and Edmonton. These workshops provided an opportunity for those most affected by the *Act* to consider it objectively and suggest what, if any, improvements might be made. It also provided an opportunity for participants to provide their objective assessment of the ease of use of the online Registry and where improvements might be made and an opportunity to provide a qualitative assessment of the service satisfaction provided by the Registrar. The information gained from these workshops will, along with other data compiled by the Registrar, inform the submission made by the Office of the Ethics Commissioner to the Legislative Review Committee in its deliberations.



## REGISTRAR'S REMARKS

As the foregoing shows, 2010/11 has been a year of consolidation and accomplishment. While the hectic pace of the initial five months of operation of the Registry slowed somewhat in this, the first full year of operation, there continued to be a schedule of educational presentations to a diverse set of audiences, responding to lobbyists queries and concerns and to addressing technical issues in as timely and effective a manner as possible. These challenges could not have been met, and the accomplishments made, without the diligent support and effort of:

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

It is clear the *Lobbyists Act* and Registry have made a significant contribution to openness, transparency and accountability of government in Alberta. It continues to be an honour and a privilege to contribute to the realization of this vision.

Bradley V. Odsen, Q.C.  
Registrar



# OFFICE OF THE ETHICS COMMISSIONER

Financial Statements - March 31, 2011



**OFFICE OF THE ETHICS COMMISSIONER**  
**Financial Statements**  
**March 31, 2011**

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, 2011, 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 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 Ethics Commissioner as at March 31, 2011, 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, CA]

Auditor General  
June 17, 2011  
Edmonton, Alberta

## STATEMENT OF OPERATIONS

FOR THE YEAR ENDED MARCH 31, 2011

	2011		2010
	Budget	Actual	Actual
<b>Revenues</b>			
Prior Year Expenditure Refund	\$ -	\$ -	\$ 8,048
Other Revenue	-	11	6
	-	11	8,054
<b>Expenses – Directly Incurred (Note 3(b) and Schedule 2)</b>			
Voted			
Salaries, Wages, and Employee Benefits	545,000	546,412	535,147
Supplies and Services	378,000	203,467	177,629
Supplies and Services from Support Arrangements with Related Parties (Note 7)	-	-	18,750
Amortization of Tangible Capital Assets	20,000	59,342	32,818
Total Voted Expenses	943,000	809,221	764,344
<b>Statutory</b>			
Valuation Adjustments (Decrease in)/Provision for Vacation Pay	-	(7,042)	19,670
	943,000	802,179	784,014
Gain on Disposal of Capital Assets	-	460	-
Net Operating Results	<u>\$ (943,000)</u>	<u>\$ (801,708)</u>	<u>\$ (775,960)</u>

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

## STATEMENT OF FINANCIAL POSITION FOR THE YEAR ENDED MARCH 31, 2011

	<u>2011</u>	<u>2010</u>
<b>Assets</b>		
Prepaid Expenses	\$ 6,189	\$ 6,225
Tangible Capital Assets (Note 4)	<u>95,182</u>	<u>155,232</u>
	<u>\$ 101,371</u>	<u>\$ 161,457</u>
<b>Liabilities</b>		
Accounts Payable and Accrued Liabilities	\$ 38,094	\$ 35,656
Accrued Vacation Pay	<u>42,260</u>	<u>49,302</u>
	<u>80,354</u>	<u>84,958</u>
<b>Net Assets</b>		
Net Assets at Beginning of Year	76,499	104,312
Net Operating Results	(801,708)	(775,960)
Net Financing Provided from General Revenues	<u>746,226</u>	<u>748,147</u>
	<u>21,017</u>	<u>76,499</u>
	<u>\$ 101,371</u>	<u>\$ 161,457</u>

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

## STATEMENT OF CASH FLOWS

### FOR THE YEAR ENDED MARCH 31, 2011

	2011	2010
<b>Operating Transactions</b>		
Net Operating Results	\$ (801,708)	\$ (775,960)
Non-cash Items included in Net Operating Results		
Amortization of Tangible Capital Assets	59,342	32,818
Valuation Adjustments	(7,042)	19,670
Gain on Disposal of Capital Assets	(460)	-
	(749,868)	(723,472)
Decrease/(Increase) in Prepaid Expenses	36	(6,166)
Increase in Accounts Payable	2,438	7,658
Cash Applied to Operating Transactions	(747,394)	(721,980)
<b>Capital Transactions</b>		
Proceeds on Disposal of Tangible Capital Assets	1,168	-
Acquisition of Tangible Capital Assets	-	(26,167)
Cash Applied to (Received from) Capital Transactions	1,168	(26,167)
<b>Financing Transactions</b>		
Net Financing Provided From General Revenues	746,226	748,147
Increase in Cash	-	-
Cash, Beginning of Year	-	-
Cash, End of Year	\$ -	\$ -

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

## 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 conflict 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 is administered by the Minister of Finance and Enterprise. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office 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

#### Revenues

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 during the year.
- valuation adjustments which 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 carrying value of assets held by the Office and its liabilities.

#### 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, accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

## NOTES TO THE FINANCIAL STATEMENTS

FOR THE YEAR ENDED MARCH 31, 2011

### Note 4 Tangible Capital Assets

	Office equipment and furniture	Computer hardware and software	2011 Total	2010 Total
Estimated Useful Life	10 years	3 years		
Historical Cost				
Beginning of Year	\$ 33,448	\$ 186,972	\$ 220,420	\$ 194,253
Additions	-	-	-	26,167
Disposals	(6,458)	(12,077)	(18,535)	-
	<u>\$ 26,990</u>	<u>\$ 174,895</u>	<u>\$ 201,885</u>	<u>\$ 220,420</u>
Accumulated Amortization				
Beginning of Year	\$ 17,830	\$ 47,358	\$ 65,188	\$ 32,370
Amortization Expense	2,571	56,771	59,342	32,818
Effect of Disposals	(5,750)	(12,077)	(17,827)	-
	<u>\$ 14,651</u>	<u>\$ 92,052</u>	<u>\$ 106,703</u>	<u>\$ 65,188</u>
Net Book Value at March 31, 2011	<u>\$ 12,339</u>	<u>\$ 82,843</u>	<u>\$ 95,182</u>	
Net Book Value at March 31, 2010	<u>\$ 15,618</u>	<u>\$ 139,614</u>		<u>\$ 155,232</u>

## Note 5 Defined Benefit Plans

The Office participates in the multiemployer pension plans, Management Employees Pension Plan and Public Service Pension Plan. The expense for these pension plans is equivalent to the annual contributions of \$61,417 for the year ending March 31, 2011 (2010 – \$62,171).

At December 31, 2010, the Management Employees Pension Plan reported a deficiency of \$397,087,000 (2009 – \$483,199,000) and the Public Service Pension Plan reported a deficiency of \$2,067,151,000 (2009 – \$1,729,196,000).

At December 31, 2010, the Supplementary Retirement Plan for Public Service Managers had a deficiency of \$39,559,000 (2009 – \$39,516,000).

The Office also participates in a multiemployer Long Term Disability Income Continuance Plan. At March 31, 2011, the Management, Opted Out and Excluded Plan reported an actuarial surplus of \$7,020,000 (2010 – surplus of \$7,431,000). The expense for this plan is limited to employer's annual contributions for the year.

## Note 6 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>2011</u>	<u>2010</u>
Obligations under operating leases	<u>\$ 33,036</u>	<u>\$ 39,230</u>

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

	<u>Long-term Leases</u>
2011-12	\$ 8,259
2012-13	8,259
2013-14	8,259
2014-15	8,259
	<u>\$ 33,036</u>

## **Note 7 Related Party Transactions**

Until December 31, 2009, the Office of the Ethics Commissioner received financial services from the Office of the Information and Privacy Commissioner. Supplies and Services from Support Arrangements with Related Parties in the amount of \$18,750 are included with voted expenses for the year ended March 31, 2010.

## **Note 8 Approval of Financial Statements**

The financial statements were approved by the Ethics Commissioner.

**SALARY & BENEFITS DISCLOSURE**

FOR THE YEAR ENDED MARCH 31, 2011

**Schedule 1**

	2011			2010
	Base Salary <sup>(a)</sup>	Other Cash Benefits <sup>(b)</sup>	Other Non-cash Benefits <sup>(c)</sup>	Total
Senior Official Ethics Commissioner	\$ 125,328	\$ 31,011	\$ 27,612	\$ 183,951
				\$ 171,397

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, vacation payout (\$21,261) and a lump sum payment. There was no bonus paid in 2011.
- (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, health care, dental coverage, group life insurance, short and long term disability plans, and professional memberships.

## ALLOCATED COSTS

FOR THE YEAR ENDED MARCH 31, 2011

### Schedule 2

Program	2011				2010	
	Expenses <sup>(a)</sup>	Accommodation Costs <sup>(b)</sup>	Telephone Costs <sup>(c)</sup>	Valuation Adjustment Vacation Pay <sup>(d)</sup>	Total Expenses	Total Expenses
Operations	\$ 809,221	\$ 54,362	\$ 1,875	\$ 7,042	\$ 872,500	\$ 843,247

(a) Expenses – Directly Incurred as per Statement of Operations, excluding valuation adjustments.

(b) Costs shown for Accommodation include grants in lieu of taxes.

(c) Telephone Costs is the line charge for all phone numbers.

(d) Valuation Adjustment as per Statement of Operations.

For information on the functions and responsibilities of the  
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**Office of the Ethics Commissioner**

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

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