



2018/2019

# Annual Report



OFFICE OF THE  
ELECTION  
COMMISSIONER

Office of Election Commissioner  
2018/2019  
Annual Report  
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August 30, 2019

Mr. Mike Ellis  
Chair of the Standing Committee on Legislative Offices  
6<sup>th</sup> Floor  
9820 107 Street NW  
Edmonton, Alberta  
T5K 1E7

Dear Mr. Ellis:

Pursuant to subsection 153.092(1) of the *Election Act*, I am pleased to submit the 2018-2019 Annual Report of the Office of the Election Commissioner.

In accordance with the confidentiality requirements described in section 206.1 of the *Election Act* and section 5.2 of the *Election Finances and Contributions Disclosure Act*, this report provides an overview of our activities and operations from the date the office opened until the end of March 2019, but it does not contain the details of any investigations.

Please note that this report includes recommendations for various amendments to provincial electoral law.

As well, this report includes my office's audited financial statements as of March 31, 2019.

Sincerely,

[Original Signed By]

Lorne R. Gibson  
Election Commissioner  
Province of Alberta





# Office of the Election Commissioner

## **VISION**

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To be the election oversight body that is the model of professional best practice.

## **MISSION**

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To protect the integrity of the electoral process by fairly and consistently enforcing election rules.

## **MANDATE**

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To provide fair, independent and impartial assessments and investigations of complaints and allegations of electoral wrongdoing and to make just decisions in accordance with statutory provisions related to election offences.



## VALUES

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- Fairness
- Integrity
- Independence
- Confidentiality
- Professionalism

## GOALS

1. Provide fair, thorough and timely investigations into complaints of election law violations.
2. Judiciously apply remedies for election law violations.
3. Establish collaborative working relationships with the Office of the Chief Electoral Officer, Crown Prosecutor's Office, the Court of Queen's Bench and law enforcement agencies.
4. Ensure the role of the Election Commissioner is understood by provincial political entities.
5. Maintain an investigative office of highly skilled and motivated professionals.
6. Provide legislative reform recommendations to improve the fairness of elections and to better facilitate election law enforcement.



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# Election Commissioner's Message



## THIS ANNUAL REPORT IS FIRST IN THE HISTORY OF ALBERTA'S OFFICE OF THE ELECTION COMMISSIONER.

The position of Election Commissioner, and the requirement for an Office of the Election Commissioner, resulted from amendments to the *Election Act* (EA) and the *Election Finances and Contributions Disclosure Act* (EFCDA). Bill 32, *An Act to Strengthen and Protect Democracy in Alberta, 2017* was enacted on December 15, 2017. I was

subsequently selected through an open, merit-

based competition to become the province's first Election Commissioner and took my Oath of Office on May 15, 2018. Sections of the legislation related to my functions were proclaimed to be effective on July 1, 2018 and it was by that date that the Office of the Election Commissioner needed to be established and operational.

Needless to say, my first six weeks on the job were hectic. The first priority was to find an Office Manager who was not only proficient at administrative management, but familiar with Alberta government systems and processes. The second priority was to find and establish a physical office location and, with the help of Alberta Infrastructure, by the end of June I was able to locate and move into suitable office space located near the Legislature and the of other independent officers of the Assembly. My third priority was to recruit a professional investigator who would be available to manage and conduct any investigations that were required after our office opened. While this competitive recruitment

process was underway, the Ombudsman generously allowed me to second a highly skilled investigator from her staff for a period of 11 weeks. The staffing process resulted in the successful hiring of a highly experienced retired police investigator who now leads investigations that are undertaken by my office.

Beyond these top three priorities, there seemed to be an endless array of administrative details that needed to be urgently attended to. A website for the new office needed to be created and the ability for citizens to submit online complaints of election wrongdoing needed to be in place as soon as the office was open for business. Protocol agreements on how complaint information would be exchanged needed to be established with the Office of the Chief Electoral Officer. Complaint file intake, assessment and logging procedures all needed to be structured and implemented. Investigative standards and operating procedures needed to be established and documented. Comprehensive records management systems needed to be organized in both physical and electronic mediums, with both formats needing to be maintained in an environment of continuous secure storage. During this process, it soon became evident that numerous organizational policies would need to be developed in order to provide clear guidance on how the office would respond in areas where the legislation was either silent or offered broad discretion to the Election Commissioner.

Invaluable in helping get things up and running smoothly was the considerable assistance I received from other independent officers of the Legislature. In addition to the short-term loan of one of her skilled investigators, the Ombudsman greatly aided my office by providing individuals who were able to help set up financial account operations and support our ongoing requirements for preparation of financial statements. The Children's Advocate made



available professional human resources personnel to assist with recruitment, classification and benefits management. The Privacy Commissioner offered expert staff consultation that helped us establish our information technology environment.

Thanks to the small core of staff we recruited early on, we were able to establish our office quickly and deal with complaints from the day we opened our doors. Within the first three months of being open we had received 81 complaints, which was a figure considerably higher than various observers had predicted would be the likely 'annual average' our office should expect. As you will see in the following pages of this report, the number of complaints kept increasing as the date for the 30<sup>th</sup> general election call neared, and a significant number of complaints evolved into full-fledged investigations. The investigations undertaken resulted in 31 administrative penalties and 11 letters of reprimand being issued by my office during the period between July 1, 2018 and March 31, 2019.

I am proud of the work and early accomplishments that have been achieved in the exercise of my office's functions under the *EA* and the *EFDA*. Credit for this is largely due to the dedicated investigators and administrative personnel that were recruited and engaged as necessary to help deliver the mandate of the office.

That mandate is to provide active oversight and enforcement of Alberta's electoral laws. This delivers several benefits for Alberta's electoral system, including:

- ensuring compliance with the electoral legal framework;
- promoting political financing transparency;
- safeguarding the credibility of elections; and
- ensuring that participants in the election process are held accountable.

Effective law enforcement in response to election law violations helps maintain the integrity of the electoral process, deters those contemplating illegal activities, and penalizes individuals and organizations that contravene election laws. Without effective enforcement, a sense of impunity can emerge which contributes to a climate of corruption and delegitimizes electoral outcomes. Ongoing enforcement is essential, not only to prevent corruption from entering the election process, but also to bring those responsible for violations to justice and help maintain public trust in the democratic system.

It is my firm belief that enforcement of election laws is crucial to the success of our province's electoral democracy — without effective enforcement, even the best election laws are merely good intentions. For an election to be legitimate and credible, it is not enough that the election be conducted in an orderly and professional manner. Each free and fair election also depends on an effective system of enforcement of election-related laws during the entire electoral cycle.

Effective enforcement by an independent enforcement body ensures that violations of election law are fairly and thoroughly investigated and that appropriate sanctions can be judiciously applied in a timely and non-partisan manner.

While a solid legal framework has been established to ensure Alberta's elections are procedurally fair, and the necessary legal tools have been provided to my office for enforcing provincial election laws, various improvements can and should be made. This report recommends numerous detailed amendments to provincial election laws, which deserve thoughtful consideration and a timely response by legislators, ideally working in a bi-partisan manner. These recommendations should be acted on well in advance of the 31<sup>st</sup> provincial general election, statutorily scheduled for the spring of 2023. Early passage of election law amendments is encouraged so that all political participants will have an adequate opportunity to learn about and understand any changes to the rules of their engagement.

# About the Office

Alberta is the 4<sup>th</sup> jurisdiction in the country to have separated out election law enforcement from election administration – the other jurisdictions with election commissioners are Canada and Manitoba, while an integrity commissioner and the RCMP together enforce election laws in Nunavut.

The creation of the Alberta Office of the Election Commissioner in 2018 was preceded by statutory amendments which established a legal distinction between the administration of elections and the enforcement of electoral law. Prior to July 1, 2018 the Office of the Chief Electoral Officer was responsible for both administration and enforcement, which involved a structured potential for legal mandate conflicts.

The mandate of the Chief Electoral Officer (CEO) includes responsibility for assisting political entities in understanding their legal obligations, providing support to election participants, and ensuring the myriad logistical arrangements necessary to permit registration, voting and vote-counting to occur simultaneously across the province operate flawlessly according to the prescriptive requirements of the *EA*. The previous requirement for the CEO to accept complaints and investigate alleged offences on the part of the same political entities their office advised, directed and supported had the potential for creating conflicting priorities. The role of providing compliance assistance to political actors is not entirely compatible with the role of election rule enforcement.<sup>1</sup>

The Office of the Chief Electoral Officer (Elections Alberta) is now responsible solely for the administration of elections according to electoral law, and this continues to include advising, educating and assisting political parties, candidates and other political entities in understanding and meeting their compliance obligations under the regulatory framework of provincial election laws.

The newly created Office of the Election Commissioner (OEC) has been given responsibility for ensuring compliance with and enforcement of the *EA* and the *EFDA*. It does this primarily by responding to complaints and allegations, which can be submitted by any member of the public. Complaints about election law offences made to Elections Alberta must be referred to the OEC, and any information pertaining to an offence or potential offence that comes to the attention of Elections Alberta must be promptly given to the OEC.

Both offices are legally mandated to undertake their legislative roles as independent bodies – independent of each other as well as independent from Executive Government. Established national and international best practice standards require each office to perform its functions in a professional, transparent, neutral and completely non-partisan manner and uphold the electoral laws of the jurisdiction. The Election Commissioner and the Chief Electoral Officer are now jointly responsible for ensuring the integrity of the provincial electoral system through the work of their respective offices.

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<sup>1</sup> Additionally, in situations where election officials commit election law offences there is a clear conflict of interest with having the Chief Electoral Officer – responsible for the process by which they were hired, trained, and directed – act in a judgement role.

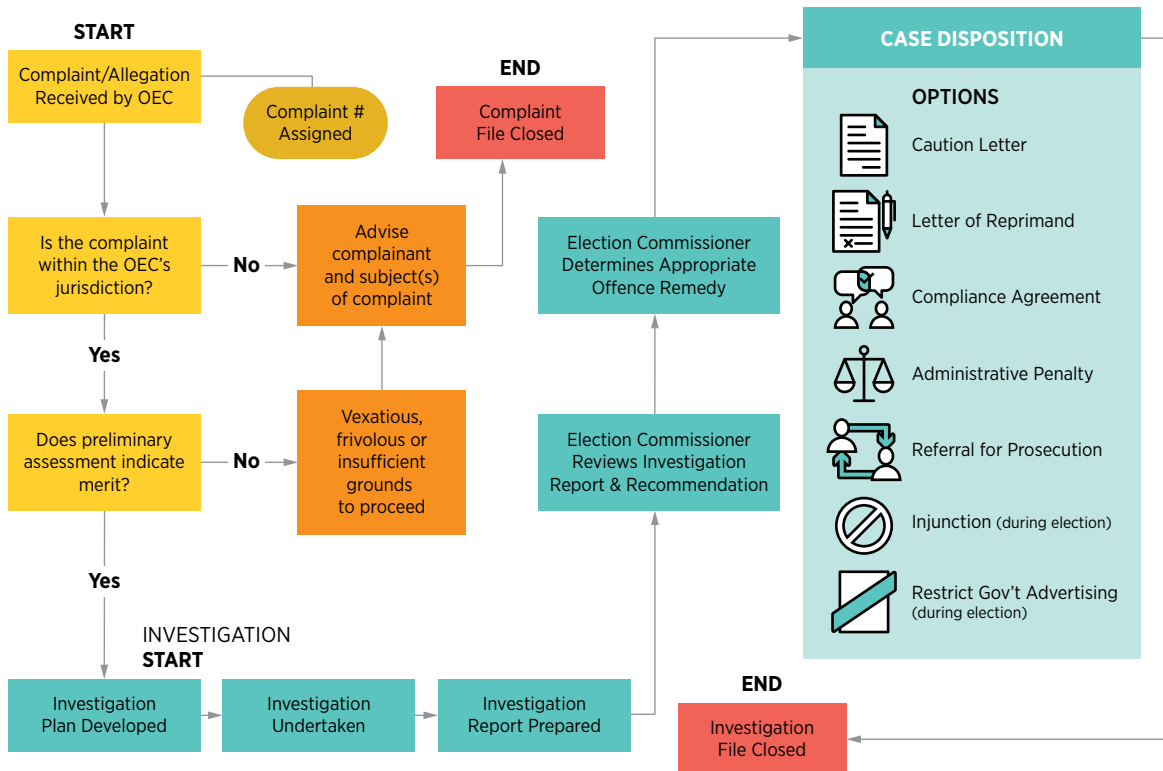
## PROCESSING COMPLAINTS

The workload of the Office of the Election Commissioner can be described as being primarily “complaint-driven”. Citizens, voters and representatives of political entities who believe that any of the democratically established election laws have been violated have the ability to make a complaint to the office. Those accused of electoral wrongdoing are given the opportunity to respond to the investigative findings of the Election Commissioner and receive adjudication within a reasonable amount of time. While the volume of complaints received is closely associated with the timing of an election, electoral offence complaints can arise at any period during a four-year election cycle.

Although the Election Commissioner has the authority to investigate any matter that might constitute an offence on his or her own initiative, all of the offence-related work undertaken by the office during the 2018-2019 fiscal year was in direct response to the receipt and processing of approximately 450 complaints and allegations.

The following flow chart describes the overall processing of complaints received by the Office of the Election Commissioner:

### COMPLAINT PROCESS OVERVIEW





The Commissioner receives complaints from the public and from Elections Alberta. Complaints are reviewed to determine whether they are within the jurisdiction of the Commissioner's office and whether there is a factual basis to the allegation. When satisfied that there is substance to the complaint, the Commissioner can authorize an investigation to be undertaken and one or more professional investigators is then assigned to the case. When the investigation is completed, a written investigative report is provided to the Election Commissioner along with a 'next step' recommendation. That recommendation can be to dismiss the case or to proceed with the application of an offence remedy.

Very minor offences, or instances where an election law contravention has not yet occurred, but where there is evidence that indicates a person or organization planned or was considering a non-compliant activity, can be dealt with using a caution letter. Caution letters are intended to serve an educational purpose. They clarify an election law, remind persons of the importance of complying with the law and point out the consequences of failing to comply.

Other less serious offences, which may not have been purposeful or could be an inadvertent result of not understanding election law or recent changes to it, can be dealt with using a letter of reprimand.

More serious offences can be dealt with by entering into a compliance agreement with a person or organization, by applying an administrative monetary penalty or by referring the case for prosecution.

A compliance agreement is a formal agreement between the Election Commissioner and a person or organization that the Election Commissioner believes — on reasonable grounds — has committed, is about to commit, or is likely to commit an act or omission that would contravene election law. The goal of these types of agreements is to bring the person or organization into compliance with the law.

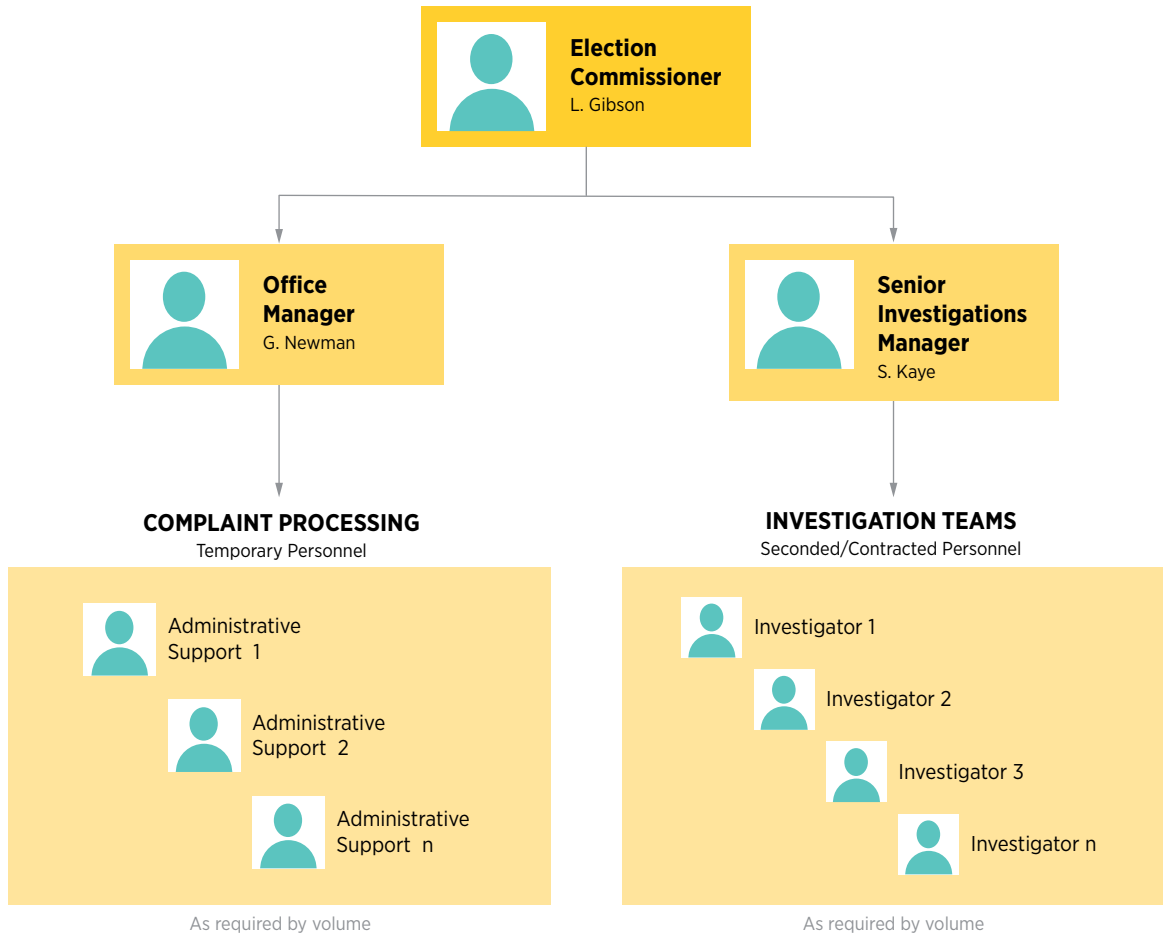
For election offences that have already occurred, the Election Commissioner can levy administrative monetary penalties as high as \$100,000. The Election Commissioner also has the ability to refer any matter to the Crown Prosecutor's office for processing in the judicial system. Some election offences can result in a two-year prison sentence, in addition to a substantial financial penalty.

During an election period, the Election Commissioner has two additional enforcement tools available for use. One is the ability to apply to the courts for an injunction ordering any person to refrain from committing a prohibited act or to do anything that is required under provincial electoral law. The other is the ability to halt government advertising that violates legislated restrictions on public messaging during an election period.

## ORGANIZATIONAL STRUCTURE

As mentioned above, the volume of work that the Office of the Election Commissioner must process within any period is driven directly by the number of complaints it receives about electoral wrongdoing and specific violations of Alberta election law. For this reason, an ‘elastic’ organizational structure has been adopted by the Election Commissioner, as shown in the following organization chart:

### ORGANIZATIONAL STRUCTURE



During the 2018-2019 fiscal year, the maximum number of temporary personnel assisting the Office Manager was two. However, due to the complexity and number of investigations underway, the Senior Investigations Manager had as many as five professional investigators providing simultaneous investigative services at various times during the fiscal year.

Additionally, resource sharing arrangements with the Office of the Alberta Ombudsman, the Office of the Child and Youth Advocate and the Office of the Information and Privacy Commissioner have provided much-needed support to ongoing administrative and human resource functions.

# Complaints and Allegations

## OEC COMPLAINTS RECEIVED – JULY 2018 TO MARCH 2019

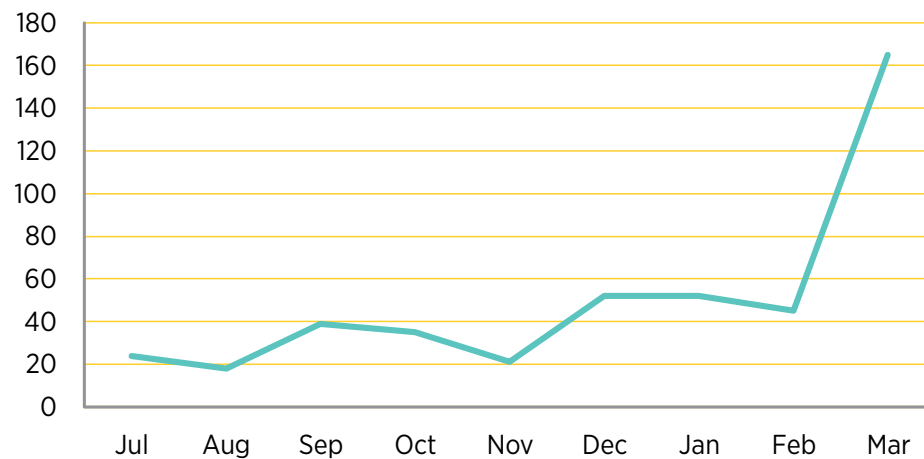
The number of complaints and allegations that were received in each of the nine months of the 2018-2019 fiscal year during which the Office of the Election Commissioner was operational are shown in the table below:

As the line graph below shows, the volume of complaints gradually increased as the 30th Alberta General Election neared. There was a noticeable increase in December when the election advertising period for third parties began and in February, which was the official start of the election campaign period for candidates. The monthly volume of complaints peaked in March 2019, the month in which the election was called.<sup>2</sup>

## NUMBER OF COMPLAINTS RECEIVED BY MONTH

Month	No.
July	24
August	18
September	39
October	35
November	21
December	52
January	52
February	45
March	165
<b>TOTAL</b>	<b>451</b>

## NUMBER OF COMPLAINTS PER MONTH



<sup>2</sup> The Premier called the provincial election on March 19, 2019 with polling day (general voting day) scheduled to be held on April 16th.



## SOURCE OF OEC COMPLAINTS – JULY 2018 TO MARCH 2019

Complaints are received by the Office of the Election Commissioner in various formats, with written complaints being encouraged. The following table indicates the source of complaints that were received during each of the nine months of the 2018-2019 fiscal year in which the Office of the Election Commissioner was operational.

### SOURCE OF COMPLAINT BY MONTH

Month	Web Form	Email	Letter	Received from/via Elections AB	Other	TOTAL
July	5	15	0	2	2	24
August	8	8	0	1	1	18
September	23	11	0	2	3	39
October	12	13	3	3	4	35
November	5	13	0	1	2	21
December	9	10	0	30	3	52
January	23	27	0	2	0	52
February	14	28	1	0	2	45
March	94	65	4	1	1	165
<b>TOTAL</b>	<b>193</b>	<b>190</b>	<b>8</b>	<b>42</b>	<b>18</b>	<b>451</b>

The table above indicates that Albertans are quite comfortable using electronic means to submit their official complaints about electoral wrongdoing. Complaints to the OEC were predominantly (nearly 85 percent) submitted using a web form or an electronic mail message.

Nearly 10 percent of complaints and offence allegations originated from Elections Alberta. The majority of these cases were in regard to political funding over-contribution offences by individuals, and for offences involving third party advertisers.

Written letters made up less than two percent of all complaints received while, an 'other' classification which includes a combination of telephone calls, in-person visits and social media alerts, made up slightly less than four percent of all complaints received during the 2018-2019 fiscal year.

The nature and topics of complaint varied across a dozen categories, as detailed in the table below.

## NATURE OF COMPLAINTS

Complaint Type	No. of Complaints
Elections Alberta Administration, including Online Voter Registration & Enumeration	72
Political Party Advertising & Campaign Activities	70
Third Party Advertising & Campaign Activities	66
Automated Telecommunications (phone calls & texts)	65
Party & Candidate Political Contributions	36
Political & Campaign Signage	33
Nomination Contest Finances & Activities	27
OEC Investigations	19
Candidate Duties & Activities	18
Right to Vote	17
Leadership Contests	3
Government/Municipal	3
Other	22
<b>TOTAL</b>	<b>451</b>

## PROCESSING OF COMPLAINTS – JULY 2018 TO MARCH 2019

The Office of the Election Commissioner applies a consecutive number to each complaint it receives. This makes tracking the volume of incoming complaints relatively easy to perform. The subsequent processing of a complaint might take only a few hours or could mark the beginning of an investigation taking weeks, months or even years to complete.

## INITIAL COMPLAINT ASSESSMENT (TRIAGE)

	# of Complaints
<b>Total Complaints Received</b>	<b>451</b>
Out of Jurisdiction	114
Determined Not an Offence – No Further Analysis Required	141
Not Assessed before Fiscal Year-End	63
<b>Complaints Requiring Further Analysis</b>	<b>133</b>

Of the 451 complaints received during the fiscal year, it was determined with relative ease that 114 were out of the OEC’s jurisdiction. This means that the complaint was not within the realm of the Election Commissioner’s mandate and the OEC did not have legal authority to deal with it. In these cases, considerable effort was made to refer the complainant to the office, agency or individual that could more appropriately deal with the complaint. A further 141 complaints had to do with provincial elections but the matter being complained about was not a violation of either the EA or the EFCDA. Sixty-three complaints had not been assessed to determine if they were within the OEC’s jurisdiction and still required further analysis at fiscal year end. Most of these complaints were ones received during the latter months of the year when the Office received its highest volume of complaints. Of the 451 complaints received, 133 required further analysis to determine if they warranted investigation. This process usually requires making contact with the complainant to obtain clarification and supporting documentation, or the performance of other types of preliminary inquiries to determine whether an investigation is needed.

### COMPLAINT ANALYSIS AND RESEARCH (PRELIMINARY INQUIRY)

	<b># of Complaints</b>
Complaints Requiring Further Analysis	133
Complaints that Required No Investigation	23
Complaints still Undergoing Analysis as of Fiscal Year-End	36
Complaints that Resulted in an Investigation	<b>74</b>

Of the 133 complaints that required further analysis, it was subsequently determined that 23 did not require investigation. Most of these 23 complaints were found to be related to an election administration matter and were therefore referred to Elections Alberta. In other cases, the complainants were referred to the Privacy Commissioner in relation to perceived privacy breaches. Some complainants were referred to a specific registered political party if the complaint related to the party’s internal operations and did not constitute an offence under provincial election law. A number of anonymous complaints could not be followed up on because no contact information was provided. Other complaints were found to have insufficient grounds to conclude that the alleged offence had occurred.

At the end of the year, there were 36 complaints that were still undergoing analysis to determine if an investigation was warranted. During the fiscal year, 74 complaints were formally approved for investigation by the Election Commissioner based on the nature of the complaint, the evidence provided by the complainant and the information and documents gathered through preliminary inquiries.



# Investigations

The Election Commissioner may, on his or her own initiative, or at the request of the CEO or another person or organization, investigate any matter that might constitute an offence under the *EA* and the *EFCD*A.

Investigations may result in three types of recommendations:

- (1) that no further action be taken,
- (2) that a caution letter be issued, or
- (3) that enforcement action be taken in the form of a letter of reprimand, administrative penalty, compliance agreement or a referral for prosecution.

## INVESTIGATIONS INVOLVING RECOMMENDATION OF ENFORCEMENT ACTION – JULY 2018 TO MARCH 2019

The table below provides a breakdown of the 74 complaints that were approved for investigation during the fiscal year.

<b>Investigations Undertaken During FY 2018-2019</b>	<b>No.</b>
Complaints that Resulted in an Investigation	74
Investigations Opened in the Fiscal Year	58 (16 Duplicate Complaints)
Investigations Where No Offence was Identified	13
Investigations Still Underway as of Fiscal Year End	11
Investigations Which Resulted in Enforcement Recommendations	<b>34</b>

Several (16) of the complaints received concerned the same issue or occurrence and were classified as duplicate complaints. These matters were investigated concurrently. Therefore, there were 58 separate and distinct investigations that occurred during the year. In 13 of these investigations, it was eventually determined that no offence could be identified or that there was insufficient evidence to substantiate a finding that an offence had been committed. Recommendations for enforcement are associated with offences that are clear violations of provincial electoral law. The table shows that there were 34 occasions where investigators recommended to the Election Commissioner that enforcement action be taken. Eleven investigations were still underway at the year end and are continuing during the 2019/20 fiscal year.

The table below shows the number of individuals or entities implicated and the number of offences identified in the 34 investigations where enforcement recommendations were made by investigators.

<b>Investigation Results</b>	<b>No.</b>
Investigations which Resulted in Enforcement Recommendations	34
Individuals or Entities Implicated in the Offences Identified	36
Offences Identified during Investigations	44

There were 36 occasions where individuals or entities were penalized, and 44 offences involved in these enforcement actions.

The following table provides a breakdown of the different types of enforcement actions taken.

<b>Type of Enforcement Action or Penalty</b>	<b>No.</b>
Administrative Penalties	31
Letters of Reprimand	10
Caution Letters	3
Compliance Agreements	0
Prosecution Referrals	0

For the 44 offences verified to have occurred during investigations, there were 31 administrative penalties levied, 10 letters of reprimand issued, and 3 letters of caution delivered.

No compliance agreements or prosecution referrals were undertaken by the Election Commissioner during fiscal year 2018-2019.

# Administrative Penalties

During the 2018-2019 fiscal year, 31 administrative penalties were issued by the Election Commissioner and the following details were posted on the Election Commissioner’s website as required by law. The offenders, offences and penalty amounts are shown in chronological order, based on the date the Notice of Penalty was issued:

## ADMINISTRATIVE PENALTIES ISSUED

Name	Offence	Penalty Amount	Date Issued
Yash Sharma Nomination Contestant Alberta Party	Section 9 (1.1) of the EFCDA Incurred approx. \$800 expenses outside of the campaign period	\$1,200.00	October 1, 2018
Yash Sharma Nomination Contestant Alberta Party	Sections 35(1) & 9 (1.1) of the EFCDA Solicited & accepted prohibited in- kind contribution of approx. \$800 from Millcreek Plaza outside campaign period	\$1,200.00	October 1, 2018
Pro-Life Alberta Registered Political Party	Section 9.2(10) of the EFCDA Failed to submit results of Leadership Contest to CEO	\$750.00	November 15, 2018
Alberta Can’t Wait Registered Third Party	Section 44.82(1-5) of the EFCDA Failure to file advertising contributions statements with CEO in 2017 & 2018	\$1,000.00	December 6, 2018
Canadian Taxpayers Federation Third Party	Section 9.1 (1) of the EFCDA Failure to apply for registration as third party	\$6,000.00	January 8, 2019
Cameron Davies Co-Campaign Manager Jeff Callaway UCP Leadership Campaign	Section 45 of the EFCDA (Offence #1) Obstruction of an investigation	\$7,500.00	February 26, 2019
Cameron Davies Co-Campaign Manager Jeff Callaway UCP Leadership Campaign	Section 45 of the EFCDA (Offence #2) Obstruction of an investigation	\$7,500.00	February 26, 2019
Karen Brown Political Contributor	Section 34(1) of the EFCDA Contributed \$3,500 to Jeff Callaway, registered UCP leadership contestant, with funds given or furnished by another person	\$3,500.00	February 28, 2019



<b>Name</b>	<b>Offence</b>	<b>Penalty Amount</b>	<b>Date Issued</b>
Victor Wall Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$250.00	\$500.00	March 8, 2019
Hahn Nguyen Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$3,904.00	\$7,808.00	March 8, 2019
Ronald Johnson Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$300.00	\$600.00	March 8, 2019
Jeffrey Boyce Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$1,500.00	\$3,000.00	March 8, 2019
Margaret Southern Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$1,500.00	\$3,000.00	March 8, 2019
Greg Fletcher Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$131.25	\$262.50	March 8, 2019
Ian Cartwright Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$500.00	\$1,000.00	March 8, 2019
Wayne Foo Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$1,500.00	\$3,000.00	March 8, 2019
Gord Moors Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$400.00	\$800.00	March 8, 2019
David Bisset Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$500.00	\$1,000.00	March 8, 2019
Jason Pechet Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$150.00	\$300.00	March 8, 2019
Frances Olson Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$105.00	\$210.00	March 8, 2019
Patrick Powell Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$1,500.00	\$3,000.00	March 8, 2019

<b>Name</b>	<b>Offence</b>	<b>Penalty Amount</b>	<b>Date Issued</b>
Nick Taylor Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$105.00	\$210.00	March 8, 2019
Paul Collins Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$240.00	\$480.00	March 15, 2019
Victor Wall Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$250.00	\$500.00	March 8, 2019
Darcy McAllister Political Contributor	Section 34(1.1) of the EFCDA Furnished \$4,000 to Maja McAllister, for purpose of making contribution to Jeff Callaway, registered UCP leadership contestant	\$4,000.00	March 19, 2019
Darcy McAllister Political Contributor	Section 34(1) of the EFCDA Contributed \$4,000 to Jeff Callaway, registered UCP leadership contestant, with funds given or furnished by another person	\$4,000.00	March 19, 2019
Hardyal Mann Political Contributor	Section 34(1.1) of the EFCDA Furnished \$3,000 to Gurpreet Mann for purpose of making contribution to Jeff Callaway, registered UCP Leadership Contestant	\$3,000.00	March 27, 2019
Hardyal Mann Political Contributor	Section 34(1.1) of the EFCDA Furnished \$3,000 to Kirandeep Mann for purpose of making contribution to Jeff Callaway, registered UCP Leadership Contestant	\$3,000.00	March 27, 2019
Hardyal Mann Political Contributor	Section 34(1) of the EFCDA Contributed \$3,000 to Jeff Callaway, registered UCP leadership contestant, with funds given or furnished by another person	\$3,000.00	March 27, 2019
Wade Challand Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$375.00	\$750.00	March 28, 2019
Diane Ritchie Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$131.25	\$262.50	March 28, 2019

# Letters of Reprimand

During the 2018-2019 fiscal year, 10 letters of reprimand were issued by the Election Commissioner and the following details were posted on the Election Commissioner's website as required by law. The offenders and their offences are shown in chronological order, based on the date the letter was issued:

## LETTERS OF REPRIMAND ISSUED

Name	Offence	Date Issued
Red Deer Motors Prohibited Contributor	Sections 15.1 & 16 of the EFCDA Made a prohibited in-kind contribution of approx. \$100 to UCP nomination contestant Haley Wile	September 25, 2018
Haley Wile Nomination Contestant United Conservative Party	Sections 16 & 35 of the EFCDA Received a prohibited in-kind contribution of approx. \$100 from Red Deer Motors	September 25, 2018
Mill Creek Plaza Prohibited Contributor	Sections 16 & 35 of the EFCDA Made a prohibited in-kind contribution of approx. \$800 to Alberta Party nomination contestant Yash Sharma	October 1, 2018
Rebel News Network Ltd. Third Party	Section 9.1(1) of the EFCDA Failure to apply for registration as third party	February 14, 2019 <i>*Application for Judicial Review</i>
Craig Elder Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$100.00	March 8, 2019
Randy Kerr Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$75.00	March 8, 2019
James Pasioka Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$100.00	March 8, 2019
Randy Ritchie Political Contributor	Section 17(1) of the EFCDA Exceeded \$4,000 annual contribution limit in 2017 by \$80.00	March 8, 2019
David Ruiz Political Contributor	Section 34(1) of the EFCDA Contributed \$3,000 to Jeff Callaway, registered UCP leadership contestant, with funds given or furnished by another person	March 18, 2019
Maja McAllister Political Contributor	Section 34(1) of the EFCDA Contributed \$4,000 to Jeff Callaway, registered UCP leadership contestant, with funds given or furnished by another person	March 19, 2019

# Caution Letters and Compliance Agreements

There are essentially two aspects to the Commissioner's role — compliance and enforcement.

The compliance aspect involves taking corrective action when election law is violated or threatens to be violated. Caution letters and voluntary compliance agreements can be used for less serious or technical infractions, such as a failure to meet a financial filing deadline.

Caution letters are not described in the election statutes, but are an administrative mechanism used by various organizations to advise a person or organization that they need to be mindful of their legal obligations and the penalties that are associated with non-compliance. Caution letters are intended to be educational. These letters are not published on the Election Commissioner's website. During fiscal year 2018-2019, the Election Commissioner issued 3 caution letters.

The idea behind a compliance agreement is to permit the Election Commissioner to bring anyone who has broken the law, or may be contemplating breaking the law, into compliance with the Act through a formal agreement process. A compliance agreement is an agreement between the Commissioner and a person or entity, in which the parties agree to the terms and conditions necessary to ensure compliance with the Act. An example might be a compliance agreement between the Election Commissioner and a political party to institute measures to bring their accounting and financial reporting practices in line with the requirements of the *EFCD*.

The Election Commissioner is required to make public any compliance agreement that is reached. Before entering into a compliance agreement, the Election Commissioner must obtain the consent of the prospective contracting party to the publication of a notice of the agreement on his website. The website information must set out the contracting party's name, the act or omission in question and a summary of the compliance agreement. A compliance agreement may include a statement by the contracting party that the contracting party admits responsibility for the act or omission that constitutes a contravention of the legislation.

When a compliance agreement is entered into, a prosecution of the contracting party for an act or omission that led to the agreement cannot be instituted and any prosecution already instituted is suspended. If the contracting party fails to comply with the terms of the compliance agreement, a prosecution may be initiated or resumed, or an administrative penalty may be levied.

No compliance agreements were negotiated or undertaken by the Election Commissioner during the 2018-2019 fiscal year.

# Jurisdictional Expansion

Bill 23 — *An Act to Renew Local Democracy in Alberta*, enacted on December 11, 2018 — will considerably expand the role of the Office of the Election Commissioner as of August 1, 2019.

A newly-defined role for the Election Commissioner will come into force via the addition of Part 9 of the *Local Authorities Election Act* (LAEA) on August 1, 2019. This role will require the Office of the Election Commissioner (OEC) to oversee and enforce campaign financing (Part 5.1) and third-party advertising (Part 8) aspects of local authority election law across the province. This responsibility will apply to any local authority by-election that occurs after August 1, 2019. General preparations will also need to be put in place in order to provide oversight and enforcement of these laws at the next general elections for municipal officials and school boards scheduled to be held on October 18, 2021.

The scope of this expansion will be significant. There are 423 local government authorities whose elections are administered under the LAEA and the OEC will need to work in close concert with the administrative authorities and appointed returning officers for each. These locally elected bodies are structured within 11 different types of authorities, eight of which are varying forms of municipal government:

- 61 School Districts
- 13 Irrigation Districts
- 8 Métis Settlements
- 341 Municipalities
  - 106 Towns
  - 85 Villages
  - 63 Municipal Districts
  - 51 Summer Villages
  - 19 Cities
  - 8 Improvement Districts
  - 6 Specialized Municipalities
  - 3 Special Areas

In total, there is the potential of more than 4,000 candidates actively contesting the elected local authority positions that will be decided by voters in local elections that will be held in 2021. Historically, 20 to 50 local authority by-elections have occurred in any year in which a general local election is not scheduled, and this involves hundreds of additional local authority election candidates being active throughout the province on an annual basis.

During the January to March 2019 period, members of OEC's management met with various provincial government officials<sup>3</sup> who have a role in coordinating the activities of different local elected authorities in the province, as well as those who provide training on the LAEA to local authority administrators and returning officers. Those meetings led to the development of an OEC-LAEA Implementation Plan which articulates four phases of work to be undertaken in fiscal years 2019-2020 through 2021-2022.

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<sup>3</sup> This included senior managers from the Ministries of Municipal Affairs, Education, Agriculture and Forestry and Indigenous Affairs who, respectively, are assigned a coordinating role regarding ongoing operations or election support in municipalities, school districts, irrigation districts and Métis Settlements.



# Financial Overview

The preparation of the 2018-2019 initial budget for the Office of the Election Commissioner was undertaken by the Chief Electoral Officer and the Executive Director of Corporate Services for the Legislative Assembly who recommended a financial allocation of \$1.321M for the first year's operation of the office.

This figure proved to be a fairly accurate estimation of the first full year financial requirements of the Office. The actual expenditure of \$883,476 during 2018-2019 reflects an under-expenditure which corresponds to the fact that the office was open for only nine of the 12 months of the fiscal year. The Office of the Election Commissioner spent 66.9% of its 2018-2019 fiscal allocation during the fiscal year.

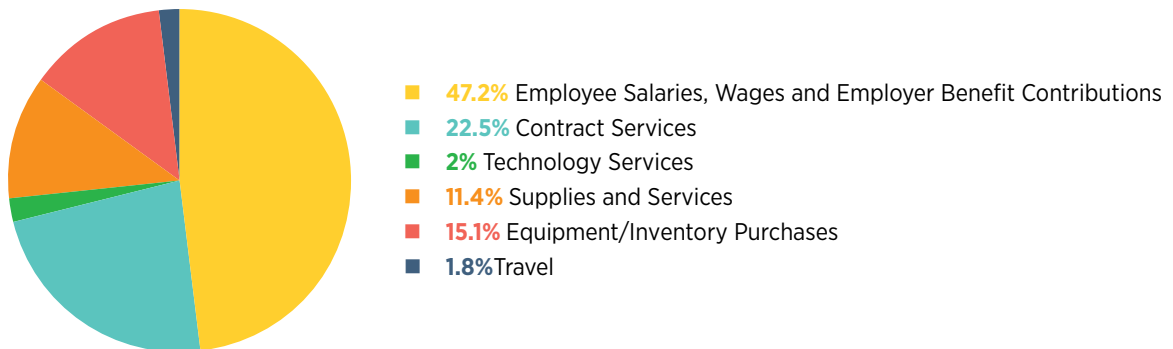
A summary of the Office of the Election Commissioner's financial activity during FY 2018-2019 is set out in the table below:

## OFFICE OF THE ELECTION COMMISSIONER: TOTAL EXPENDITURE VS. BUDGET FISCAL YEAR 2018-2019

Category	Budget	Actual
Employee Salaries, Wages and Employer Benefit Contributions	\$ 495,000	\$ 417,407
Contract Services	\$ 357,000	\$ 199,093
Technology Services	\$ 104,000	\$ 18,082
Supplies and Services	\$ 115,000	\$ 100,369
Equipment/Inventory Purchases	\$ 175,000	\$ 133,133
Travel	\$ 75,000	\$ 15,392
<b>TOTALS</b>	<b>\$ 1,321,000</b>	<b>\$ 883,476</b>

The relative percentage of expenditure per cost category is shown graphically in the chart below.

**Office of the Election Commissioner:  
Relative Expenditure per Category Fiscal Year 2018-2019**



Starting with fiscal year 2019-2020, Annual Reports of the Office of the Election Commissioner will compare actual costs of the reporting year to actual costs in the previous fiscal year.

The complete audited financial statement of the office's expenditures during the 2018-2019 fiscal year is provided at Appendix 'D', which appears as the final section of this report.

In November 2018, the Election Commissioner submitted and presented his Strategic Business Plan and budget estimate for the 2019-2020 fiscal year to the Standing Committee on Legislative Offices. On December 19, 2018, the Standing Committee passed a motion approving a budget allocation in the amount of \$2.021M for the 2019-20 fiscal year.

A budget increase of \$700,000 was requested for two reasons: to accommodate an expected increase in the number of complaints and investigations associated with the 30th provincial general election, and the need for additional funding to implement new responsibilities associated with local authority election oversight and enforcement arising from the new and amended *Local Authorities Election Act* components that were passed into law in December of 2018. This legislated expansion to the mandate of the Office of the Election Commissioner is described in the previous section of this report.

# Recommendations for Legislative Improvements

The framework of Alberta’s provincial election law has undergone amendment eight times in the past decade.<sup>4</sup> In this process some inconsistencies, contradictions and oversights have been introduced into both the *Election Act* (EA) and the *Election Finances and Contributions Disclosure Act* (EFCDA).<sup>5</sup>

Subsection 153.092(2) of the EA states that the annual report of the Election Commissioner

*“must set out . . . (f) any recommendations for improvement that the Election Commissioner considers appropriate.”*

Appendix ‘A’ of this report provides detailed recommendations for changes to the EA; Appendix ‘B’ does so for the EFCDA; and Appendix ‘C’ does so for the *Local Authorities Election Act* (LAEA). These three appendices provide several dozen pages of descriptive content relating to more than 60 separate issues that have been identified as problematic during the work of the Office of the Election Commissioner in its first fiscal year of operation.

Some of these issues could be described as ‘housekeeping’ in nature, as they could easily be corrected with minor wording edits. However, some are far more substantive — these are briefly described below according to the statute they appear in.

## RECOMMENDED *ELECTION ACT* CHANGES

### PROTECTING PERSONAL INFORMATION PRIVACY OF VOTERS

Sections 17, 18, 19, 19.1, 20 and 152 of the EA all provide mechanisms by which political parties, their candidates and their constituency associations can obtain personal information about individual voters while outlining minimal physical controls regarding the management and use of that data.

Either the EA, but preferably the *Personal Information Protection Act* (PIPA), should be amended to ensure the privacy of voter’s personal information that is held by political parties. New legislative provisions should address limits on collection, consent, retention, use, access, disclosure, security and destruction of personal information used by political parties, their candidates and their constituency associations.

The province’s Privacy Commissioner, or the Election Commissioner, should be authorized to receive and investigate complaints of privacy breaches to ensure compliance with new privacy requirements.

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<sup>4</sup> June 11, 2018, *Statutes Amendment Act, 2018*; June 11, 2018, *Election Finances and Contributions Disclosure Statutes Amendment Act, 2018*; December 15, 2017, *An Act to Strengthen and Protect Democracy in Alberta, 2017*; June 7, 2017, *Tax Statutes Amendment Act, 2017*; December 14, 2016, *The Fair Elections Financing Act, 2016*; June 29, 2015, *An Act to Renew Democracy, 2015*; December 10, 2012, *Election Accountability Amendment Act, 2012*; and on April 22, 2010, *Election Statutes Amendment Act, 2010*.

<sup>5</sup> New provisions involving the Election Commissioner’s duties to enforce portions of the *Local Authorities Election Act* (LAEA) will come into effect as of August 1, 2019, and there is a need for consistency in that Act’s requirements with those in the province’s *Election Act* and *Election Finances and Contributions Disclosure Act*. Appendix ‘C’ of this document includes recommendations for amending the LAEA to ensure such consistency.

## **SERVING DOCUMENTS AND NOTICES**

Section 68 of the EA describes the process of serving documents and notices to candidates. This process needs to be expanded to cover notices to all political entities at the service address provided at the time of their registration. Alternative forms of legal service should be permitted for unregistered political entities and other persons who become the subjects of an investigation.

## **ENTITLEMENT TO REMAIN IN A POLLING PLACE**

Section 92 of the EA lists who may remain in a polling place during voting hours, but the Election Commissioner and representatives of the Election Commissioner's office are not included in this list. Following up on complaints, or undertaking an investigation, may require staff or contracted investigators of the Election Commissioner to attend and remain at a polling place during voting hours or during vote counting for the purpose of collecting evidence associated with an alleged wrongdoing.

## **SPONSORSHIP INFORMATION ON ALL POLITICAL AND ELECTION ADVERTISING**

Section 134 of the EA sets out requirements for political parties, candidates and constituency associations who sponsor advertisements to specifically identify who is paying for the ad, in the advertisement itself, and in accordance with guidelines established by the Chief Electoral Officer. A parallel requirement for identification of third parties who sponsor political or election advertising is found in the EFCDA at section 44.8. It is recommended that this requirement be extended to the advertising sponsored by nomination contestants and leadership contestants.

## **RESTRICT GOVERNMENT ADVERTISING IN THE PRE-ELECTION PERIOD**

Government advertising can be considered political when it promotes the government's accomplishments, promotes the governing party or criticizes opposing parties — either directly or indirectly. Current legislation recognizes that government advertising should be severely restricted during the 28-day election period in order to prevent an incumbent government from having access to a partisan advantage during the election. However, the provisions of section 134.1 of the EA do not extend to the politically active period that occurs before the writs of election are formally issued.

Many other Canadian jurisdictions have imposed restrictions on government advertising in the lead-up to a scheduled general election, and it is recommended that Alberta do so as well. Restrictions on government advertising should take effect on December 1<sup>st</sup> of the year preceding the year in which a provincial general election is to be held.

## POWERS OF THE ELECTION COMMISSIONER

Subsection 153.09(3) of the EA specifies the powers of the Election Commissioner with regard to collecting evidence during an investigation of an *Election Act* offence by a political party, constituency association or candidate. However, nomination contestants, leadership contestants and third party advertisers are not included in these provisions — but they should be. This appears to be a legislative drafting oversight, as all political entities (including third parties) are included in parallel EFCDA subsections 44.96(2) and (4).

Further, EA subsection 153.09(5) sets out the obligations of any registered political party, registered constituency association or registered candidate to provide information to the Election Commissioner within 30 days of having received a written request to do so. It is recommended that the requirement to provide the Election Commissioner with information be extended to unregistered political entities as well, since many complaints and allegations deal with unregistered individuals and groups who are legally obliged to register but refuse to comply with the registration requirements. This extension should include nomination and leadership contestants, as well as third parties.

## ANNUAL/SPECIAL REPORT

The stringent EA section 206.1 requirements for the Election Commissioner, and each person employed or engaged by the Office of the Election Commissioner, to “maintain the confidentiality of all information, complaints and allegations that come to their knowledge” runs counter the EA subsection 153.092(2) list of details to be included in each annual report.<sup>6</sup> Further, the description of what may be legally disclosed in a special report issued by the Election Commissioner — described in EA subsection 153.092(3) — needs clarification. If the intent is that disclosure is to be discretionary on the part of the Election Commissioner, both the special report and the authority of the Election Commissioner to disclose should be included in the list under subsection 206.1(2).

## IMPROPER INDUCEMENT

Under the current provisions of section 172 of the EA, it is not an offence to offer an inducement or a bribe — to a candidate, a nomination contestant, or leadership contestant — to run or refrain from running as a candidate or contestant, or to run in a different electoral division than the one where they may have been planning to run. Offering an inducement or bribe, or soliciting one, or accepting one should all be offences under the Election Act and the provisions of Section 172 should be broadened to include them.

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<sup>6</sup> For example, the legislation suggests that the nature and resolution of “each” complaint or allegation be described in the Annual Report, as well as specifics related to “each” investigation, compliance agreement, injunction, administrative penalty, and letter of reprimand. While this instruction conflicts with statutory confidentiality requirements and disclosure restrictions found in 206.1 of the EA and s. 5.2 of the EFCDA, it is also an impractical requirement to provide the implied level of detail regarding each of many hundreds of complaints within an annual report.

## RECOMMENDED *ELECTION FINANCES AND CONTRIBUTIONS DISCLOSURE ACT* CHANGES

The EFCDA is written in a manner that is unnecessarily complex and difficult to understand. The Office of the Election Commissioner has received many complaints that the legislation lacks proper organizational structure and is difficult to comprehend. The legislation fails to provide clear guidance regarding the respective obligations of political contributors and political entities. Some political entities reported finding it necessary to hire legal counsel to review the EFCDA to properly understand their financial disclosure obligations and the specific requirements they need to follow to comply with the Act.

**In order to make the legislation easier to understand by all participants affected by election finance rules, the *Election Finances and Contributions Disclosure Act* should be rewritten in plain language.**

Within that rewrite, a number of important issues should be addressed:

- Clarity should be provided with regards to whether it is the Chief Electoral Officer or the Election Commissioner who is to direct the disposition or order the return of illegal or excessive contributions. (Current provisions are contradictory.)
- It should be established that political contributions made illegally should not be returned to the contributor but should instead be forfeited by the recipient and paid to the General Revenue Fund.
- The 'loophole' that permits political party or constituency association membership fees to be paid by otherwise prohibited contributors should be closed. Individuals should be required to pay for such political memberships with their own funds.
- Greater clarity should be provided to state that political contributions cannot be made in the name of another person, whether that person is aware or unaware that a contribution is being made in their name.
- The definition of collusion should be expanded to include attempts to circumvent any provision of the EFCDA, not just spending and contribution rules.
- The definition of election advertising and political advertising should include the qualifiers "directly or indirectly" in regard to advertising messages that promote or oppose the election of political parties, candidates, nomination contestants or leadership contestants.
- The authority of the Election Commissioner to deal with political entities should be expanded to include entities who are not registered, or refuse to register, even though the law requires them to become registered. This includes unregistered political parties, constituency associations, candidates, nomination contestants, leadership contestants and third party advertisers.
- The definition of obstruction should be expanded to include instances where persons "knowingly make false or misleading statements" during the course of an investigation ordered by the Election Commissioner.
- Failure to comply with an order of the Election Commissioner should be enforceable when the Election Commissioner files a copy of the order with the clerk of the Court of Queen's Bench, allowing it to be enforced as if were a judgement of the Court.



# Developing Organization Goals and Measuring Performance

Ordinarily the Annual Report of any public organization would include performance measurements that provide clear indications of whether or not that body was making progress toward meeting its stated organizational goals.

However, that is understandably difficult to do in the first year of any organization's life as both the goals and the performance measurements must first be defined before progress against them can be properly reported.

During the autumn of 2018, a Strategic Business Plan was developed by the staff of the Office of the Election Commissioner as part of the process of developing the budget submission request for fiscal year 2019-2020.

The following six organizational goals were established during the planning process:

- (1) Provide fair, thorough and timely investigations into complaints of election law violations.
- (2) Judiciously apply remedies for election law violations.
- (3) Establish collaborative working relationships with the Office of the Chief Electoral Officer, Crown Prosecutor's Office, the Court of Queen's Bench and law enforcement agencies.
- (4) Ensure the role of the Election Commissioner is understood by provincial political entities.
- (5) Maintain an investigative office of highly skilled and motivated professionals.
- (6) Provide legislative reform recommendations to improve the fairness of elections and facilitate election law enforcement.

While it was agreed that these goals described the intended strategic destination for the Office of the Election Commissioner, there was also a consensus that more specific 'strategic objectives' needed to be established to make progress in achieving the organizational goals.

Six strategic objectives of the office were developed, and each was established to simultaneously support more than one organizational goal. The objectives are:



\*PDF versions of infographics available at [albertaelectioncommissioner.ca](http://albertaelectioncommissioner.ca)

- (A) Develop and continuously improve procedures to conduct timely and thorough investigations into complaints and allegations of acts or omissions that may violate Alberta provincial election laws. (Supporting Goals 1, 5, 6)
- (B) Apply unambiguous criteria for the application of each type of remedy available to the Election Commissioner for enforcing election laws by developing policies and checklists that ensure consistency in the administration of these remedies. (Supporting Goals 2, 3, 6)
- (C) Provide information, using various presentation media, to political parties, third parties and other political entities regarding the functions of the Office of the Election Commissioner, the specific legal responsibilities each type of entity must comply with, and the statutory penalties associated with non-compliance. (Supporting Goals 4, 5)\*
- (D) Develop an efficient method of employing high quality administrative personnel and skilled investigative staff to quickly respond to increased volumes of complaints and investigations. (Supporting Goals 1, 5)
- (E) Develop a records management system that ensures secure, efficient and orderly filing, with appropriate security access for all case records. (Supporting Goals 1, 3, 5, 6)
- (F) Provide professional development opportunities for staff of the Office of the Election Commissioner. (Supporting Goals 1, 2, 5, 6)

Recognizing the management adage that “what gets measured gets attention”, staff of the Election Commissioner’s office developed six performance measures to be applied during fiscal year 2019-2020.

<b>Goal</b>	<b>Performance Measure</b>	<b>Target in FY 2019-20</b>
Provide fair, thorough and timely investigations into complaints of election law offences.	Percentage of investigations completed within 120 days.	85% of all investigations completed within 120 days. (Percentage score $\geq$ 85)
Judiciously apply remedies for election law violations.	Develop a comprehensive table of election law offences, an offence severity scale and establish a list of criteria for applying each type of remedy.	Table, scale and list developed and used in policy development throughout the fiscal year. (Yes/No)
Establish collaborative working relationships with the Office of the Chief Electoral Officer, Crown Prosecutor's Office, the Court of Queen's Bench and law enforcement agencies.	Formal Information Sharing Agreement (ISA) negotiated with Elections Alberta, memorandum of understanding (MOU) established with the RCMP and protocol meetings held with the Crown Prosecutor's Office and Court of Queen's Bench.	ISA is signed, MOU is established, and protocol meetings are held before the Writs for the 31 <sup>st</sup> General Election are issued. (Yes/No)
Ensure the role of the Election Commissioner is understood by provincial political entities.	Presentation materials and summary infographics, specific to each type of political entity, are developed and published on the website of the Office of the Election Commissioner	At least 50% of planned infographics are posted to the OEC website before the start of the election period for the 30 <sup>th</sup> General Election. (Yes/No)
Maintain an investigative office of highly skilled and motivated professionals.	Professional development (PD) opportunities are made available to each employee of the Office of the Election Commissioner.	Two PD opportunities taken per employee during fiscal year. (Average number of opportunities taken per employee $\geq$ 2.)
Provide legislative reform recommendations to improve the fairness of elections and facilitate election law enforcement.	A detailed inventory of topics where legislation is absent, incomplete, contradictory or otherwise problematic is compiled.	Inventory of required statute changes developed throughout the fiscal year. (Yes/No)

Measures for the listed performance indicators will be taken throughout the 2019-2020 fiscal year and reported in the corresponding Annual Report of the Office of the Election Commissioner.





# Appendices

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<b>Appendix A —</b> Proposed EA Legislative Amendments	<b>35</b>
<b>Appendix B —</b> Proposed EFCDA Legislative Amendments	<b>44</b>
<b>Appendix C —</b> Proposed LAEA Legislative Amendments	<b>56</b>
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## APPENDIX A — PROPOSED ELECTION ACT LEGISLATIVE AMENDMENTS

### Election Act (EA)

EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Interpretation</b>	1	(1)(d)	(d) "chief financial officer" means a person so appointed by a candidate pursuant to the <i>Election Finances and Contributions Disclosure Act</i> ;	The term "chief financial officer" should be defined to include the chief financial officers required to be appointed by other political entities, including third parties	Chief financial officers are required to be appointed by political parties, constituency associations, third parties, nomination contestants and leadership contestants as well.  According to s. 29(1) Every political party, constituency association, candidate, nomination contestant and leadership contestant shall, before filing an application for registration with the Chief Electoral Officer, appoint a chief financial officer.  According to s. 44.7(2) Every registered third party shall appoint a chief financial officer.  Broadening the definition of the term "chief financial officer" would broaden the applicability of the obligations and offences to chief financial officers of other political entities.
<b>Prohibition against political activity</b>	12	(a)	12 No person who has been appointed or is acting as a returning officer, election clerk or administrative assistant may  (a) engage in political activity on behalf of any political party, candidate or constituency association, or  (b) make a contribution under the <i>Election Finances and Contributions Disclosure Act</i> , while the person is so appointed or acting.	Election officials should be prohibited from making contributions and engaging in political activity with nomination contestants and leadership contestants as well.	Returning officers, election clerks and administrative assistants are prohibited from engaging in political activity on behalf of political parties, candidates and constituency associations. With the regulation of nomination and leadership contests, returning officers, election clerks, and administrative assistants should also be prohibited from engaging in political activity on behalf of nomination contestants and leadership contestants. Since third parties engage in political and election advertising, consideration should also be given to having the restrictions on the political activity of election officials apply to third parties as well.
<b>Contents of list of electors</b>	17		17 Subject to section 18(7), only the first names, middle names and surnames, the addresses, including postal codes, the telephone numbers and the unique identifier numbers of electors may be contained in the list of electors.	Political parties are known to collect considerable amounts of digital information on citizens in addition to the elector information they receive from Elections Alberta.	The list of electors contains personal information about voters.  The list of electors is supplied in electronic form and/or printed form to registered political parties and MLAs at different times during the election cycle and following redistribution of electoral boundaries. At election time, political parties supply the list of electors to candidates and candidates, in turn, supply the list to their campaign workers.
<b>Distribution of list of electors</b>	18	(1)	18 (1) The Chief Electoral Officer shall furnish the information referred to in subsection (2) free of charge to each registered political party and to each member of the Legislative Assembly who is not a member of a registered political party.  (a) 2 years after a general election,  (b) repealed 2017 c29 s15,  (c) as soon as possible after the register is updated after the Schedule of electoral divisions in the Electoral Divisions Act is amended or re-enacted, and  (d) as soon as possible after the receipt by the Chief Electoral Officer of the Clerk's warrant delivered pursuant to section 32 of the Legislative Assembly Act.	A significant number of complaints are received by the Office of the Election Commissioner about the handling and use of voter information. These cannot be investigated by the Election Commissioner or the Privacy Commissioner under Alberta's current legal framework. Current legislation requires the physical security of list of elector and poll book information only.	



EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Post-polling-day list of electors	19	(2)	19 (2)	The Chief Electoral Officer shall furnish free of charge to each registered political party, one printed copy or one copy in electronic form, or both, in accordance with the political party's request, of the post-polling-day list of electors for each polling subdivision in each electoral division, and	An up-to-date list of electors is supplied to registered political parties and MLAs in electronic and/or printed form following a general election or by-election.
			(a)	to each member of the Legislative Assembly, one printed copy or one copy in electronic form, or both, in accordance with each member's request, of the post-polling-day list of electors for each polling subdivision in the electoral division that the member represents.	The Act requires registered political parties and persons furnished with the list of electors to take basic measures to protect the information in the list from loss and unauthorized use.
Protection of list	19.1		19.1	(1) A person or registered political party to whom a copy of a list of electors has been furnished under this Act shall take all reasonable steps to protect the list and the information contained in it from loss and unauthorized use. (2) A person or registered political party to whom a copy of a list of electors has been furnished under this Act shall immediately notify the Chief Electoral Officer if the list or information contained in the list has been lost. (3) On being notified under subsection (2), the Chief Electoral Officer shall direct the person or registered political party to take any action the Chief Electoral Officer considers appropriate.	The Act requires the recipient to notify the CEO of a loss of a list of electors.
			(1)	In this section, "elector" includes a person who is eligible to vote at a plebiscite or referendum conducted under this Act or under an Act to which this Act applies. (2) A list of electors, including a post-polling-day list of electors under section 19, may be used only as follows: (a) by a registered political party or a registered constituency association, for communicating with electors, including for soliciting contributions and recruiting party members; (b) by a member of the Legislative Assembly (i) for carrying out the duties and functions of the member, (ii) in the case of a member of a registered political party, for soliciting contributions for the use of the registered political party or any constituency association of that party and recruiting party members, and (iii) in the case of a member who is not a member of a registered political party but who has endorsed a constituency association as the official association of the member, for soliciting contributions for the use of the constituency association; (c) by a candidate, (i) for communicating with electors during a campaign period, including for soliciting contributions and campaigning, and (ii) for soliciting contributions during any period authorized under section 4.31 of the Election Finances and Contributions Disclosure Act; (d) by election officers for the purpose of carrying out their duties under this Act.	The Act requires the CEO to direct the recipient to take appropriate action in response to the loss. The Act permits the list of electors to be used by registered parties and registered constituency associations for communicating with electors, soliciting contributions and recruiting party members. All MLAs can use the list of electors for carrying out their duties and functions. Party affiliated MLAs can use the list for soliciting contributions for the party or any constituency association and for recruiting party members. Independent MLAs who have endorsed a constituency association can use the list for soliciting contributions for the constituency association. All candidates can use the list for communicating with electors during a campaign period, for campaigning and for soliciting contributions during a campaign period and during the time allowed for the elimination of campaign debts. Election Officers can use the list for carrying out their duties.
Restricted use of list of electors	20		20	(1) In this section, "elector" includes a person who is eligible to vote at a plebiscite or referendum conducted under this Act or under an Act to which this Act applies. (2) A list of electors, including a post-polling-day list of electors under section 19, may be used only as follows: (a) by a registered political party or a registered constituency association, for communicating with electors, including for soliciting contributions and recruiting party members; (b) by a member of the Legislative Assembly (i) for carrying out the duties and functions of the member, (ii) in the case of a member of a registered political party, for soliciting contributions for the use of the registered political party or any constituency association of that party and recruiting party members, and (iii) in the case of a member who is not a member of a registered political party but who has endorsed a constituency association as the official association of the member, for soliciting contributions for the use of the constituency association; (c) by a candidate, (i) for communicating with electors during a campaign period, including for soliciting contributions and campaigning, and (ii) for soliciting contributions during any period authorized under section 4.31 of the Election Finances and Contributions Disclosure Act; (d) by election officers for the purpose of carrying out their duties under this Act.	Political parties are currently not subject to provincial privacy laws and operate in an environment without standards and with no recourse for voters concerned about the privacy of information held by them. Information about voters can be held without limits on direct or indirect collection, without their informed consent, without recourse to see it, control its use and distribution, to correct errors or have it removed from their databases. Either the <i>Election Act</i> , but preferably the <i>Personal Information Protection Act (PIPA)</i> , should be amended to ensure the privacy of voters' personal information held by political parties. Amendments should address limits on collection, consent, retention, use, access, disclosure, security and destruction of personal information. Parties should be required to establish privacy policies, that not only commit them to respect privacy principles, but which also meet the minimum standards for privacy protection in PIPA. The province's Privacy Commissioner should be authorized to receive and investigate complaints of privacy breaches to ensure compliance with privacy requirements.

EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Inspection of election documents	152			<p>(2) If within the 30-day period described in subsection (1) a registered candidate in an electoral division, a registered candidate's official agent or a registered political party that has a registered candidate in the electoral division makes a written request to the Chief Electoral Officer for a copy of the poll books for the relevant electoral division, the Chief Electoral Officer shall, on payment of the cost to produce the copy as determined by the Chief Electoral Officer, furnish the copy to the registered candidate, registered official agent or registered political party.</p> <p>(3) Information contained in documents referred to in subsections (1) and (2) may be used only for electoral purposes.</p> <p>(3.1) A registered candidate, a registered candidate's official agent or a registered political party to whom a copy of a poll book has been furnished under this section shall take all reasonable steps to protect the poll book and the information contained in it from loss and unauthorized use.</p> <p>(3.2) A registered candidate, a registered candidate's official agent or a registered political party to whom a copy of a poll book has been furnished under this section shall immediately notify the Chief Electoral Officer if the poll book or the information contained in the poll book has been lost.</p> <p>(3.3) On being notified under subsection (3.2), the Chief Electoral Officer shall direct the registered candidate, the registered candidate's official agent or the registered political party to take any action the Chief Electoral Officer considers appropriate.</p>	<p>Poll book information can only be used for "electoral purposes" which is not defined in the Act</p> <p>The recipient must take basic measures to protect the poll book and the information in it from loss and unauthorized use.</p> <p>The Act requires the recipient to notify the CEO of loss.</p> <p>The Act requires the CEO to direct the recipient to take appropriate action in response to the loss.</p>
Absentee voters	44	(1) & (2)	44	<p>(1) A person who is otherwise eligible as an elector but who does not meet the residence requirements of section 16(c) and (d) because the person's ordinary place of residence is outside Alberta for the purpose of carrying out the person's function as ...</p> <p>(2) A person who</p> <p>(a) is the spouse or adult interdependent partner or a dependant of and is ordinarily resident with a person described in subsection (1), and</p> <p>(b) is otherwise eligible as an elector,</p> <p>is, for the purposes of voting, deemed to be and to have been <b>for the required period</b> ordinarily resident in the same subdivision as the person described in subsection (1) and is eligible to have the person's name entered on the list of electors for that subdivision and to vote at an election.</p>	<p>S. 16(c) was repealed in 2017.</p> <p>With the repeal of s. 16(c) in 2017, there is no longer a required period of residency in Alberta for the purpose of establishing voter eligibility.</p>
Service on candidates of documents and notices	68		68	<p>Any document or notice delivered between 9 a.m. and 6 p.m. to the address stated for that purpose in a candidate's nomination paper is deemed to have been personally served or given to that candidate.</p>	<p>It can be extremely difficult to achieve service of documents upon subjects of investigations when their legal counsel refuse to accept service and the person repeatedly and deliberately avoids service.</p> <p>Alternative forms of service, other than personal service, should be permitted for registered and unregistered candidates, contestants, third parties and other persons who are subjects of an investigation without having to obtain a Court order for substitutional service. Other forms of service should include registered mail, email to known legal counsel, and other commonly accepted methods of substitutional service.</p>

EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Persons entitled to remain in polling place	92	(1)	Only the following persons may remain in a polling place during polling hours:	This section should be amended to permit the Election Commissioner and representatives of the Election Commissioner's office to be present and remain in the polling place during polling hours and for the counting of ballots.	The Office of the Election Commissioner has a mandate to respond to complaints and investigate any matter that may constitute an offence under the EA or EFCCA. Numerous election rules apply to the actions of voters, candidates, scrutineers and election officers as they attend the polling place to vote and perform their duties. The Election Commissioner and his investigators must be able to attend, observe and collect evidence of potential wrongdoing if allegations are made that it is occurring within a polling place.
			<ul style="list-style-type: none"> <li>(a) the supervisory deputy returning officer and deputy returning officers;</li> <li>(a.1) the registration officers;</li> <li>(b) the poll clerks;</li> <li>(c) the returning officer or election clerk;</li> <li>(d) the Chief Electoral Officer, members of the Chief Electoral Officer's office staff designated by the Chief Electoral Officer and visiting officials from other electoral jurisdictions authorized by the Chief Electoral Officer;</li> <li>(e) the official agents of the candidates;</li> <li>(f) one scrutineer per candidate for each ballot box;</li> <li>(f.1) one scrutineer per candidate at each registration officer's station;</li> <li>(g) the interpreters;</li> <li>(h) peace officers appointed under the <i>Peace Officer Act</i>;</li> <li>(i) the information officers;</li> <li>(i) other election officers authorized by the Chief Electoral Officer.</li> </ul> <p>(1.1) Students may briefly visit a polling place in their school for educational purposes with the consent of the supervisory deputy returning officer or a deputy returning officer.</p> <p>(1.2) Members of the media may briefly visit a polling place after receiving confirmation from the supervisory deputy returning officer or a deputy returning officer that the electors in the polling place all agree to the visit.</p> <p>(2) Nothing in this Act restricts a candidate from briefly visiting a polling place during polling hours.</p>	<p>Appropriate identification would be supplied by the Election Commissioner.</p> <p>It should be noted that the authority of the CEO to grant permission for others to attend the polling place extends only to other election officers.</p> <p><b>Note:</b> This recommendation was made previously to the Standing Committee on Legislative Offices.</p> <p><b>Note:</b> s. 67(2) of the <i>Local Authorities Election Act</i> would permit the Election Commissioner and representatives of his office to be present at voting stations with the permission of the presiding deputy.</p>	
Right of access for campaigning	133	(1)	In this section and section 133.1, "multiple dwelling site" means <ul style="list-style-type: none"> <li>(a) an apartment building, condominium building or other multiple residence building, or</li> <li>(b) any site in which more than one residence is contained, including a mobile home park, gated community and any similar site.</li> </ul> <p>(2) A person who is in control of a multiple dwelling site shall permit a candidate or campaign worker who has produced identification prescribed by the Chief Electoral Officer to canvass between 9:00 a.m. and 9:00 p.m. at each residential unit in the multiple dwelling site.</p> <p>(3) A person to whom the candidate or campaign worker has produced identification referred to in subsection (2) shall not <ul style="list-style-type: none"> <li>(a) obstruct or interfere with, or</li> <li>(b) cause or permit the obstruction or interference with,</li> </ul> the free access of a candidate or campaign worker to each residential unit in a multiple dwelling site.</p>	Clarify that the authorization for campaigning in this section applies to the campaign period.	S. 133 applies to all candidates. It permits the candidate or a campaign worker free access to a multiple dwelling site for the purposes of campaigning. When read in conjunction with s. 133.1, the section implies that it is authorizing campaigning in multiple dwelling sites during the campaign period, however, this is not made explicit. In the absence of this clarification, this section could be interpreted to authorize such campaigning at any time.

EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Canvassing in a multiple dwelling site before the campaign period	133.1	(1)	133.1	Some accommodation should be made for independent candidates to campaign before the campaign period begins to give them parity with party endorsed candidates.	Section 133.1 applies only to party endorsed candidates. It authorizes a campaign worker to canvass in multiple dwelling sites before the campaign period but only if he or she is accompanied by the candidate.  This restricted application only to party endorsed candidates can disadvantage independent candidates who are not even permitted to declare their candidacy until after the writs have been issued.
Printed or electronic advertising	134	(1) & (2)	134	Extend advertising sponsorship requirements to nomination and leadership contestants.	This section imposes the requirement on registered candidates, registered constituency associations and registered political parties to include sponsorship information with their advertising. Consideration should be given to extending this requirement to advertising by nomination and leadership contestants.  Third parties are also required to include sponsorship information along with their advertising as per EFCDA s. 44.8.
Restrictions on government advertising	134.1	(2)	134.1	Some restrictions on government advertising should be in place in the pre-writ period as well. It is suggested these restrictions be in place from Dec 1 in the year preceding the year in which a general election is held.	Currently restrictions on government advertising extend only to the election period, i.e. writ day to election day. Now that virtually all Canadian elections are held on a fixed date schedule (fixed period in Alberta) many jurisdictions impose restrictions on government advertising in the lead up or pre-writ period to the election.
Salary of Election Commissioner	153.06		153.06	The Election Commissioner should be paid a salary within the range of salaries paid to senior deputy ministers in the public service and should be entitled to the same privileges of office as a senior deputy minister.	The Standing Committee on Legislative Offices has a statutory responsibility to review the salary of the Election Commissioner on an annual basis. If the Standing Committee sets the salary, the Officer becomes dependent on the pleasures of the Committee majority for remuneration, thereby allowing governments that are dissatisfied with the actions or reports of the Officer to penalize them through salary freezes and reductions. The salary of an independent officer should be pegged to some reference point commensurate with the senior nature of the position. Having the Standing Committee involved in the determination of the salary of the Election Commissioner could lead to the appearance that his/her independence could be compromised through this process.



EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Duties &amp; powers of the Election Commissioner</b>	153.09	(3)	153.09	Extend the Election Commissioner's powers to enter, examine, make copies, and remove books or documents to include nomination and leadership contestants and third parties.	This appears to be a drafting oversight as the addition of nomination contestants, leadership contestants and third parties was made in parallel EFCEA subsections 44.96(2) & (4). <b>Note:</b> S. 19(3) of the <i>Local Authorities Election Act</i> also includes third parties.
<b>Duties &amp; powers of the Election Commissioner</b>	153.09	(5)	153.09	Extend the requirement to provide information to the Election Commissioner within 30 days to all registered and unregistered political entities, including nomination and leadership contestants and third parties.	Many of the complaints and allegations received by the Election Commissioner deal with unregistered political entities and the requirements for registration. The Election Commissioner should be permitted to conduct periodic investigations involving unregistered political entities. <b>Note:</b> S. 19(5) of the <i>Local Authorities Election Act</i> also includes third parties.
<b>Notice of investigation &amp; conclusion</b>	153.091	(4)	153.091	The Election Commissioner refuses to conduct or ceases an investigation under subsection (2) or determines that no offence was committed, the Election Commissioner (a) shall provide notice of that decision to (i) every person or organization who (A) is the subject of the investigation, or (B) would have been the subject of an investigation if the Election Commissioner had not refused to conduct an investigation, and (ii) every person or organization who requested an investigation, if any, and (b) may, as the Election Commissioner considers to be appropriate, provide notice of that decision to any other person or organization involved in the matter referred to in section 153.09(1).	This section lays out the obligation of the Election Commissioner to inform the subject of an investigation that he or she is being investigated. It also requires the Election Commissioner to inform subjects and would-be subjects where the Election Commissioner refuses to conduct or ceases an investigation or determines that no offence was committed. In the majority of cases where the Election Commissioner refuses to investigate, it is because the complaint is outside of the Election Commissioner's jurisdiction. In such cases, the subject of the complaint would have no knowledge that they have been the subject of a complaint.
<b>Annual report</b>	153.092	(3)		Considering the general confidentiality provisions contained in s. 206.1, this provision should be amended to clarify the kinds of information that may be disclosed in a special report issued by the Election Commissioner. Similarly, the level of detail regarding complaints and investigations that s. 153.092(2) states should be included in OEC Annual Reports needs clarification.	The current contradiction between conflicting confidentiality and disclosure requirements needs to be resolved.



EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Appeal of administrative penalty	153.3		153.3	<p>(1) A person or entity who is served with a notice of administrative penalty under section 153.1 may appeal the Election Commissioner's decision by filing an application with the Court within 30 days from the date the notice was served.</p> <p>(2) The application must be accompanied with a copy of the notice of administrative penalty and state the reasons for the appeal.</p> <p>(3) A copy of the application must be served on the Election Commissioner not less than 30 days before the appeal is to be heard.</p> <p>(4) The Court may, on application either before or after the time referred to in subsection (1), extend that time if it considers it appropriate to do so.</p> <p>(5) On hearing the appeal, the Court may confirm, rescind or vary the amount of the administrative penalty.</p> <p>(a) the grounds for the request exhibit disagreement or dissatisfaction with the decision or order, but do not disclose substantial reasons to justify a review;</p> <p>(b) the evidence could have been presented when the person or entity had been given an opportunity to respond to the notice of investigation; or</p> <p>(c) in the opinion of the Election Commissioner, the evidence said to be new is not new or is insufficiently substantial to justify a reconsideration.</p> <p><b>Note:</b> Such an amendment should apply to decisions and orders made under the EA, the EFCDA and the LAEA.</p>	<p>From time to time, circumstances arise when it would be desirable for the Election Commissioner to have the ability to reconsider a decision or order he has made. For example, occasionally new information or evidence comes to light following the opportunity provided to a person or entity to respond (usually 30 days) to a Notice of Investigation Findings and after the Election Commissioner has served the person or entity with a Notice of Penalty. Currently, the Act does not permit the Election Commissioner to reconsider a decision or order he has made. The only options available now would be for the penalized person or entity to file an appeal with the Court of Queen's Bench or for the Election Commissioner to exercise his discretion and not force collection of the penalty. Neither of these solutions are adequate. The former option can be expensive for the appellant, if legal counsel is retained and the latter does not affect the required publication of the decision.</p>
False statements about candidate	160		160	<p>A person who, before or during an election and for the purpose of affecting the voting for a candidate at that election, makes or publishes any false statement in relation to the character or conduct of that candidate or of the withdrawal of that candidate, is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a term of not more than one year or to both fine and imprisonment.</p>	<p>This offence prohibits the making or publishing of false statements about candidates only. It may have been an oversight not to include nomination and leadership contestants when amendments were passed to regulate nomination and leadership contests.</p> <p><b>Note:</b> There should be a similar offence in the <i>Local Authorities Election Act</i>.</p>

EA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Improper inducement</b>	172			<p>The current section makes it an offence to induce an elector to vote or not to vote or to vote or not to vote for a particular candidate; to solicit gifts, loans or promises of valuable consideration from a candidate or official agent as a reward for agreeing to vote or not to vote for a particular candidate; etc.</p> <p>Section 172 should be broadened to include the following additional offences.</p> <p>(1) A person who, directly or indirectly, offers a bribe to induce or influence another person to do any of the following is guilty of an offence:</p> <ul style="list-style-type: none"> <li>(a) to run or refrain from running as a candidate, nomination contestant, or leadership contestant;</li> <li>(b) to run or refrain from running for or against a particular candidate, nomination contestant or leadership contestant;</li> <li>(c) to nominate or refrain from nominating a person as a candidate, nomination contestant or leadership contestant;</li> <li>(d) to withdraw as a candidate, a nomination contestant or leadership contestant.</li> </ul> <p>(2) A person who, directly or indirectly, accepts or agrees to accept a bribe offered in circumstances described in subsection (1) is guilty of an offence.</p> <p>(3) A person who, directly or indirectly, solicits a bribe in circumstances described in subsection (1) is guilty of an offence.</p>	<p>Unlike in other Canadian jurisdictions [Manitoba s. 178(1), New Brunswick s.106(1)(C), Nova Scotia s. 327(1)(d), Prince Edward Island s. 126 &amp; Newfoundland and Labrador s. 191], it is not an offence to offer an inducement or a bribe to a candidate (or a contestant) to run or refrain from running as a candidate (or contestant) or to run in a different electoral division than where they were planning to run.</p>
<b>Disclosure</b>	206.1	(1) & (2)	206.1	<p>The legislation should be amended to clarify that neither the Election Commissioner nor any person acting under his or her direction is required to disclose any information that reveals the name of the complainant, if any, or any witness, unless required to do so by the court.</p> <p><b>Note:</b> A similar change should be made to s. 203(1) &amp; (2) of the <i>Local Authorities Election Act</i>.</p>	<p>Complainants will often request that their name be kept confidential as a condition to making a complaint. The Election Commissioner will not promise a complainant confidentiality since it is not known at the outset of an investigation whether or not the matter will end up in court and the OEC does not control what becomes public as a result of the court proceeding.</p> <p>Frequently the subject of an investigation will request to know the identity of the complainant. The Election Commissioner has the discretion to reveal the complainant's identity, but it has been the policy of the Office not to do so. Disclosure of the complainant's identity may discourage people from coming forward and making complaints. Other jurisdictions protect the identity of complainants in this context.</p>
<b>Disclosure</b>	206.1	(3)	206.1	<p>(3) Findings and decisions, and any additional information that the Election Commissioner considers to be appropriate, shall be published on the Election Commissioner's website in the following circumstances:</p> <ul style="list-style-type: none"> <li>(a) if an administrative penalty is imposed or a letter of reprimand is issued under section 153.1;</li> </ul>	<p>This section requires the Election Commissioner to publish findings and decisions on his website where an administrative penalty is imposed, or letter of reprimand is issued. The Act should specify a time period after which this disclosure of the names of individuals and organizations should be removed from the public facing website. Otherwise this information will appear on the website in perpetuity.</p>

# APPENDIX B — PROPOSED ELECTION FINANCES AND CONTRIBUTIONS DISCLOSURE ACT LEGISLATIVE AMENDMENTS

## ELECTION FINANCES AND CONTRIBUTIONS DISCLOSURE ACT (EFCDA)

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Plain language rewrite</b>				There should be a plain language rewrite of the EFCDA.	This legislation should be clear and accessible to the individuals and entities who are subject to its rules, including political party staff, candidates, third parties, contributors, and the many volunteers who work on election campaigns. This is a critical requirement in order to make it easier for users to comply with election finance rules.
<b>Campaign expenses</b>	1.1	(1)	1.1 (1) For the purposes of this Act, a campaign expense is any expense incurred, or non-monetary contribution received, (a) by a registered party, registered constituency association or registered candidate to the extent that the property or service that the expense was incurred for, or that was received as a non-monetary contribution, is used to directly promote or oppose a registered party, a registered constituency association or a registered candidate <b>during a campaign period</b> , and (b) by a nomination contestant or leadership contestant, to the extent that the property or service that the expense was incurred for, or that was received as a non-monetary contribution, is used to directly promote or oppose a nomination contestant or leadership contestant during a campaign period of the nomination contestant or leadership contestant, as the case may be.	The definition of “campaign expenses” should be amended to ensure consistency.	Campaign expenses are defined as expenses incurred by a party, constituency association, or candidate which are used to directly support or oppose a party, constituency association or candidate <b>during a campaign period</b> . This definition is problematic as s. 9(1.1) prohibits registered candidates from accepting contributions or incurring campaign expenses except during a campaign period. Clearly the Act is trying to restrict candidate expenditures to the campaign period, but it has been argued by parties and candidates that expenses incurred outside the campaign period are not, by definition, campaign expenses because they were incurred outside the campaign period and not during the campaign period. <b>Note:</b> A similar issue exists with regard to nomination contestants and leadership contestants. <b>Note:</b> The same definition appears in s. 1471(1)(a) of the <i>Local Authorities Election Act</i> .
<b>Powers of CEO</b>	5	(2)	5 (2) For the purpose of carrying out an examination or inquiry referred to in section 4(1), a representative of the Chief Electoral Officer, on production of the representative's authorization from the Chief Electoral Officer, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a political party, constituency association, candidate, <b>nomination candidate</b> , leadership contestant or third party relevant to the subject-matter of the examination or inquiry are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.	The word “nomination candidate” should be replaced with “nomination contestant”	<b>Note:</b> The same issue exists with the definition of election expenses in s. 41(1) in the EFCDA. This section erroneously refers to a nomination “candidate” rather than a nomination contestant.
<b>Disclosure</b>	5.2	(1) & (2)	5.2 (1) Except as provided in subsections (2) and (3), the Chief Electoral Officer, the Election Commissioner, any former Chief Electoral Officer, any former Election Commissioner, every person who is or was employed or engaged by the Office of the Chief Electoral Officer to carry out the duties of the Chief Electoral Officer and every person who is or was employed by the Office of the Election Commissioner to carry out the duties of an Election Commissioner shall maintain the confidentiality of all information, complaints and allegations that come to their knowledge. (2) Information, complaints and allegations to which subsection (1) applies may be (c) disclosed to the person or organization whose conduct is the subject of proceedings under this Act.	The legislation should be amended to clarify that neither the Election Commissioner nor any person acting under his or her direction is required to disclose any information that reveals the name of the complainant, if any, or any witness unless required to do so by the Court. <b>Note:</b> A similar change should be made to s. 203(1) & (2)	Complainants will often request that their name be kept confidential as a condition to making a complaint. The Election Commissioner will not promise a complainant confidentiality since we do not know at the outset of an investigation whether or not the matter will end up in court and we do not control what becomes public as a result of the court proceeding. Frequently the subject of an investigation will request to know the identity of the complainant. The Election Commissioner has the discretion to reveal the complainant's identity, but it has been the policy of the Office not to do so. Disclosure of the complainant's identity may discourage people from coming forward and making complaints. Other jurisdictions protect the identity of complainants in this context.

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Disclosure</b>	5.2	(3)(a)	5.2 (3) Findings and decisions, and any additional information that the Election Commissioner considers to be appropriate, shall be published on the Election Commissioner's website in the following circumstances: (a) subject to section 5102(2), if an administrative penalty is imposed or a letter of reprimand is issued under section 51 or 51.01;	This section should be amended to specify how long the Election Commissioner's findings and decisions should appear on his publicly facing website.	This section requires the Election Commissioner to publish findings and decisions on his website where an administrative penalty is imposed, or letter of reprimand is issued. The Act should specify a time period after which this disclosure of the names of individuals and organizations should be removed from the public facing website. Otherwise this information will appear on the website in perpetuity.
	<b>Registration of candidates</b>	9	(11)	(11) No registered candidate and no person acting for a registered candidate shall accept contributions or incur any campaign expenses except during the campaign period.	The legislation should be amended to ensure consistency.
<b>Registration of third parties</b>	9.1	(1)	9.1 (1) A third party shall apply for registration under this section (a) when it has incurred expenses of \$1000 or plans to incur advertising expenses of at least \$1000 for election advertising or political advertising, or (b) when it has accepted advertising contributions of \$1000 or plans to accept advertising contributions of at least \$1000.	This section should be amended to clarify that the \$1,000 expense/contribution trigger for third party registration refers to an amount incurred or accepted on an annual basis or within some other defined period of time.  Also, the word "advertising" should appear before the word "expenses" in (a).	There is no reference to the time period within which the \$1,000 expense/contribution triggers the requirement for registration. For example, would an individual who spends \$100 per year on signs or brochures be required to register as a third party after 10 years?  In s. 9.1(X)(a), it is not just any expenses, but advertising expenses that should trigger registration.
				<b>Note:</b> A similar change should be made to s. 163 of the <i>Local Authorities Election Act</i> .	

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Leadership contest and contestants</b>	9.2	(5)	<p><b>9.2 (5)</b> A person who fails to file an application for registration as required under subsection (4) shall not incur a campaign expense or accept a contribution during the campaign period for the leadership contest.</p>	<p>The legislation should be amended to ensure consistency.</p>	<p>Based on the definition of the term "campaign expense" which is an expense incurred <b>during a campaign period</b>, it would seem that any expenditure incurred by a leadership contestant to support or oppose his or her leadership contest that occurs outside the campaign period for the leadership contest would not be considered a campaign expense and would not trigger the requirement for registration.</p> <p>Also see s. 9.3(5) below.</p>
<b>Nomination contests and contestants</b>	9.3		<p><b>9.3 (1)</b> Before a nomination contest is held by a registered party or registered constituency association, the chief financial officer of the registered party or registered constituency association shall file with the Chief Electoral Officer a statement, in the form and manner approved by the Chief Electoral Officer, setting out the particulars of the nomination contest, including</p> <ul style="list-style-type: none"> <li>(a) the date of the official call of the nomination contest,</li> <li>(b) the date fixed for the selection of the person for endorsement as the official candidate of the registered party for an electoral division, and</li> <li>(c) if a fee or deposit is required to be paid by a person as a condition of entering the nomination contest, the estimated cost for holding the nomination contest and the amount of the fee or deposit.</li> </ul> <p><b>(2)</b> If a fee or deposit is required to be paid as a condition of entering the nomination contest, the amount of the fee or deposit must be reasonable in relation to the cost of holding the nomination contest.</p> <p><b>(3)</b> If the Chief Electoral Officer is of the opinion that the amount of the fee or deposit is not reasonable, the registered party shall reduce the amount to an amount acceptable to the Chief Electoral Officer or comply with any direction of the Chief Electoral Officer.</p> <p><b>(4)</b> A person who intends to seek endorsement as the official candidate of a registered party in an electoral division shall file an application for registration with the Chief Electoral Officer under this section at the earliest of the following:</p> <ul style="list-style-type: none"> <li>(a) when the person has announced his or her intention to seek the endorsement as the official candidate of the registered party for the electoral division;</li> <li>(b) when the person has incurred campaign expenses in relation to the person's nomination campaign;</li> <li>(c) when the person has received contributions in relation to the person's nomination campaign.</li> </ul> <p><b>(5)</b> A person who fails to file an application for registration as required under subsection (4) shall not accept a contribution or incur a campaign expense during the campaign period for the nomination contest.</p>	<p>Section 9.3 should be amended to clarify what occurs when there has not been a nomination contest to select an official candidate.</p> <p>In its Nomination Contestant Guide, Elections Alberta states, "Registration is required regardless of whether a contest has been called. A person who fails to apply for registration when one of the above events has occurred shall not incur campaign expenses or accept contributions for that person's nomination campaign, nor can that person be selected or endorsed as the official candidate."</p> <p>Also, in its Interpretation Bulletin No. 2 "Campaigning Outside of a Campaign Period", Elections Alberta states, "The process for selecting for an endorsement is a nomination contest under the definition is (sic) the EFCDA. This process can be as simple as a constituency association deciding on who their candidate will be, or as complicated as a full-blown contest with voting, etc. Regardless of the form of the contest, the party must report the contest prior to its occurrence, and all contestants (even if there is only one) must register with the Chief Electoral Officer – all under section 9.3 of the EFCDA."</p> <p>Nomination contests are not always held by parties. Sometimes parties, both large and small, will have selected the candidate they are going to endorse without a contest.</p>	



EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation	
Excessive contributions	19	(2)	19 (2)	A chief financial officer who learns that a contribution in excess of the limit prescribed by section 17 was accepted by or on behalf of the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant for whom the chief financial officer acts shall, within 30 days after learning of the excessive contribution, advise the Chief Electoral Officer in writing of the fact and circumstances and return the contribution in accordance with the directions of the Chief Electoral Officer.	These provisions should be amended to ensure consistency.  The Act should clarify whether it is the CEO as per s. 19(2) and s. 211 or the Election Commissioner as per s. 511(1) that has the authority to direct or order the return of illegal contributions.  The Act should also clarify whether it is the CFO as per s. 19(2) or the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant as per s. 211 that is responsible for returning illegal contributions.  It should be noted that s. 44.2(4) states that it is the CFO of a third party who is responsible for returning illegal contributions.  <b>Note:</b> S. 147.82(4) of the <i>Local Authorities Election Act</i> makes the penalty very clear when the recipient of an illegal contribution fails to follow an order to return the illegal contribution. It states:  147.82(4) A candidate or a person acting on behalf of a candidate who fails to return or pay an amount referred to in section 147.23(a) or (b) is guilty of an offence and liable to a fine of not more than \$5000.  According to the EFCDA, failure to follow such a direction by the Election Commissioner results in a fine of not more than \$1,000. The penalty in the EFCDA for failing to follow a direction of the Election Commissioner should be increased.	There appears to be a conflict between subsections 19(2), 211(1) & (2) and 511(1) & (2).  Section 19(2) gives the CEO the power to direct the disposition of excessive contributions when the CFO reports the over contribution in writing to the CEO within 30 days.  Section 211(1) & (2) also requires contributions that contravene the Act, which includes excessive contributions, to be returned to the contributor by the recipient and that anonymous contributions be sent to the CEO for deposit to the General Revenue Fund.  On the other hand, section 511(1) & (2) gives the Election Commissioner the power to order the disposition of all contributions that violate the EFCDA, which includes excessive contributions.  According to the applicable principles of statutory interpretation (Order H2003-002 (Re), 2006 CanLII 80883 (AB OIPC)), there may be a conflict if two statutory provisions cannot stand together.  Section 19(2) applies in the following limited circumstances: <ul style="list-style-type: none"><li>a CFO learns that a contribution in excess of the limit was accepted by or on behalf of the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant for whom the CFO acts,</li><li>the CFO, within 30 days after learning of the excessive contribution, advises the Chief Electoral Officer in writing of the fact and circumstances, and</li><li>the CFO receives directions from the Chief Electoral Officer for return of the contribution.</li></ul> The Chief Electoral Officer is able to issue directions in the circumstances described above (i.e. where there has been written notice by the CFO of the fact and circumstances within 30 days of learning of the excessive contribution).  Sections 211 and 511(1) apply in much broader circumstances. Also s. 511 refers to orders by the Election Commissioner when there has been "a contribution that has been made or accepted in contravention of this Act".  Circumstances can arise where these provisions do not function together, namely contraventions involving excessive contributions reported to the CEO by the CFO within 30 days of the CFO learning.
	Anonymous and unauthorized contributions	211	(1)	211 (1) Any anonymous contribution in excess of \$50 and any contribution or portion of a contribution made in contravention of this Act accepted by a registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant must not be used or expended, and the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant shall return the contribution to the contributor if the contributor's identity can be established, or  (b) if the contributor's identity cannot be established, shall pay an amount equivalent to the contribution to the Chief Electoral Officer.  (2) Any amounts received by the Chief Electoral Officer under subsection (1)(b) must be paid into the General Revenue Fund.		
Election Commissioner's orders	511	(1)	511 (1) Where a contribution has been made or accepted in contravention of this Act, the Election Commissioner may order that the amount of the contribution that was made or accepted in contravention of this Act be returned to the contributor.  (2) If it cannot be determined who made the contribution that was made or accepted in contravention of this Act, the amount ordered under subsection (1) must be paid into the General Revenue Fund.			



EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Anonymous and unauthorized contributions	21.1	(1) & (2)	211	(1) Any anonymous contribution in excess of \$50 and any contribution or portion of a contribution made in contravention of this Act, accepted by a registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant must not be used or expended, and the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant	Contributions that have been made by prohibited persons or entities or contributions made with funds that do not belong to the contributor, should not be returned to the contributor, but should be paid to the General Revenue Fund.
				(a) shall return the contribution to the contributor if the contributor's identity can be established, or (b) if the contributor's identity cannot be established, shall pay an amount equivalent to the contribution to the Chief Electoral Officer. (2) Any amounts received by the Chief Electoral Officer under subsection (1)(b) must be paid into the General Revenue Fund.	<b>Note:</b> The same issue exists with s. 175 of the Local Authorities Election Act. In the case of local elections, contributions made by prohibited persons or entities or contributions made with funds that do not belong to the contributor should be paid to the local jurisdiction.
Election Commissioner's orders			511	(1) Where a contribution has been made or accepted in contravention of this Act, the Election Commissioner may order that the amount of the contribution that was made or accepted in contravention of this Act be returned to the contributor. (2) If it cannot be determined who made the contribution that was made or accepted in contravention of this Act, the amount ordered under subsection (1) must be paid into the General Revenue Fund.	The requirement to return prohibited contributions and contributions made with funds that do not belong to the contributor also limits the ability of the Election Commissioner to appropriately penalize offenders. According to s. 51.01(5)(b), the maximum administrative penalty for contravening contribution rules is twice the amount that was contributed in contravention of the Act to a maximum of \$10,000. A \$10,000 prohibited contribution, for example, could only attract a maximum \$10,000 penalty. With the requirement to return the initial \$10,000 prohibited contribution there would effectively be no penalty at all.
Annual membership fees	25		25	An annual membership fee paid for membership in a political party or in a constituency association of that party, or in both, is not a contribution for the purposes of this Act if (a) the fee or, when a fee is paid to the party and to a constituency association of that party, the total of those fees, does not exceed \$50, and (b) the political party and constituency association each maintain a membership list indicating the amount of the fee or fees paid by each member that is allocated to the political party or constituency association, as the case may be, but if the fee or total of those fees exceeds \$50, the amount of the excess shall be considered as a contribution.	According to the Act, the cost of a party or constituency association membership is not a contribution if it is under \$50. Most party memberships are under that amount. At the time this provision was written, the assumptions may have been that individuals would be purchasing their own memberships. The purchase of party memberships is not regulated by the legislation and there is no requirement for memberships to be purchased (paid for) by the individual member. This has been considered an internal party matter. The Office of the Election Commissioner is concerned that bulk purchase of memberships by individuals, corporations and unions, sometimes in the thousands of dollars, could be a way of circumventing the contribution limits and permitting prohibited contributions.  When memberships are purchased in bulk by individuals, corporations or unions this could be a backdoor way for donors to "contribute" more funds to a party or campaign than is allowed by the contribution limits or for prohibited contributors to make contributions.
				(1) No person shall contribute to a registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant. (a) funds not actually belonging to that person, or (b) funds that have been given or furnished to the person by another person or any prohibited person or entity for the purpose of making a contribution of those funds to that registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant.	The Act should specify that memberships in political parties and constituency associations must be paid for only by individual members with funds to which they are beneficially entitled.
Contributions not belonging to contributor	34	(1)	34	No person shall contribute to a registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant. (a) funds not actually belonging to that person, or (b) funds that have been given or furnished to the person by another person or any prohibited person or entity for the purpose of making a contribution of those funds to that registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant.	For greater certainty, s. 34(1) should be amended to clarify that it is prohibited for a contribution to be made in the name of another person whether or not that other person is aware of the contribution being made in their name.
				(1) No person shall contribute to a registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant. (a) funds not actually belonging to that person, or (b) funds that have been given or furnished to the person by another person or any prohibited person or entity for the purpose of making a contribution of those funds to that registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant.	Section 34 should be amended to include the following prohibition:  No person shall make a contribution in the name of another person or knowingly permit his or her name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.  <b>Note:</b> A similar change should be made to s. 176 of the <i>Local Authorities Election Act</i> .

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation	
Prohibited contributions	35	(1)	35	(1) No registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant shall, directly or indirectly, <ul style="list-style-type: none"> <li>(a) solicit or accept a contribution if the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant knows or ought to know that the prospective contributor is a prohibited person or entity, or</li> <li>(b) contribute or transfer funds to any political party, constituency association, registered candidate, registered nomination contestant or registered leadership contestant not registered under this Act.</li> </ul>	Delete the word "registered" before the words candidate, nomination contestant and leadership contestant in s. 35(1)(b).	This section prohibits <b>registered</b> political entities from contributing or transferring funds to prohibited contributors and from contributing or transferring funds to unregistered political entities. However, where s. 35(1)(b) refers to unregistered entities, it erroneously refers to "registered candidate, registered nomination contestant or registered leadership contestant not registered under this Act."
			41.42	(1) A registered party, registered candidate, registered nomination contestant or registered leadership contestant shall not circumvent, or attempt to circumvent, an expense limit set out in this Part or a contribution limit under Part 3 by colluding with a third party. <p>(2) A third party shall not collude with a registered party, registered candidate, registered nomination contestant or registered leadership contestant to circumvent, or attempt to circumvent, an expense limit set out in this Part or a contribution limit under Part 3.</p> <p>(3) A registered party shall not circumvent, or attempt to circumvent, an expense limit set out in this Part by colluding with any other registered party.</p>	Extend the prohibition on collusion to cover other offences under the EFCDA. <b>Note:</b> A similar change should be made to s. 166 of the <i>Local Authorities Election Act</i> .	This collusion provision is directed specifically at circumvention of expense limits and contribution limits. It should be more general and refer to collusion to circumvent any provision of the EFCDA.
Filing of campaign return	43	(3)	43	(3) The Chief Electoral Officer may issue guidelines relating to the preparation and contents of the campaign returns referred to in subsections (1) and (2) and shall publish any guidelines on the Chief Electoral Officer's website.	Sections 43, 43.01, 43.02 & 44.9 should be amended to clarify that there is a requirement for the applicable political entities and third parties to comply with CEO issued financial reporting guidelines.	Sections 43, 43.01, 43.02 & 44.9 permit the CEO to issue guidelines for party, candidate, constituency association, nomination contestant and leadership contestant campaign returns and third party election advertising returns. However, unlike s. 134(2) of the <i>Election Act</i> (see below) which deals with advertising sponsorship guidelines and s. 44.8(1) of the EFCDA (see below) which deals with third party advertising sponsorship guidelines, there are no stated requirements for political entities and third parties to comply with the financial reporting guidelines.
Nomination contestant campaign return	43.01	(3)	43.01	(3) The Chief Electoral Officer may issue guidelines relating to the preparation and contents of the nomination contestant campaign return and shall publish any guidelines on the Chief Electoral Officer's website.	134(2) A registered candidate, a registered constituency association and a registered political party must ensure that advertisements sponsored by the registered candidate, the registered constituency association or the registered political party comply with the following in accordance with the guidelines of the Chief Electoral Officer:	
Leadership contestant campaign return	43.02	(4)	43.02	(4) The Chief Electoral Officer may issue guidelines relating to the preparation and contents of the leadership contestant campaign return and shall publish any guidelines on the Chief Electoral Officer's website.	44.8(1) A third party, or a person acting on a third party's behalf, must ensure that election advertising or political advertising sponsored by the third party complies with the following in accordance with the guidelines of the Chief Electoral Officer:	
Third party election advertising return	44.9	(7)	44.9	(7) The Chief Electoral Officer may issue guidelines relating to the preparation and contents of the election advertising return referred to in this section and shall publish any guidelines on the Chief Electoral Officer's website.		

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Late filing fee	43.2	(6) & (7)	43.2 (6) If the late filing fee is not paid within 30 days after the date the fee was payable, the Chief Electoral Officer shall send a notice to the persons referred to in subsection (5), as applicable, indicating the amount of the late filing fee that is required to be paid.  (7) If the persons who are sent notices by the Chief Electoral Officer under subsection (6) fail to pay the late filing fee set out in the notice, the Chief Electoral Officer may file a copy of the notice with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.	The CEO should be required to send a notice to late filers indicating that if the \$500 fee is not paid within 30 days, the CEO may file a copy of the notice with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgement of the Court.  <b>Note:</b> A similar issue exists with s. 184(5) & (6) of the <i>Local Authorities Election Act</i> .	This section requires political entities to pay a late filing fee of \$500 if financial statements or returns are not filed by the filing deadline. If the fee is not paid within 30 days, the CEO is required to send a notice to the person(s) liable indicating "the amount of the late filing fee that is required to be paid." The amount is \$500 – there is no discretion as to the amount. The notice referred to in subsections (6) & (7) should state the date by which the fee is payable, <b>not the amount</b> . If the intent of this section is to give the late filer additional time to pay the fee at the discretion of the CEO, then it should say so.
Definitions	44.1	(1)(d) & (g)	44.1 (1)(d) "election advertising" means, subject to subsection (1.1), the transmission to the public by any means during an election advertising period of an advertising message that promotes or opposes a registered party or the election of a registered candidate, including an advertising message that takes a position on an issue with which a registered party or registered candidate is associated, and for greater certainty does not include ...  (g) "political advertising" means, subject to subsection (1.3), the transmission to the public by any means, at any time other than during an election advertising period, of an advertising message that promotes or opposes a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant or the election of a registered candidate, including an advertising message that takes a position on an issue with which a registered party, the leader of a registered party, a member of the Legislative Assembly, a registered nomination contestant, a registered leadership contestant or a registered candidate is associated, and for greater certainty does not include ...	The definitions of election advertising and political advertising should be amended to include the qualifiers "directly or indirectly" with regard to advertising messages that promote or oppose.  <b>Note:</b> Similar qualifiers should be added to s. 162(1)(d) & (l) of the <i>Local Authorities Election Act</i> .	Third parties are becoming creative in their efforts to skirt the requirements for registration by transmitting advertising messages concerning candidates (and other political entities) that are negative in tone but do not directly oppose the election of the candidate. Quite often the message is subtle or nuanced but nevertheless negative and oppositional.  See also recommendation to expand what is covered by the EA s. 160 False Statement offence.
Definitions - election advertising	44.1	(1)(d)(ii)	(ii) the distribution of a book, or the promotion of the sale of a book, for no less than its commercial value, if the book was planned to be made available to the public regardless of whether there was to be an election,	This exemption from the definition of election advertising should be amended to make it clear that it does not apply to the promotion, distribution and sale of a book that has been timed to occur within a prescribed period of time prior to an election, or it should be repealed.	The exemption from the definition of election advertising for the distribution or promotion of a book if the book was planned to be made available to the public regardless of whether there was to be an election is ambiguous and problematic. The condition placed on this exemption regarding the timing of book promotion, and sales, and the occurrence of an election is ineffective since there will always be an upcoming election.
Third party advertising expenses	44.7	(7)	44.7 (7) Funds held in a political advertising account shall not  (a) be transferred to the third party's election advertising account, if the third party has such an account, or  (b) to the election advertising account of another third party.	The words "be transferred" should be added following the words "Funds held in a political advertising account shall not..." in order for this subsection to make grammatical sense.  <b>Note:</b> A similar correction should be made to s. 178(7) of the <i>Local Authorities Election Act</i> .	Drafting error.

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Duties of Election Commissioner	44.95		44.95	The Election Commissioner, in addition to the Election Commissioner's powers and duties under the <i>Election Act</i> ,	Many of the complaints and allegations received by the Election Commissioner deal with unregistered political entities and the requirements for registration. The Election Commissioner should not be prevented from conducting periodic investigations into unregistered political entities, such as unregistered third parties.
			(a)	may conduct periodic investigations of the financial affairs and records of <ul style="list-style-type: none"> <li>(i) registered parties and registered constituency associations,</li> <li>(ii) registered candidates in relation to election campaigns,</li> <li>(iii) registered leadership contestants in relation to leadership contests,</li> <li>(iv) registered nomination contestants in relation to nomination contests, and</li> <li>(v) registered third parties in relation to election advertising or political advertising under Part 6.1.</li> </ul>	
Powers of Election Commissioner	44.96	(2)	44.96	For the purpose of conducting an investigation referred to in section 44.95, a representative of the Election Commissioner, on production of the representative's authorization from the Election Commissioner, may at any reasonable time enter any premises referred to in the authorization in which books or documents of a political party, constituency association, candidate, <b>nomination candidate</b> , leadership contestant or third party relevant to the subject-matter of the investigation are kept and may examine and make copies of the books or documents or remove them temporarily for the purpose of making copies.	The Election Commissioner's powers to enter, examine, make copies, and remove books or documents should include unregistered as well as registered political entities. Reference to the term "nomination candidate" should read "nomination contestant".
			45	No person shall obstruct any person carrying out an inquiry, investigation or examination under this Act or withhold from that person or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation or examination.	This section should be amended to include obstructing or hindering an investigation by knowingly making, either orally or in writing, false or misleading statements to the Election Commissioner or any person acting under his or her direction while the Election Commissioner or any person acting under his or her direction is exercising or performing powers, duties or functions conferred or imposed upon the Election Commissioner under this Act or the <i>Election Act</i> .
Obstruction	45				Suggested wording is available at s. 482.1 of the <i>Canada Elections Act</i> .
					<b>Note:</b> There does not appear to be an offence of Obstruction in the <i>Local Authorities Election Act</i> . This should be added.

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Failure to provide audited statements</b>	48		48	(1) The chief financial officer of a registered party, registered constituency association or registered candidate who contravenes section 42 or 43 is guilty of an offence and liable to a fine of not more than \$1000.	<p>The fines and administrative penalties applicable to third parties for contravening their financial filing requirements which are outlined in ss. 44.81, 44.82, 44.9 and 44.91 should be the same as those that apply to other political entities. To be consistent, the chief financial officer of a third party should be subject to a fine or administrative penalty of no more than \$1,000 and the third party itself should be subject to a fine or administrative penalty of no more than \$5,000.</p> <p>Section 491 is the general offence section that would apply to contraventions by third parties. The fines for a third party which is a person would be up to \$10,000 and for trade union, employee organization, corporation or other organization, the fine would be up to \$100,000.</p> <p>Section 51.01(2)(d) &amp; (5)(d) is the general administrative penalty section that would also apply to third parties. This section would permit the Election Commissioner to impose a penalty of up to \$10,000 if the third party was a person and up to \$100,000 if the third party was a trade union, employee organization, corporation or other organization.</p>
				(2) When any contravention of section 42 or 43 is committed by a chief financial officer of a registered party, registered constituency association or registered candidate, the political party or constituency association or candidate for which the chief financial officer acts is also guilty of an offence and liable.	
				(a) in the case of a registered party, to a fine of not more than \$5000; and	
				(b) in the case of a registered constituency association or registered candidate, to a fine of not more than \$1000.	
				(3) The chief financial officer of a registered leadership contestant who contravenes section 43.02 is guilty of an offence and liable to a fine of not more than \$1000.	
				(4) The chief financial officer of a registered nomination contestant who contravenes section 43.01 is guilty of an offence and liable to a fine of not more than \$1000.	
<b>Circumvention of expense limits</b>	48.11		48.11	(1) A registered party, registered candidate, registered nomination contestant, registered leadership contestant or third party who contravenes section 41.42 is guilty of an offence and liable to a fine of not more than \$100 000.	<p>The heading should read "Circumvention of limits" or "Circumvention of expense or contribution limits".</p> <p><b>Note:</b> A similar heading exists in s. 165 of the <i>Local Authorities Election Act</i> where the prohibition against circumvention applies to other limits as well.</p>
				(2) A political party that contravenes section 41.43 is guilty of an offence and liable to a fine of not more than \$100 000.	
<b>Failure to comply with directions</b>	48.2		48.2	A registered party, registered constituency association, registered candidate, registered nomination contestant, registered leadership contestant or registered third party who fails to comply with a direction of the Chief Electoral Officer or the Election Commissioner is guilty of an offence and liable to a fine of not more than \$1000.	<p>Under ss. 14782(4) &amp; 201 of the <i>Local Authorities Election Act</i>, the Election Commissioner can order the return of illegal contributions and advertising contributions.</p> <p>The penalty amount is \$5,000.</p>
<b>Third party election advertising offences</b>	49.1		49.1	A third party that contravenes a provision of this Act is guilty of an offence and liable to a fine not exceeding <ul style="list-style-type: none"> <li>(a) \$10 000 if the third party is a person;</li> <li>(b) \$100 000 if the third party is a trade union, employee organization, corporation or other organization.</li> </ul>	<p>The heading of this section causes confusion since it refers to "Third party election advertising offences". The section itself actually refers to all contraventions of the EFCDA that apply to third parties and not just election advertising offences.</p>

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation	
Penalties	51		51	(1) When the Election Commissioner is satisfied that any person, corporation, trade union or employee organization has made one or more contributions in excess of an amount permitted under this Act, the Election Commissioner may by written notice require that person, corporation, trade union or employee organization to pay a penalty in an amount named in the notice not exceeding the amount by which the contribution or contributions exceeded the amount permitted under this Act or may issue a letter of reprimand to the person, corporation, trade union or employee organization.	Repeal.	S. 51 came into force in 2012 and applies to contributions made before 2012. Subsection 51(4) indicates that it is a transitional provision. This section is replaced by s. 51(1) and should now be repealed.
				(2) When the Election Commissioner is satisfied that a prohibited corporation has made a contribution in contravention of section 16, the Election Commissioner may by written notice require the prohibited corporation to pay a penalty in an amount named in the notice not exceeding the amount contributed or may issue a letter of reprimand to the person, corporation, trade union or employee organization.		
Administrative penalties	51.01	(2)(a)	51.01	(3) All penalties collected under this section shall be paid into the General Revenue Fund.		
				(4) This section applies in respect of contributions made before this subsection comes into force.	Delete reference to s. 18(1)	Subsection 18(1) was repealed and, therefore, should not be referenced in this section.
Administrative penalties	51.01	(2) & (5)	51.01	(2) If the Election Commissioner is of the opinion that (a) a person has made one or more contributions in excess of a limit prescribed by section 17(1) or 18(1),	One of these provisions should be amended to make the fine and penalty consistent and to clarify which individuals or entities are subject to the provisions.	Section 51.01(2) & (5) appear to conflict with s. 48.2.
				(b.1) a person, a political party, a constituency association or a third party fails to comply with a direction of the Election Commissioner, the Election Commissioner may serve on the person or entity either a notice of administrative penalty requiring the person or entity to pay to the Crown the amount set out in the notice, or a letter of reprimand.		Section 51.01 states that failure to comply with a direction of the Election Commissioner can result in a fine of up to \$10,000 for a person, a political party, a constituency association, or a third party. Section 48.2 states that failure on the part of a registered party, registered constituency association, registered candidate, registered nomination contestant, registered leadership contestant or registered third party to comply with a direction of the Election Commissioner or the Chief Electoral Officer is guilty of an offence and liable to a fine of not more than \$1,000. It is unlikely the legislators intended to include a higher fine for unregistered political entities than for registered political entities.
Administrative penalties	51.01	(5)	51.01	(5) The amount of an administrative penalty that may be imposed under subsection (2) must not exceed (e) in the case of any other contravention, \$10 000.		Also, s. 51(1)(5) of the Act indicates that the administrative penalty amount for failing to comply with a direction of the Election Commissioner must not exceed \$10,000.
				<b>Other Conflicting Provision</b> 48.2 A registered party, registered constituency association, registered candidate, registered nomination contestant, registered leadership contestant or registered third party who fails to comply with a direction of the Chief Electoral Officer or the Election Commissioner is guilty of an offence and liable to a fine of not more than \$1000.	Delete reference to s. 18(1)	Consistent fines or penalties should be applicable to both registered and unregistered political entities.
Administrative penalties	51.01	(5)	51.01	(5) The amount of an administrative penalty that may be imposed under subsection (2) must not exceed (a) in the case of a contravention referred to in subsection (2)(a), twice the amount by which the contribution or contributions exceed the limit prescribed by section 17(1) or 18(1), as the case may be, and in no case may the amount of the administrative penalty exceed \$10 000 for each contravention;		Subsection 18(1) was repealed and, therefore, should not be referenced in this section.

EFCDA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Administrative penalties</b>	51.01	(8)	51.01	<p>(8) Subject to the right to appeal, where a person or entity fails to pay the administrative penalty in accordance with a notice of administrative penalty, the Election Commissioner may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench, and on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.</p> <p>Amend this section to give the Election Commissioner the ability to file a copy of an order with the clerk of the Court of Queen's Bench where a person or entity fails to comply with an order by the Election Commissioner to return or pay to the General Revenue Fund contributions made in contravention of the EFCDA.</p> <p><b>Note:</b> A similar change should be made to s. 193(8) of the <i>Local Authorities Election Act</i>.</p>	<p>Currently, both the Election Commissioner and the CEO can order that excess contributions and contributions made in contravention of the EFCDA be returned to the contributor, if known or paid to the General Revenue Fund. The penalty for failing to comply with such an order is a penalty of \$1000. Repeated failure to return or pay contributions would require repeated orders. There should be the ability for the Election Commissioner and the CEO to file a copy of the order with the clerk of the Court of Queen's Bench and to allow it to be enforced as if it were a judgment of the Court.</p>
<b>Election Commissioner's orders</b>	51.1	(1)	51.1	<p>(1) Where a contribution has been made or accepted in contravention of this Act, the Election Commissioner may order that the amount of the contribution that was made or accepted in contravention of this Act be returned to the contributor.</p>	<p>This provision states that the Election Commissioner can order contributions made or accepted in contravention of the Act to be returned to the contributor. However, other sections of the Act state that the CEO does so with regard to excessive contributions and third party contributions that contravene the Act.</p>
<b>Excessive contributions</b>	19(2)			<p><b>Other overlapping provisions</b></p> <p>(2) A chief financial officer who learns that a contribution in excess of the limit prescribed by section 17 was accepted by or on behalf of the registered party, registered constituency association, registered candidate, registered nomination contestant or registered leadership contestant for whom the chief financial officer acts shall, within 30 days after learning of the excessive contribution, advise the Chief Electoral Officer in writing of the fact and circumstances and return the contribution in accordance with the directions of the Chief Electoral Officer.</p>	
<b>Restrictions on advertising contributions and expenses</b>	44.2			<p>(6) If the chief financial officer of a third party learns that an advertising contribution was accepted in contravention of this section, the chief financial officer shall, within 30 days after learning of the contravention, advise the Chief Electoral Officer in writing of the fact and circumstances and return the contribution in accordance with the directions of the Chief Electoral Officer.</p>	
<b>Contributions not belonging to contributor</b>	44.51			<p>(3) If the chief financial officer learns that an advertising contribution received by or on behalf of the third party that is registered or is required to be registered for whom the chief financial officer acts was made contrary to subsection (1), the chief financial officer shall, within 30 days after learning of it, advise the Chief Electoral Officer in writing of the fact and circumstances and return the advertising contribution in accordance with the directions of the Chief Electoral Officer.</p>	



# APPENDIX C — PROPOSED LOCAL AUTHORITIES ELECTION ACT LEGISLATIVE AMENDMENTS

## Local Authorities Election Act (LAEA)

LAEA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Option for official agent</b>	68.1	(2)	<b>68.1 (2)</b> A person who has, within the previous 10 years, been convicted of an offence under this Act, the <i>Election Act</i> or the <i>Canada Elections Act</i> (Canada) is not eligible to be appointed as an official agent.	The <i>EFCEA</i> should be added to the list of Acts that would deny an appointment to these political positions if convicted of a breach.	
<b>Candidate's scrutineer</b>	69	(1.1)	<b>69 (1.1)</b> A person who has, within the previous 10 years, been convicted of an offence under this Act, the <i>Election Act</i> or the <i>Canada Elections Act</i> (Canada) is not eligible to be recognized as a scrutineer.		
<b>Bylaw scrutineer</b>	70	(2.1)	<b>70 (2.1)</b> A person who has, within the previous 10 years, been convicted of an offence under this Act, the <i>Election Act</i> or the <i>Canada Elections Act</i> (Canada) is not eligible to be appointed under subsection (1).		
<b>Limitation of action</b>	124		<b>124</b> No proceedings against a person for bribery or undue influence may be commenced after 6 weeks from the election day in respect of which the offence is alleged to have been committed.	Extend the time period to 3 years to be consistent with the time limit in ss. 147.81 & 186 of the <i>Local Authorities Election Act</i> .	A period of 6 weeks does not give sufficient time for an investigation to occur. The time period should be changed to 3 years to be consistent with the time limit found in s. 153.2 of the EA and s. 51.02(1) of the EFCEA.
<b>Application of Part</b>	147.12		<b>147.12</b> This Part applies to candidates for election as a councillor in a municipality or as a trustee of a school board.	It should be clarified whether Part 5.1 and Part 8 of the LAEA apply to Métis Settlements and Irrigation Districts.	As of August 1, 2019, Part 9 of the LAEA requires the Election Commissioner to accept complaints and allegations and conduct investigations and enforce Part 5.1 (campaign finances and contributions disclosure provisions) and Part 8 (third party advertising provisions) in local government elections across Alberta. These requirements pertain to all municipal council and school board trustee elections. However, it would appear that <u>only</u> Part 8 provisions apply in the case of Métis Settlement elections and <u>neither</u> Part 5.1 or Part 8 apply to irrigation district elections.  This is because s. 147.2 specifies that Part 5.1 only applies to municipal council and school board trustee elections. With regard to Part 8, s. 163 requires third parties to register with a 'local jurisdiction'. Local jurisdiction is defined in s. 1(r) in such a manner that it excludes irrigation districts, while the <i>Métis Settlements Election Regulation</i> specifies that Métis Settlements are local jurisdictions "for the purposes of ensuring that the Local Authorities Election Act can be applied to the election of councillors to a settlement council".
					This overall situation would appear to run counter to the originally stated purpose of these amendments. One of the policy intentions behind the amendments was to extend the election financing rules to Irrigation Districts and Métis Settlements. The policy purpose of the Bill and legislative amendments was explained by the responsible Minister during debates in the legislature. In this case, it is clear that the election financing rules in the LAEA were intended to apply to Irrigation Districts, and Métis Settlements (see, for example, the statement by the Minister of Municipal Affairs on November 6, 2018 at page 1821 of Hansard copied below. There were consistent statements about the applicability throughout the legislative debates.

LAEA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
<b>Anonymous and unauthorized contributions</b>	147.23				<p>Mr. Fraser: Thank you, Mr. Speaker. When the government introduced their first bill to regulate campaign financing, they claimed that they were taking big money out of politics. During the debate on the bill many members of this House pointed out that their bill was actually more likely to just drive that big money into less transparent and accountable areas. Intended or not, your government encouraged the growth of third-party advertisers and political action committees. Big money hasn't left politics; it's just found a new home. To the Minister of Municipal Affairs: does your plan to regulate municipal campaign finances address the issue of PACs, or do you want to keep this glaring loophole intact?</p> <p>Mr. S. Anderson: Thank you for the question. We've listened to people all across this province who want big money out of municipal elections, local elections, and that includes municipalities, Métis settlements, school boards, and irrigation districts. Our focus is on making sure that it's about big ideas and not about big pockets, Mr. Speaker. We've heard it, and we are making sure that we get that done.</p>
			147.23	<p>The Act should be amended to be consistent and either permit anonymous contributions of \$50 or less or prohibit all anonymous contributions.</p> <p><i>*It should be noted that the reporting threshold for name and address disclosure on campaign disclosure statements is \$50. Name and address of contributor for contributions over \$50 are required to be provided. The reporting threshold for election and political advertising contributions by third parties is \$250</i></p>	<p>The Act prohibits any and all anonymous contributions by candidates as per s. 147.23 but permits anonymous advertising contributions by third parties as per s. 175(1). The Act should be consistent and permit anonymous contributions up to \$50 or prohibit all anonymous contributions.</p> <p>Section 147.31(3)(a) does not consider a charge for a fundraising function of \$50 or less to be a contribution.</p> <p>Sections 211 &amp; 44.5 of the EFCA permit anonymous contributions of \$50 or less for all political entities and third parties.</p>
				<p>Any anonymous contributions and contribution or portion of a contribution made in contravention of this Part accepted by a candidate or a person acting on behalf of a candidate must not be used or expended, and the candidate or the person acting on behalf of the candidate shall</p> <p>(a) return the contribution to the contributor if the contributor's identity can be established, or</p> <p>(b) if the contributor's identity cannot be established, pay an amount equivalent to the contribution to a registered charity or to the local jurisdiction for which the candidate is running for election.</p>	

LAEA Section Heading/Description	Section No.	Sub-section/Clause	Current	Proposed Change	Explanation
Anonymous contributions and unauthorized contributions	175	(1)	175 (1) Any anonymous advertising contribution in excess of \$50 and any advertising contribution or portion of a contribution made in contravention of this Part accepted by a registered third party must not be used or expended, and the registered third party		
		(a)	shall return the advertising contribution or the portion, as the case may be, to the contributor if the contributor's identity can be established, or		
		(b)	if the contributor's identity cannot be established, shall pay an amount equivalent to the advertising contribution to the relevant local jurisdiction.		
		(2)	Any amounts received by the local jurisdiction under subsection (1)(b) must be paid into the local jurisdiction's general revenue.		
Duty to refer complaints and allegations and to report acts or omissions	205		205 A local jurisdiction or returning officer shall, within a reasonable time,		
		(a)	refer any complaint or allegation received by the local jurisdiction or returning officer under Part 5.1 or 8 to the Election Commissioner, and	It is unnecessary for the local jurisdiction or returning officer to be required to report all <i>Local Authorities Election Act</i> offences to the Election Commissioner – the requirement to report should only be for offences under Parts 5.1 (election finances) and 8 (third party advertising).	The Election Commissioner only has jurisdiction to enforce offences under Parts 5.1 and 8 of the <i>Local Authorities Election Act</i> while this provision requires the local jurisdiction or returning officer to report to the Election Commissioner <u>any</u> act or omission that likely constitutes an offence under the Act.
		(b)	report any act or omission that in the local jurisdiction or returning officer's opinion likely constitutes an offence under this Act to the Election Commissioner.		This was likely a drafting error.



**APPENDIX D –**  
**AUDITED FINANCIAL STATEMENTS - FY2018-2019**

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<b>Independent Auditor’s Report</b>	<b><i>p. i</i></b>
<b>Statement of Operations</b>	<b><i>p. iv</i></b>
<b>Statement of Financial Position</b>	<b><i>p. v</i></b>
<b>Statement of Change in Net Debt</b>	<b><i>p. vi</i></b>
<b>Statement of Cash Flows</b>	<b><i>p. vii</i></b>
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# Office of the Election Commissioner


## Financial Statements

PERIOD MAY 15, 2018 TO MARCH 31, 2019





# Independent Auditor's Report



**Auditor  
General**  
OF ALBERTA

To the Members of the Legislative Assembly

## Report on the Financial Statements

### Opinion

I have audited the financial statements of the Office of the Election Commissioner (the Commissioner), which comprise the statement of financial position as at March 31, 2019, and the statements of operations, change in net debt, and cash flows for the period then ended, and notes to the financial statements, including a summary of significant accounting policies.

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

### Basis for opinion

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

### Other information

Management is responsible for the other information. The other information comprises the information included in the *Annual Report* but does not include the financial statements and my auditor's report thereon. The *Annual Report* is expected to be made available to me after the date of this auditor's report.

My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information identified above and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I will perform on this other information, I conclude that there is a material misstatement of this other information, I am required to communicate the matter to those charged with governance.

## **Responsibilities of management and those charged with governance for the financial statements**

Management is responsible for the preparation and fair presentation of the 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 the financial statements that are free from material misstatement, whether due to fraud or error.

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

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

## **Auditor's responsibilities for the audit of the financial statements**

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

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

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commissioner's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.

- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commissioner's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commissioner to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

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

[Original signed by W. Doug Wylie, FCPA, FCMA, ICD.D]

Auditor General

August 1, 2019  
Edmonton, Alberta

# OFFICE OF THE ELECTION COMMISSIONER

## STATEMENT OF OPERATIONS

Period May 15, 2018 to March 31, 2019

	2019	
	Budget	Actual
<b>Revenues</b>		
Administrative Penalties	\$ -	\$ 15,323
	-	15,323
<b>Expenses - Directly Incurred (Note 2(b) and Schedule 3)</b>		
Salaries, Wages, and Employee Benefits	\$ 495,000	\$ 417,407
Supplies and Services	651,000	446,222
Amortization of Tangible Capital Assets	30,000	454
Program - Operations	1,176,000	864,083
<b>Net Cost of Operations</b>	<b>\$ (1,176,000)</b>	<b>\$ (848,760)</b>

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

## OFFICE OF THE ELECTION COMMISSIONER

### STATEMENT OF FINANCIAL POSITION

As at March 31, 2019

	<b>2019</b>
<b>Financial Assets</b>	
Accounts Receivable	\$ 24,441
<b>Liabilities</b>	
Accounts Payable and Accrued Liabilities	133,009
Accrued Vacation Pay	21,892
	<u>154,901</u>
<b>Net Debt</b>	<u>(130,460)</u>
<b>Non-Financial Assets</b>	
Tangible Capital Assets (Note 3)	19,393
	<u>19,393</u>
<b>Net Liabilities</b>	<u>\$ (111,067)</u>
<b>Net Liabilities at Beginning of Period</b>	\$ -
Net Cost of Operations	(848,760)
Net Financing Provided from General Revenues	737,693
<b>Net Liabilities at End of Period</b>	<u>\$ (111,067)</u>

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

## OFFICE OF THE ELECTION COMMISSIONER

### STATEMENT OF CHANGE IN NET DEBT

Period May 15, 2018 to March 31, 2019

	2019	
	Budget	Actual
<b>Net Cost of Operations</b>	\$ (1,176,000)	\$ (848,760)
Amortization of Tangible Capital Assets (Note 3)		454
Acquisition of Tangible Capital Assets	30,000	(19,847)
Net Financing Provided from General Revenue		737,693
<b>Increase in Net Debt</b>		\$ (130,460)
<b>Net Debt at Beginning of Period</b>		-
<b>Net Debt at End of Period</b>		\$ (130,460)

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

## OFFICE OF THE ELECTION COMMISSIONER

### STATEMENT OF CASH FLOWS

Period May 15, 2018 to March 31, 2019

	<b>2019</b>
<b>Operating Transactions</b>	
Net Cost of Operations	\$ (848,760)
Non-Cash Items included in Net Cost of Operations:	
Amortization of Tangible Capital Assets	454
	(848,306)
Increase in Accounts Receivable	(24,441)
Increase in Accounts Payable and Accrued Liabilities	154,901
Cash Applied to Operating Transactions	717,846
<b>Capital Transactions</b>	
Acquisition of Tangible Capital Assets	(19,847)
Cash Applied to Capital Transactions	(19,847)
<b>Financing Transactions</b>	
Net Financing Provided from General Revenues	737,693
<b>Change in Cash</b>	-
<b>Cash at Beginning of Period</b>	-
<b>Cash at End of Period</b>	\$ -

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



# **OFFICE OF THE ELECTION COMMISSIONER**

## **Notes to the Financial Statements**

*March 31, 2019*

### **NOTE 1 AUTHORITY AND PURPOSE**

The Office of the Election Commissioner was established on May 15, 2018. The Office of the Election Commissioner is responsible for administering certain portions of the *Election Act* and the *Election Finances and Contributions Disclosure Act*.

### **NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES**

These financial statements are prepared in accordance with Canadian public sector accounting standards, which use accrual accounting.

The Office has adopted the PS 3450 Financial Instruments. The adoption of this standard has no material impact on the Office's financial statements, which is why there is no statement of re-measurement gains and losses.

The office has adopted PS 3430 Restructuring Transactions effective May 15, 2018. The adoption of this standard has no material impact on the financial statements of the Office.

#### **(a) Reporting Entity**

The reporting entity is the Office of the Election Commissioner, which is a legislative office for which the Election Commissioner is responsible. The Office's annual operating budget is approved by the Standing Committee on Legislative Offices.

# OFFICE OF THE ELECTION COMMISSIONER

## Notes to the Financial Statements

March 31, 2019

### NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONT'D)

#### (a) Reporting Entity (cont'd)

The cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta which is administrated by the President of Treasury Board, Minister of Finance. All cash disbursements made by the Office are paid from the Fund.

#### (b) Basis of Financial Reporting

##### Revenues

Administrative penalties issued by the Election Commissioner are recognized when earned and collectability is assured, which is upon cash receipt from the assessed party.

##### 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 comprise the cost of employer contributions for current service of employees during the year; and
- a valuation adjustment which represents the change in management's estimate of future payments arising from obligations relating to vacation pay

###### *Incurred by Others*

Services contributed by other related entities in support of the Office's operations are not recognized but disclosed in Schedule 3.

# OFFICE OF THE ELECTION COMMISSIONER

## Notes to the Financial Statements

March 31, 2019

### NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONT'D)

#### (b) Basis of Financial Reporting (cont'd)

##### Financial Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operation and are not for consumption in the normal course of operations.

##### *Accounts Receivable*

Accounts receivable are recognized at the lower of cost or net recoverable value. A valuation allowance is recognized when recovery is uncertain.

##### Liabilities

Liabilities are present obligations of the Office to external organizations and individuals arising from past transactions or events occurring before the year end, the settlement of which is expected to result in the future sacrifice of economic benefits. They are recognized when there is an appropriate basis of measurement and management can reasonably estimate the amounts.

##### Non-Financial Assets

Non-Financial assets are acquired, constructed, or developed assets that do not normally provide resources to discharge existing liabilities, but instead:

- (a) are normally employed to deliver the Office's services;
- (b) may be consumed in the normal course of operations; and
- (c) are not for sale in the normal course of operations.

Non-financial assets of the Office are limited to tangible capital assets.

# OFFICE OF THE ELECTION COMMISSIONER

## Notes to the Financial Statements

March 31, 2019

### NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONT'D)

#### (b) Basis of Financial Reporting (cont'd)

##### *Tangible Capital Assets*

Tangible capital assets of the Office are recognized at historical cost and 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.

Amortization is only charged if the tangible capital asset is put into service.

#### (c) Net Debt

Net debt indicates additional cash required from the Fund to finance the Office's cost of operations to March 31, 2019.

### NOTE 3 TANGIBLE CAPITAL ASSETS

	Useful Life (yrs)	2019		
		Cost	Accumulated Amortization	Net Book Value
<b>Equipment and Computer Hardware</b>	5	\$ 19,847	\$ 454	\$ 19,393

In 2018-19 there were tangible capital asset additions but no disposals.

#### NOTE 4 DEFINED BENEFIT PLANS (IN THOUSANDS)

The Office participates in the multi-employer pension plans: Management Employees Pension plan, 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 \$16 for the period of May 15, 2018 to March 31, 2019.

At December 31, 2018, the Management Employees Pension Plan had a surplus of \$670,700, the Public Service Pension Plan had a surplus of \$519,218 and the Supplementary Retirement Plan for Public Service Managers had a deficit of \$70,310.

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2019, the Management, Opted Out and Excluded Plan had a surplus of \$24,642. The expense for this plan is limited to the employer's annual contributions for the year.

#### NOTE 5 CONTRACTUAL OBLIGATIONS

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

Estimated payment requirements for the next year are as follows:

<b>Year</b>	<b>Operating</b>	<b>Capital</b>	<b>Total</b>
2019-20	\$ 475,960	\$ -	\$ 475,960

#### NOTE 6 APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Election Commissioner.

(Original Signed by Lorne R. Gibson)	August 1, 2019
_____	_____
Election Commissioner	Date

# OFFICE OF THE ELECTION COMMISSIONER

## Salary and Benefits Disclosure

## Schedule 1

Period May 15, 2018 to March 31, 2019

	2019			<b>Total</b>
	<b>Base Salary<sup>(1)</sup></b>	<b>Other Cash Benefits<sup>(2)</sup></b>	<b>Other Non-Cash Benefits<sup>(3)(4)</sup></b>	
<b>Senior Official<sup>(5)</sup> Election Commissioner</b>	\$ 179,373	\$ 26,343	\$ 13,029	<u>\$ 218,745</u>

<sup>(1)</sup> Base Salary is comprised of regular Salary.

<sup>(2)</sup> Other Non-cash benefits are pension-in-lieu payments, vehicle allowance and vacation pay-out.

<sup>(3)</sup> Other Non-cash benefits include \$4,876 for the Office's share of all employee benefits and contributions or payments made on behalf of employees including pension plans, CPP/EI employer premiums, extended health care, dental coverage, group life insurance, and long-term disability premiums.

<sup>(4)</sup> The Senior Official was provided with an automobile. The Election Commissioner received a taxable benefit of \$8,153.

<sup>(5)</sup> The Election Commissioner commenced on May 15, 2018.

# OFFICE OF THE ELECTION COMMISSIONER

## Related Party Transactions

## Schedule 2

*Period May 15, 2018 to March 31, 2019*

Related parties are those entities consolidated or accounted for on the modified equity basis in the Government of Alberta's Consolidated Financial Statements. Related parties also include key management personnel in the Office and their close family members.

The Office and its employees paid or collected certain taxes and fees set by regulation for premiums, licenses and other charges. These amounts were incurred in the normal course of business, reflect charges applicable to all users and have been excluded from this schedule.

The Office had the following transactions with related parties reported on the Statement of Operations and the Statement of Financial Position at the amount of consideration agreed upon between related parties.

	<b>Other Entities</b>	
	<b>2019</b>	
<b>Expenses - Directly Incurred</b>	\$	4,128
<b>Total</b>	\$	4,128

Other Services include information technology consumption and postage.

The office also had transactions with related parties for which no consideration was exchanged. The amounts for these related party transactions are estimated based on costs incurred by the service provider to provide the service. These amounts are not reported in the financial statements but are disclosed in Schedule 3.



# OFFICE OF THE ELECTION COMMISSIONER

## Allocated Costs

## Schedule 3

Period May 15, 2018 to March 31, 2019

Program	2019		
	Expenses Incurred by Others		
	Expenses <sup>(1)</sup>	Business Services <sup>(2)</sup>	Total Expenses
Operations	\$ 864,083	\$ 307	\$ 864,390

<sup>(1)</sup> Expenses - directly incurred as per Statement of Operations.

<sup>(2)</sup> Business Services - costs include charges for finance services (accounts payable, pay and benefits), IT support, and IMAGIS allocated by the Ministry of Service Alberta.





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