



**Report of the Chief Electoral Officer
Volume III**

**Recommendations for Changes to
The Election Act, 1996
Twenty-Sixth Provincial General Election
November 7, 2007**

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OFFICE OF THE
CHIEF ELECTORAL OFFICER

April 30, 2009

The Honourable Don Toth
Speaker of the Legislative Assembly
129 Legislative Building
Regina, Saskatchewan
S4S 0B3

Honourable Speaker:

In the spirit of section 286 of *The Election Act, 1996* (the "Act"), I am honoured to submit the Report of the Chief Electoral Officer - Volume III - Recommendations for Changes to *The Election Act, 1996* - 26th General Election, November 7, 2007 .

This report includes recommendations for changes to *The Election Act, 1996* as a result of the 26th General Election, as well as updates of previous recommendations originally published in *The Annual Report Compendium 2003-2005* and the *Annual Reports of 2005-2006* and *2006-2007*.

The Report of the Chief Electoral Officer - Volume I - Statement of Votes, with detailed voting results on a poll-by-poll basis and comparative statistics going back to 1978, was tabled on September 8, 2008. The Report of the Chief Electoral Officer - Volume II - Campaign Contributions and Expenditures, outlining the financial activities of the registered political parties and of candidates for the 26th Provincial General Election is nearing completion and is expected to be tabled within the next few weeks.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David A. Wilkie".

David A. Wilkie
Acting Chief Electoral Officer

I. MESSAGE/INTRODUCTION OF THE CHIEF ELECTORAL OFFICER

Major changes which were made to *The Election Act, 1996*, were introduced in May 2005 and proclaimed on March 22, 2006. As stated in *The Annual Report Compendium 2003-2005* and the *Annual Reports of 2005-2006* and *2006-2007*, the advent of the regularization of the Annual Report of the Chief Electoral Officer on a fiscal year basis brings the opportunity for the Chief Electoral Officer to make Recommendations on Amendments to "*The Election Act*" on a regular basis.

Voting must also be made more accessible to all Saskatchewan electors. Through its reporting function, the Office of the Chief Electoral Officer must recommend to the Members of the Legislative Assembly various ways of making the voting process in Saskatchewan more user-friendly and more accessible. The Office needs to revisit and re-evaluate existing processes to determine why they are needed, how to better implement them and how to measure their success and effectiveness.

In the year following the election an extensive debriefing program took place with important stakeholders including Returning Officers and Election Clerks, some Automation Coordinators, representatives of the registered political parties, Field Liaison Officers, the staff of the Office of the Chief Electoral Officer, major suppliers such as Canada Post, our call centre supplier, our telecommunications supplier and our advertising agency as well as representatives of voters with disabilities and groups representing persons with disabilities. The feedback from our "Debriefing Program", other lessons learned during the past three by-elections and the 26th General Election, as well as a review of the current Election Acts, recent amendments, and proposed amendments from other jurisdictions, are the basis of this report.

With this report starts a new tradition that in the twelve to eighteen months following a general election any recommendations arriving out of the general election, as well as previous recommendations from Annual Reports that have not yet been acted upon, are now included in the **Report of the Chief Electoral Officer - Volume III - Recommendations for Changes to *The Election Act, 1996***. This specific report, adds many new recommendations as well as the review or update of recommendations from the last three Annual Reports.

Thank you to all those who have played a part in the formulation of this report; from all those stakeholders who provided valuable feedback, to the national, provincial and territorial electoral jurisdictions who provided additional information or answered my questions and everyone in the Office of the Chief Electoral Officer for their valuable assistance.

Collectively we can create a made-in-Saskatchewan electoral process that responds to the needs of all our stakeholders.

David A. Wilkie
Acting Chief Electoral Officer
April 2009

II. EXECUTIVE SUMMARY

This Report is in the numerical order of the section numbers of *The Election Act, 1996* (The Act) recommended for change, followed by recommendations for which no current section number of The Act applies. Recommendations for future amendments to The Act fall within the following Parts of The Act.

Part II - Election Officers

Part III - Voters and Enumeration

Part IV - Voting

Division A - Commencing an Election

Division B - Candidates and Nominations

Division C - Procedure prior to Voting

Division D - Voting

Division E - Special Voting Provisions

Part V - Procedures after Voting

Part VI - Election Offences and Corrupt Practices

Part VII - Registration and Election Financing

Part VIII - General

Additional Recommendations Received by the Office of the Chief Electoral Officer

Housekeeping Amendments

Election Act Regulations

Related topics, however, do not always follow in section after section in The Act; therefore in this executive summary, the recommendations are also arranged by general categories as follows:

- 1. Service to Voters, (Especially Voters with Disabilities);**
- 2. Voter Registration;**
- 3. Voting;**
- 4. Candidates;**
- 5. Campaign Finance and Election Offences; and**
- 6. Electoral Administration.**

1. Service to Voters (Especially Voters with Disabilities):

Recommendation:

That *The Election Act, 1996* be amended so that a black marker may also be provided, upon request, to mark the ballot.

Recommendations:

That *The Election Act, 1996* be amended to:

1. eliminate eligibility criteria associated with Advance Poll voting to enable any elector to vote at the Advance Polls; or if the eligibility criteria is not eliminated, **then alternatively**; to change one of the eligibility criteria from “a voter who has a physical disability” to “a voter who has a disability”;
2. allow flexibility as to how many days within the five advance poll days that can be assigned to any one community;
3. allow advance polls to be set up in the Office of the Returning Officer for 6 days starting one day earlier in the election calendar;
4. allow central advance polling locations to be set up to service eligible voters from anywhere in the province; and
5. allow eligible voters who attend university and college, to vote at a poll at their university or college in the Province.

Recommendations:

That *The Election Act, 1996* be amended to:

1. require that all advance polls and Returning Offices be accessible;
2. require that polling places must be accessible to persons with disabilities, unless the Returning Officer satisfies the Chief Electoral Officer that it is impractical to obtain the use of such places;
3. add the provision that voting places be placed in a convenient location for a majority of voters in the polling division;
4. remove the restriction regarding the placement of polling places and Returning Offices in buildings which have a liquor permit;
5. allow for transfer certificates for:
 - (a) electors with a disability whose polling place does not have level access;
 - (b) election officials, party volunteers and candidates; and
 - (c) any elector who presents himself or herself at the wrong polling station as the result of a change in the assignment of polling stations or advance polls that took place after the issuance of the original voter information card to the electors; and
6. specify who can submit the request for transfer certificate on behalf of the elector.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. “a friend may assist a voter” is replaced by “a friend, spouse, common law-partner, relative or relative of a spouse or common-law partner may assist a voter”;
2. a “blind voter” is replaced by a “voter who has any disability preventing a voter from voting him/herself”; and

3. either an exception is added allowing “an individual to assist more than one family member of the individual’s family” **or alternatively** that “a friend, spouse, common law-partner, or relative or relative of a spouse or common-law partner may assist up to two voters”.

Recommendation:

That *The Election Act, 1996* be amended so that a hearing impaired or mute elector may be assisted by a person capable of interpreting sign language.

Recommendation:

That *The Election Act, 1996* be amended so that the words “provide evidence satisfactory to the Returning Officer or the Chief Electoral Officer” be deleted and changed to “sign an oath confirming their eligibility”.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. the use of mobile polls for personal care facilities and personal care homes be formalized in the legislation; and
2. the use of mobile polls is extended to include senior citizens’ apartment blocks.

Recommendations:

That *The Election Act, 1996* be amended to clarify that:

1. eligible voters living in a mobile poll who are on the List of Electors no longer have to sign a declaration to be able to vote; and
2. eligible voters voting at a hospital poll not be required to provide satisfactory proof of the voter’s identity and place of ordinary residence.

Recommendation:

That *The Election Act, 1996* be amended so that either the voter, poll official or “friend”, in the case of a “friend” providing assistance to the voter, **or** the voter or “friend”, in the case of a “friend” providing assistance to the voter, may deposit the ballot in the ballot box.

Recommendation:

That the Legislative Assembly discuss the possibility of adding the driver’s legal land description or physical address on the Saskatchewan driver’s licence in addition to the postal box number.

Recommendations:

1. That *The Election Act, 1996* be amended to specifically state that *The Election Act, 1996* supersedes *The Health Information Protection Act* with respect to the right to vote; and
2. That the Legislative Assembly decide whether a stationary poll should be compulsory or whether the Returning Officer, after consultation with the Chief Electoral Officer, be given the authority to decide if a stationary poll is advisable in a specific hospital. [If the Returning Officer is given authority as recommended above, then an amendment would also be required to subsection 121(3) with respect to a hospital poll in a by-election].

Recommendations:

That *The Election Act, 1996* be amended to include provisions for “Homebound Voting” to allow a person to vote at home:

1. if he or she is unable to go in person to a polling place due to a disability; or
2. if he or she is providing care to a person who is unable to leave home; and
3. to give the Returning Officer, Election Clerk and Administrative Assistant the authority to be able to administer absentee or homebound voting in the absence of the “special ballot coordinator”.

Recommendations:

That *The Election Act, 1996* be amended to allow that at a by-election:

1. the Chief Electoral Officer may direct the use of voting equipment, vote-counting equipment or alternative voting methods that are different from what The Act requires;
2. such direction does not invalidate the election; and
3. the Chief Electoral Officer make a report on any pilot projects used, with recommendations, as soon as is practicable after the by-election.

2. Voter Registration:**Recommendations:**

That *The Election Act, 1996* be amended so that:

1. a Permanent List of Electors be created as follows:
 - (a) that sections 22 to 25 be revised to include provisions for a Register of Electors and details on how the register is updated;
 - (b) all public sources be required to provide timely updates of name, address, gender and birthdate from the use of public databases including, but not limited to, the Ministry of Health, Saskatchewan Government Insurance, SaskEnergy, SaskPower, SaskTel and Information Services Corporation; and
 - (c) a public body providing information to update the Register of Electors may charge a reasonable fee for providing the information, but the fee may not exceed an amount that represents the actual cost of producing a copy of the information;
2. the hours an enumerator is entitled to access in any residential premises be changed to between 9:00 a.m. and 9:00 p.m.;
3. it specifically states that *The Election Act, 1996* supersedes *The Health Information Protection Act* with respect to the right for eligible voters to be enumerated;
4. the enumeration takes place outside the Writ period;
5. a List of Electors, including a post-polling-day List of Electors may be used only as follows:
 - (a) by a registered political party 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 and recruiting party members;
 - (c) by a candidate, for communicating with electors during a campaign period including for soliciting contributions and campaigning; and
 - (d) by election officers for the purpose of carrying out their duties as per The Act;

6. a specified penalty be added for misusing a List of Electors or any elector data collected as per The Act with a penalty of a fine of not more than \$15,000 or imprisonment for a term not longer than two years, or both;
7. voter information in a poll book or List of Electors may be replaced by a numeric identifier for instances of personal security protection and that election officers, political parties and candidates be required to delete or obscure personal information belonging to individuals who have personal security concerns;
8. all references to occupation on the List of Electors be dropped and that instead the elector's birthdate and gender be included on the List of Electors;
9. one paper copy and one electronic copy should be provided to each candidate, registered political party and to the Chief Electoral Officer; and
10. Lists of Electors are no longer posted in municipal offices or Canada Post offices.

Recommendations:

That sections 26-28 of *The Election Act, 1996* be amended so that:

1. revision begins after a voter information card has been sent to each voter and ends seven days prior to Election Day (before the beginning of the Advance Polls);
2. revision is done in the Returning Office via the Returning Officer serving as Revising Officer and by Revising Agents in the field, personal visit or by mail;
3. revised Lists of Electors are produced in electronic format;
4. one electronic copy and one paper copy be provided to each candidate, registered political party and the Chief Electoral Officer;
5. a person's relative, spouse or common-law partner may apply to have the person's name added to the List of Electors or to correct any information about the person on the Preliminary List of Electors; and
6. the deletion of a name on the List of Electors be formalized including that the person so deleted is informed of the deletion in case the person wishes to question the deletion.

3. Voting:

Recommendations:

That *The Election Act, 1996* be amended to:

1. include a provision for the Chief Electoral Officer, in writing, to authorize the appointment of eligible voters as poll officials from outside the constituency in the case of an emergency or for specialized polls such as hospital polls, remand centre polls and mobile polls;
2. reduce the minimum age for Poll Clerks (and Information Officers) to age 16;
3. use the term "Information Officer" when referring to peace and order in the poll;
4. enable the hiring of "Registration Officers" in the polling place on Election Day to assist those voters not yet on the List of Electors as per the discretion of the Returning Officer; and
5. make the criteria for appointing Supervisory Deputy Returning Officers more flexible.

Recommendations:

That *The Election Act, 1996* be amended to:

1. include a clarification in residency requirements for persons with no fixed address;
2. include revisions to subsection 16 (c) (i) with respect to the date of residency and the day of the election;

3. include a change so that a Canadian Citizen who is at least 18 years of age and works for the Canadian Forces, or is a spouse or dependant living with that member of the Canadian Forces, leaves Saskatchewan and intends to return and reside in the province, he or she does not lose his or her Saskatchewan residency for purposes of voting;
4. include a definition for “member of the Canadian Forces” as “a member of the regular force or a special force of the Canadian Forces; or a member of the reserve force of the Canadian Forces who is on full-time training or active service”;
5. include a change so that a Canadian Citizen, who is at least 18 years of age and works for an international organization or the Saskatchewan or Canadian government, or is a spouse or dependant living with a staff member of an international organization or the Saskatchewan or Canadian government, leaves Saskatchewan and intends to return and reside in the province, he or she does not lose his or her Saskatchewan residency for purposes of voting; and
6. include a change so that the size of urban polling divisions be increased to contain approximately 350 eligible voters and no more than 400 eligible voters; that the size of rural polling divisions be reduced to contain, where practical, approximately 250 eligible voters.

Recommendations:

That *The Election Act, 1996* be amended to:

1. allow for media to attend the polling place when a political party leader is voting where prior arrangement is made with the Returning Officer;
2. allow for school teachers to attend the polling place with prior approval of the Returning Officer (to arrange for least busy time of the day); and
3. allow for “any other persons authorized by the Returning Officer or Chief Electoral Officer” to attend the polling place.

Recommendation:

That *The Election Act, 1996* be amended so that the provisions for challenges are clarified.

Recommendation:

That *The Election Act, 1996* be amended to allow the Returning Officer, with the approval of the Chief Electoral Officer, to designate any area of the constituency as a remote area to be served by absentee ballot and therefore no polling place is established and no Deputy Returning Officer or Poll Clerk is appointed.

4. Candidates:

Recommendations:

That *The Election Act, 1996* be amended to:

1. require that the term “name” or “names” be changed to “legal name” or “legal names” and additionally that “the individual must indicate the name, or any contraction or abbreviation of his or her name, or nickname, that he or she wishes to be used on the ballot papers in the election”;
2. make the refund of the \$100 nomination deposit contingent upon the receipt of the candidate’s return of election expenses on or before the deadline stated in The Act;
3. have the Chief Electoral Officer return the refund of the nomination deposit to the candidate or business manager;

4. incorporate the use of a “record of the persons who have voted” at the polling station; and
5. add leave of absence without pay provisions for employees wishing to run as candidates in a provincial election.

Recommendation:

That the Legislative Assembly consider amending section 52 of *The Election Act, 1996* to address the concern of candidates withdrawing after the close of nominations leaving a constituency without a candidate for one of the registered political parties.

5. Campaign Finance/Election Offences:

Recommendations:

That *The Election Act, 1996* be amended to:

1. alter the intent of the provisions pertaining to the enforcement of The Act;
2. require registered political parties and candidates to retain records related to a campaign for a period of five years;
3. require registered political parties to retain records related to annual activities for a period of five years;
4. include broadening the definition of advertising;
5. extend the time limit on prosecutions, so that prosecution may commence up to two years after the date on which the facts upon which the prosecution is based first came to the knowledge of the Chief Electoral Officer;
6. exempt from the definition of election expenses, reasonable expenses incurred by candidates with disabilities in order to campaign, expenses relating to the provision of care of a person with a physical or mental incapacity for whom the candidate normally provides such care, and by a parent for reasonable expenses for child care in order to campaign; or include such expenses as personal expenses of a candidate;
7. allow that 100% of reasonable expenses for candidates with disabilities or child care, be eligible for reimbursement but not included in the expense limit;
8. clarify that the resolution of the changes of party leaders or chief official agents be attached and forwarded to the Chief Electoral Officer within 30 days after the changes occur and that failure to do so will result in the de-registration of the registered political party;
9. make it possible for a chief financial officer to ask for an extension from the Chief Electoral Officer for the receipt of the registered political party’s fiscal period return if such request for extension is received before the deadline stated in The Act;
10. add a provision that in the event of a registered political party exceeding the total election expenses permitted, the amount of reimbursement paid to the eligible registered political party must be reduced by double the amount of election expenses incurred that exceed the total election expenses permitted;
11. add a provision that in the event of a candidate exceeding the total election expenses permitted, the amount of reimbursement paid to the candidate must be reduced by double the amount of election expenses incurred that exceed the total election expenses permitted;
12. include a provision for a subsidy of auditing expenses for the registered political party annual expense returns the same as that of the registered political party election returns at the rate of the lesser of (a) the adjusted amount of \$2,000 (currently \$2,631); and (b) the amount actually charged by the auditor;

13. require that the audit reimbursement request be received within three months after submitting the candidate's return of election expenses or the registered political party return of election expenses; **or alternatively** have the invoice for auditing the candidate's election return and the registered political party's election return go directly to the Chief Electoral Officer for payment;
14. change the forfeiture of reimbursement from 100% to 50% for not submitting a candidate's return of election expenses within the legislated deadline or the extension granted;
15. allow for compliance agreements or compliance orders to be issued, if during the period from the issue of the Writ until 8 months after Election Day, the Chief Electoral Officer believes that any person is contravening the provisions of The Act. The Chief Electoral Officer may issue a certificate addressed to the person setting out the particulars of the contravention. A certificate may order a person to cease doing any action that contravenes The Act, or alternatively order a person to comply with any requirements of The Act. The Chief Electoral Officer may file a certificate issued with the Registrar of the Court of Queen's Bench. The certificate filed is deemed to be a judgment of the Court of Queen's Bench in favour of the Chief Electoral Officer and may be enforced, on application to the court by the Chief Electoral Officer, as a judgment of the court. A certificate may be served on a candidate or business manager or chief official agent by delivering it to any address of the person provided to an election officer under The Act;
16. implement a compliance agreement or a compliance order, by imposing a daily fine of \$50 day to a maximum of \$1500 (30 days) if a registered political party fails to submit its annual return or election return on time or within the extension granted by the Chief Electoral Officer. Failure to submit the return within 30 days after the deadline stated in The Act or the extension granted by the Chief Electoral Officer reverts to the provisions of subsection 227(1) of The Act (de-registration);
17. implement a compliance agreement or a compliance order, by imposing a late filing fee of \$50 per day to a maximum of \$1,500 (30 days) if a candidate or business manager fails to submit his or her candidate's election return;
18. implement a compliance agreement or a compliance order, by imposing an administrative fee of \$25 per day to a maximum of \$750 if a candidate or business manager fails to respond to a request for information in a timely manner;
19. implement a compliance agreement or a compliance order, by imposing the following penalties if the candidate or business manager fails to submit the candidate's return of election expenses within 30 days after the deadline stated in The Act, or the extension granted by the Chief Electoral Officer:
 - (a) in the case of a candidate declared elected, a Member ceases to hold office and the seat of the Member becomes vacant;
 - (b) in all cases the individual is disqualified from being nominated as a Member of the Legislative Assembly until after the next general election, unless before the individual is nominated, the outstanding election financing report is filed with the Chief Electoral Officer and a late filing penalty of \$4,000 is paid to the Chief Electoral Officer;
 - (c) the Chief Electoral Officer must present a report to the Speaker respecting a member who may be subject to above penalty; and
 - (d) the Chief Electoral Officer must deregister a political party if candidate election finance returns are not filed by the end of the late filing period by the lesser of 55% or 15 of the candidates representing the political party in the general election;

20. change the time period after which the Minister of Finance is obliged to pay interest costs to the business managers of candidates who have not received the final twenty-five per cent of their reimbursement from 90 days to 180 days **or alternatively**, drop this provision;
21. drop all references to the candidate's election expense return being filed with the Returning Officer, and instead that the candidate's election expense return be filed with the Chief Electoral Officer and similarly that the Chief Electoral Officer publish a summary of the return rather than the Returning Officer; and
22. make it clear that charitable organizations are not allowed to make political contributions.

6. Electoral Administration:

Recommendations:

That *The Election Act, 1996* be amended to:

1. include a public information and education component in the responsibilities of the Chief Electoral Officer;
2. add to the necessary powers and responsibilities of the Chief Electoral Officer with respect to the *Senate Nominee Election Act*; and
3. drop the restriction on the Assistant Chief Electoral Officer having to be a voter residing in Saskatchewan.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. (a) all Returning Officer terms end upon the coming into force of this legislation and hereafter six months after the day a candidate is declared elected; and
(b) a person may be re-appointed as a Returning Officer if his or her performance has been satisfactory;
2. once appointed, a Returning Officer cannot be a member of, or contribute to a candidate, constituency association or political party at either the Provincial or Federal level or engage in partisan political activities;
3. the reasons for replacement of a Returning Officer be strengthened and clarified;
4. an emergency provision for the Returning Officer or Election Clerk to be appointed from outside the constituency is included;
5. provisions for a leave of absence without pay and without penalty for Returning Officers and Election Clerks during the election period is included;
6. the term "Election Clerk" is changed to "Assistant Returning Officer" in any and all instances; and
7. the hiring of immediate family members by the Returning Officer for the role of Election Clerk be prohibited.

Recommendations:

That Schedule of Fees Regulation be amended:

1. on or before January 2010 in order to allow for Returning Officer recruitment for any vacancies to be completed prior to the re-mapping process, for all 58 constituencies, which begins April 1, 2010 for the November 7, 2011 General Election; and

2. so that a formula be used to adjust rates similar to the formula used to adjust the expense limits for candidates and registered political parties in January every four years starting with January, 2014.

Specific recommendations with regards to the Schedule of Fees will come from the Office of the Chief Electoral Officer for consideration in the fall of 2009.

Recommendation:

That *The Election Act, 1996* be amended so that all by-elections must be held on Monday unless that day falls on a holiday in which case the election would occur the next day.

Recommendations:

That *The Election Act, 1996* be amended:

1. so that the return of the Writ must include a report on the conduct of the election in each Returning Officer's constituency, including the accommodation of electors with disabilities within their constituency, as directed by the Chief Electoral Officer;
2. by reducing the deadline from 10 days after Final Count to 6 days after Final Count for a recount to be requested, when not automatically entitled; and as a result the return to the writ be reduced by 4 days, from 23 days after Election Day to 19 days after Election Day;
3. so that the judge in a recount may appoint any person to assist in the recount; and
4. to change the prohibition of "No person shall bring into or possess or use in, any polling place any cellular phone or other communications device", to no person shall talk, text or take any pictures using any communications device in any polling place, with the exception of Election Officers when communicating on election business.

Recommendations:

That an electoral advisory committee be mandated under *The Election Act, 1996* as follows:

1. one representative be appointed by each registered political party;
2. the leader of a registered political party must advise the Chief Electoral Officer of the name and contact information of the party's representative;
3. the Chief Electoral Officer must call meetings of the advisory committee from time to time to seek the committee's advice about the proper administration of The Act, including the appropriate location of polling places; and
4. advice and recommendations of the advisory committee are not binding on the Chief Electoral Officer.

Recommendation:

That the Legislative Assembly consider amending *The Election Act, 1996* to re-institute an advertising ban on Election Day.

Recommendation:

That *The Election Act, 1996* be amended so that the summary details of the report to be prepared and submitted to the Speaker after an election include details of any Senate Nominee Election held in the Province.

In addition there are also recommendations received by the Office of the Chief Electoral Officer, "Housekeeping" recommendations and recommendations to change *Election Act Regulations*.

Part I - Short Title and Interpretation

There may have to be several consequential amendments of a minor nature if the recommended changes in other Parts of The Act are accepted; for example the definition of Information Officer, Registration Officer and Revising Agent.

Part II - Election Officers

CHIEF ELECTORAL OFFICER AND ASSISTANT CHIEF ELECTORAL OFFICER

1. Chief Electoral Officer - Powers & Responsibilities Public Information and Education [Subsection 5(4)]

Background:

The low voter turnout of young voters age 18 to 24 is an issue across the country as identified by Elections Canada. Saskatchewan does not have numbers for provincial elections because birthdate is not asked during enumeration - if a Permanent List of Electors is in place such statistics for Saskatchewan provincial elections can be determined. Some research indicates that if individuals do not vote before they are age 30, they may never vote.

Other research indicates that amongst young persons, if they have had a civics/levels of government/elections unit in their social studies curriculum there is a 10% increase in the number of persons voting. Every other provincial/territorial/federal electoral jurisdiction in Canada has some form of public education mandate except Newfoundland and Labrador and Alberta. (Elections Alberta has recommended such a mandate). Elections Yukon has a public education mandate only during an election.

Manitoba has provisions that the Chief Electoral Officer may at any time:

- provide the public with the information about the electoral process, the right to vote, the right to be a candidate and the operation of The Act; and
- implement public education and information programs to make the electoral process better known amongst the public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights.

New Brunswick includes developing educational and public awareness programs and material with respect to the Province's electoral process as part of the Chief Electoral Officer's duties. The Chief Electoral Officer in Ontario may implement public education and information programs to make Ontario's electoral process better known to the public, particularly to those persons and groups most likely to experience difficulties in exercising their democratic right. The Chief Electoral Officer of Canada may implement public education and information programs to make the electoral process better known to the public particularly to those persons and groups most likely to experience difficulties in exercising their democratic rights. This can be accomplished by using any media or other means that he or she considers appropriate, to provide the public, both inside and outside Canada, with information relating to Canada's electoral process, the democratic right to vote and

how to be a candidate. In Nunavut, the Chief Electoral Officer may implement, either alone, or in co-operation with other bodies, public education and information programs intended to make the electoral process better known to the public, particularly to persons or groups likely to experience difficulties in exercising their democratic rights.

2. Chief Electoral Officer - Powers & Responsibilities - *Senate Nominee Election Act* [Subsection 5(4)]

Background:

The coming into force of the *Senate Nominee Election Act* would require an addition to the powers and responsibilities of the Chief Electoral Officer.

3. Appointment of Assistant Chief Electoral Officer

Background:

Currently The Act states that the Chief Electoral Officer shall appoint a **voter** residing in Saskatchewan as the Assistant Chief Electoral Officer. None of the other provincial or territorial electoral jurisdictions have such a restriction. For example, this provision prevents a former resident of Saskatchewan who has been away for more than six months and is returning to Saskatchewan; or an otherwise eligible person from elsewhere in Canada from being appointed as Assistant Chief Electoral Officer. In a competitive economy, in which governments are trying to reduce barriers for inter-provincial migration of labour, the goal should be to eliminate restrictions and to appoint the best candidate available.

Recommendations: That *The Election Act, 1996* be amended to:

1. include a public information and education component in the responsibilities of the Chief Electoral Officer;
2. add to the necessary powers and responsibilities of the Chief Electoral Officer with respect to the *Senate Nominee Act*; and
3. drop the restriction stating that the Assistant Chief Electoral Officer must be a voter residing in Saskatchewan.

RETURNING OFFICERS AND ELECTION CLERKS

1. Appointment of Returning Officers - change in length of term [Section 9]

Background:

Currently a Returning Officer is appointed until he or she dies, moves out of the constituency, is absent, unable or unwilling to perform his or her responsibilities or until the Report of the next Electoral Boundaries Commission takes effect. Many jurisdictions have terms that last for a period of months after an election including: Alberta (4 months - Elections Alberta has recommended to increase to 6 months), British Columbia and Manitoba (6 months), New Brunswick (240 days) and Northwest Territories and Nunavut (12 months). In Manitoba the term of the Returning Officer ends

“six months after the day a candidate is declared elected”. In addition a person may be re-appointed as a Returning Officer if his or her performance has been satisfactory.

2. Non-Partisanship of Returning Officers and Election Clerks [Section 9 and 12]

Background:

All Returning Officers who have been hired by the Chief Electoral Officer since March 2006 under amendments to *The Election Act, 1996* have been required to sign a Professional Conduct Code which includes detailed provisions on non-partisanship. Those Returning Officers appointed under the old Order-In-Council appointments by the Government of the day (30 individuals at the time of writing) were given a copy of the Professional Conduct Code to read but there is no legal requirement enforcing them to abide by the non-partisanship that Returning Officers appointed by the Chief Electoral Officer must follow. This has created a two-tier system. The rules should also be the same for all Returning Officers.

While each Saskatchewan Returning Officer signs an oath saying that he or she will act “without partiality, fear, favour or affection”, every other provincial/territorial/federal electoral jurisdiction in the country has a non-partisanship requirement in its Election Act.

The legislation is very specific about non-partisanship in British Columbia, Canada and Manitoba. Once appointed, a Returning Officer must not be a member of, be an employee of, hold a position with or make a contribution to a registered political party, a registered constituency association, or a political party or constituency association seeking registration. Neither should the Returning Officer be an employee of, hold a positions with or make a contribution to an individual who is, intends to be, or was a candidate in an election or contribute to, a political party or engage in partisan political activities nor be an employee of, hold a position with or make a contribution to an individual who is, intends to be, or was a candidate in the election.

In Alberta, Returning Officers may not engage in political activity on behalf of any political party or candidate, or make a contribution under their Elections Finances Act. The rest of the jurisdictions vary from Nova Scotia, where a Returning Officer may be removed if he or she is engaging in partisan political activities to Nunavut, where the Returning Officer can be dismissed if he or she has not been impartial, whether or not in the course of the Returning Officer’s function, engages in politically partisan conduct in respect of the Government of Nunavut. Where a Returning Officer in Nunavut works for or on behalf of or against a candidate, whether or not it is in the course of the Returning Officer’s functions. In Nunavut, no election officer shall while in office, accept or hold any office or employment or participate in any activity that is inconsistent with the person’s duties under the Election Act, make a contribution to a candidate; or incur an election expense.

The Election Clerk, or equivalent, often takes over as Returning Officer if there is a sudden resignation or illness. As such, British Columbia, Manitoba and Yukon, have extended non-partisanship requirements to the Election Clerk/Assistant Returning Officer. In a recent report Elections Alberta has recommended that non-partisanship be extended to Election Clerks.

3. Replacing a Returning Officer [Section 9]

Background:

Currently if a Returning Officer dies, is absent or is unable or unwilling to perform his or her responsibilities, the Chief Electoral Officer may cancel that Returning Officer's appointment and appoint another. With Returning Officers now being appointed by the Chief Electoral Officer on the basis of merit, the bar of expectation for non-partisanship and quality of work completed has been raised. In Alberta, British Columbia, Canada, Manitoba, New Brunswick, Northwest Territories, Nunavut and Québec, the reasons for replacement of a Returning Officer have been expanded. In Alberta, if the Returning Officer is for any reason unable or unwilling to act, or neglects the Returning Officer's duties, the Chief Electoral Officer may appoint an Acting Returning Officer until a new Returning Officer is appointed. In Manitoba, the Chief Electoral Officer may rescind the appointment of a Returning Officer if the Chief Electoral Officer is satisfied that the Returning Officer

- is unable, unwilling or neglects to perform his or her duties for any reason;
- has failed to perform his or her duties satisfactorily;
- has not followed an instruction or direction of the Chief Electoral Officer; or
- after being appointed, has engaged in partisan political activities, whether or not in the course of performing duties under *The Election Act, 1996*.

In Québec, the Returning Officer must cooperate with the Chief Electoral Officer in examining, assessing and trying new voting procedures and comply with the directives of the Chief Electoral Officer.

4. Emergency Provisions for Appointment of Returning Officer and Election Clerk [Section 9 and 12]

Background:

While every effort should be made to recruit and hire eligible voters who reside in the constituency for the positions of Returning Officer and Election Clerk, there may be emergency situations where no qualified individual may be found on short notice. Legislation in British Columbia and Newfoundland and Labrador, has no requirement for the Returning Officer to be from the constituency. Québec allows a Returning Officer to be appointed from an adjoining constituency; while in Yukon, a person who is a qualified elector in another constituency may be appointed if there is difficulty appointing a suitable person from the constituency. The legislation in Manitoba allows for an exception to the residency rule "where an appointment must be made in an emergency or another special circumstance". Elections Alberta has recommended that their legislation be amended so that a Returning Officer and Election Clerk may be appointed from outside the constituency if no suitable candidate can be found within the area. This recommendation was first made in the *Annual Report of 2006 - 2007* and has been updated.

5. Leave from Employment for Returning Officers/Election Clerks [No current section in The Act]

Background:

The Chief Electoral Officer now appoints Returning Officers. There are higher expectations on the Returning Officer and the responsibilities of the Returning Officer are becoming more demanding,

particularly with respect to computerization and technology. In Manitoba, where Returning Officers are also appointed by the Chief Electoral Officer, the legislation allows for leave without pay without penalty for a number of individuals including Returning Officers and their Assistants during the course of an election campaign. A provision for an employer to request an exemption if the leave was deemed to be seriously detrimental to the employer is also included. In the period leading up to the 2003 general election in Manitoba, thirty Returning Officers and Assistant Returning Officers applied for leave of absence without pay. Of these, only two employers appealed to the Manitoba Labour Board, both of which were allowed. Leading up to the 2007 general election there were seven requests for a leave of absence from Returning Officers and twelve requests for a leave of absence for Assistant Returning Officers. There were no appeals to the Labour Board in 2007. The leave of absence provisions allowed a number of professionals including a mixture of teachers, provincial and federal public service employees and private sector employees in various fields to become Returning Officers and Assistant Returning Officers. Ontario and Québec have similar leave provisions for Returning Officers and other election officers. Elections Alberta has recently recommended that employers would be required to grant a leave without pay to an employee who has been appointed to the position of Returning Officer or Election Clerk.

In the spring of 2007 after advertising twice in a constituency for which it was difficult to recruit, a former Returning Officer stated that she was interested in applying for the position only if the Election Act had a leave of absence without pay provision which would guarantee that she would not lose her job or lose benefits if she took on the position of Returning Officer during an election. In Saskatchewan several days before the call of the 26th General Election, a Returning Officer, who had been granted a leave of absence from his usual job, was told by his employer [the Province of Saskatchewan] that his leave of absence had been cancelled for no reason. The Returning Officer chose to defy his employer which eventually resulted in the employee being let go from his employment. This recommendation was first made in the *Annual Report Compendium of 2003 - 2005* and has been updated.

6. Change of Term [Section 12 and various other sections]

Background:

Over the course of the past several elections the role of the Election Clerk has changed from simply a clerk or secretarial role to that of assisting the Returning Officer to carry out his or her expanded role. Canada, Manitoba, Québec, Northwest Territories, Nunavut and Yukon have all recognized this important change in responsibilities by changing the term “Election Clerk” to “Assistant Returning Officer” in all references in the legislation. This recommendation was first made in the *Annual Report of 2006 - 2007* and has been updated.

7. Hiring of Family Members [No current section in The Act]

Background:

In the past some Returning Officers have hired spouses or other immediate family members to perform the role of Election Clerk or the Administrative Assistant. This carried the potential for criticism of nepotism. It also carried the risk of losing most of the key staff within the constituency in

the event of a family emergency. In the 26th General Election, there were several husband and wife or other family member combinations for the position of Returning Officer and Election Clerk. In the 2007 general election in one instance, both the Returning Officer and Election Clerk, who were husband and wife, effectively resigned four days before Election Day. In two other cases, family illness created the potential for staffing problems in the Office. Election Canada's legislation includes the provision that a Returning Officer shall not appoint his or her spouse, common-law partner, child, mother, father, brother, sister, the child of his or her spouse or common-law partner, or a person who lives with him or her as an Assistant Returning Officer. Ontario, Québec, Northwest Territories and Nunavut have similar legislation and Elections Alberta has recommended a similar amendment.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. (a) all Returning Officer terms end upon the coming into force of this legislation and hereafter six months after the day a candidate is declared elected;
(b) a person may be re-appointed as a Returning Officer if his or her performance has been satisfactory;
2. once appointed a Returning Officer cannot be a member of, or contribute to a candidate, constituency association or political party at either the Provincial or Federal level or engage in partisan political activities;
3. the reasons for replacement of a Returning Officer be strengthened and clarified;
4. an emergency provision for the Returning Officer or Election Clerk to be appointed from outside the constituency is included;
5. provisions for a leave of absence without pay and without penalty for Returning Officers and Election Clerks during the election period is included;
6. the term "Election Clerk" is changed to "Assistant Returning Officer" in any and all instances; and
7. the hiring of immediate family members by the Returning Officer for the role of Election Clerk be prohibited.

ELECTION OFFICERS

1. Provisions for Appointment of Election Officers from Outside Constituency [Section 10, 13, 20 & 37]

Background:

Currently all poll officials have to work in the constituency in which they reside. While every effort should be made to find suitable eligible voters in the constituency to appoint as election officers, there may be emergency situations where no qualified individual may be found on short notice.

In the 26th General Election, as in previous elections, some Returning Officers had difficulty in finding eligible, qualified election officials living in their constituency. In some cases officials who were less qualified were hired at the same time as other constituencies had a waiting list of more qualified individuals who could have served as poll officials in the adjoining constituency. The legislation in Alberta allows that if there is not a sufficient number of qualified persons in the

constituency, the Returning Officer may appoint qualified persons from any other constituency. Canada, Manitoba, Newfoundland and Labrador, Nunavut and Yukon have similar legislation.

In the 26th General Election some Returning Officers with large hospital polls found it difficult to find enough qualified poll officials for Election Day. For hospital polls and other specialized polls, individuals who are used to dealing with patients, especially older patients, are hard to find at the best of times. Typically most hospitals have a pool of volunteers that could be recruited to take on the poll official roles in hospitals. Often the volunteers do not live within the specific constituency in which the hospital is located. Polls in remand centres and mobile polls may also have similar problems finding poll officials that are resident in the constituency in which the institution is located. This recommendation was first made in the Annual Report of 2006 - 2007 and has been updated.

2. Poll Clerk - Reduction of Minimum Age [Section 13]

Background:

The labour pool from which poll officials come is getting older. Statistics from the October 14, 2008 federal election show that the age group 60-69 comprises the largest percentage of electoral workers in Saskatchewan (34.88%). When the age group 70-79 and 80+ are added, in about 50% of election workers are 60 and over. This is a trend across the country. At the same time, the voter turnout for young voters age 18-24 gets lower and lower. In the last round of amendments to The Act, the minimum age of Candidates Representatives was lowered from age 18 to age 14. In debriefings with Returning Officers and representatives of registered political parties, held after the 26th General Election, there were no complaints about the lowering of the minimum age of candidates' representatives. New Brunswick has amended its legislation to allow the minimum age of Poll Clerks to be lowered to 16. Canada allows 16 and 17 years to be poll officials if the Returning Officer is having difficulty finding enough poll officials. Similarly in Ontario, 16 and 17 year old enumerators can be approved by the Chief Electoral Officer upon request from the Returning Officer. Newfoundland and Labrador has similar legislation. The age requirement for a Poll Clerk to be reduced from eighteen to sixteen years of age is being considered in Alberta.

The young Poll Clerks would be paired with experienced Deputy Returning Officers. The lowering of the minimum age for Poll Clerks and the possibility that school divisions may wish to schedule a professional development day to coincide with the new fixed election date of Monday, November 7, 2011. This would provide a new pool of younger poll officials and give soon-to-be-voters an inside view of the electoral system. It has been noted by Returning Officers in Saskatchewan and elsewhere in the country, that when young adults act as poll officials, they often talk about their training and the fact that they will be a poll official on Election Day. This may spur on their friends to take an interest in voting as well. In Québec, for example, Election Day is a day off/vacation day for students.

3. Information Officer [Section 11 and Regulations]

Background:

Currently subsection 11(1) of The Act refers to the Returning Officer maintaining peace and order but does not make reference to "Constable"; however the Election Regulation for Compensation refers to

“Constable”. Some individuals when hearing the word constable think that it is a police officer. In their legislation some jurisdictions still refer to the position as “constable” (New Brunswick, Nova Scotia and Prince Edward Island); some jurisdictions have no specific name for the position (British Columbia and Ontario); in Yukon it is a “poll attendant”; and Canada, Manitoba and Québec have changed the name of this position to “Information Officer” in order avoid misconceptions. Note this change would not preclude the Returning Officer requesting the assistance of a police officer if required as outlined in subsection 11 (2).

4. Registration Officer [No current section in The Act]

Background:

Currently there are no provisions for Registration Officers in the poll. Alberta, British Columbia, Canada, Manitoba and Northwest Territories have these provisions in order to allow the option of using them. The use of a Registration Officer would allow for a more orderly flow at polling places where there are a large number of persons whose names are not on the List of Electors, such as areas of new housing developments, multiple residences such as apartments or university residences.

5. Supervisory Deputy Returning Officer [Section 37]

Background:

Currently The Act states that if a Returning Officer establishes a central polling place in which five or six polling divisions are centralized, the Returning Officer may appoint a Supervisory Deputy Returning Officer. This minimum of five or six polls works well in urban locations. However, in some rural constituencies, it is impossible for the Returning Officer to physically visit all polls and few, if any, of the polling places have the minimum five or six polling stations to justify a Supervisory Deputy Returning Officer. Some Returning Officers have asked for a “roving” Supervisory Deputy Returning Officer. Manitoba has solved this dilemma by making the wording of the legislation more flexible: The Returning Officer may appoint a Supervisory Deputy Returning Officer to supervise and assist all the election officials at a voting place. This wording allows for a Supervisory Deputy Returning Officer to supervise more than one polling place. Alternatively the legislation could allow for a “roving” Supervisory Deputy Returning Officer at the discretion of the Returning Officer, upon request to the Chief Electoral Officer in writing or reduce the minimum number of polls for a Supervisory Deputy Returning Officer to four (as in done in Canada), three (as is done in New Brunswick and Northwest Territories) or two (as is done in Alberta).

Recommendations:

That *The Election Act, 1996* be amended to:

1. include a provision for the Chief Electoral Officer, in writing, to authorize the appointment of eligible voters from outside the constituency in the case of an emergency or for specialized polls such as hospital polls, remand centre polls and mobile polls;
2. reduce the minimum age for Poll Clerks (and Information Officers) to age 16;
3. use the term “Information Officer” when referring to peace and order in the poll;
4. enable the hiring of “Registration Officers” in the polling place on Election Day to assist those voters not yet on the Voters’ List as per the discretion of the Returning Officer; and

5. make the criteria for appointing Supervisory Deputy Returning Officers more flexible.

Part III - Voters and Enumeration

ENTITLEMENT TO VOTE

1. Residency Requirements for Persons with no Fixed Address [Section 18]

Background:

Past practice would be for otherwise qualified individuals who have no dwelling place to register as voters on the basis that their place of residence is a shelter, hostel or similar institution that provides food, lodging or other social services. British Columbia, Canada, Manitoba, Northwest Territories, Nova Scotia, Nunavut, Ontario, and Prince Edward Island have similar provisions in their Election Acts. At a “Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities” held in April 2008 with a number of disability stakeholders it was pointed out to the Chief Electoral Officer and Assistant Chief Electoral Officer that allowances should be made for persons with no fixed address, some of whom may have disabilities.

2. Date of Residency [Subsection 16 (c) (i)]

Background:

Over the course of the past several elections there have been some complaints about the fact eligible electors must vote in the **polling division in which they live on the day that the writ was issued**. In the 26th General Election there were a number of complaints from “otherwise eligible electors” across the province, who became “homeless” as a result of this section of The Act. For example between the day the election was called (Writ Day), and Election Day, the resident voter in one constituency could be moved into a personal care home across the city or in another town or city. As a result, if the voters did not apply for absentee voting by the deadline of eight days before Election Day, the voters would lose their vote unless they could get a family member to drive them across the city or to the other town or city where they were living on the day the election was called. Some electoral jurisdictions use the **location where you are during enumeration** to determine where you will vote. Other jurisdictions use the **location you will be living on Election Day** to determine the polling division and constituency where you will be voting.

In 2007 Nova Scotia made this amendment to permit a person who has moved since the writ was issued to vote where he or she now lives as long as the person can prove their new residence. Under the changed qualifications, if the elector is on the Voters’ List at an old address, the elector simply has their information revised. If the person is not on the Voters’ List, the elector would go through the same application procedure as any other elector to get on the Voters’ List in the constituency (and polling division) in which they live. Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories and Ontario have similar legislation.

Alternatively, a transfer certificate could be issued to those individuals who move between the date of the writ and a date prior to Election Day. Nunavut, Québec and Yukon have variations on this concept requiring the voter to be on the voter's list by the end of revision, or another set date, or to apply in person to vote at the new location. This recommendation was first made in the Annual Report of 2006 - 2007 and has been updated.

3. Canadian Forces Over Five Years [Subsection 18(5)]

Background:

Some members of the Canadian Forces could be posted outside of the Province or Country for more than five years. In order to ensure fairness to armed forces personnel, their spouses and dependents with whom they reside, the legislation should be amended. Canada, Manitoba, Ontario, Prince Edward Island and Québec have similar legislation. For greater clarity "member of the Canadian Forces" could include a definition such as "means a member of the regular force or a special force of the Canadian Forces; or a member of the reserve force of the Canadian Forces who is on full-time training or active service".

4. International Organizations (Saskatchewan and Canada) Over Five Years [Subsection 18(5)]

Background:

Employees of international organizations, the Government of Canada or the Government of Saskatchewan could lose their Saskatchewan residency if they were on the job outside of the province for more than five years. In order to ensure fairness to employees of governments and international organizations, their spouses and dependents with which they reside, the legislation should be amended. Alberta, British Columbia, Canada, Manitoba, Ontario, Québec and Yukon have similar legislation.

5. Polling Division Size [Subsection 19(10)]

Background:

The current wording of The Act states that unless it is not feasible or consistent with the convenience of voters, a Returning Officer shall try to have an equal number of voters in each polling division and to limit the number of voters to 300. Practically the size of polling division varies from the 100 or less up to 250 in some rural polls, in the mid to low 200's in some urban polls and up to 400 in some other urban polls. While small polls are essential in some rural polls, the need for small polls in urban areas will vary.

Perhaps a better idea would be to increase the suggested size for urban polls, allow flexibility for the size of rural polling divisions and make allowance for separate polling divisions for an apartment, condominium or other multiple residences to permit residents to vote in their own building. In Manitoba polling divisions are defined as either urban or rural. An urban polling division is defined as a polling division in which a significant majority of the eligible voters reside in a city, town, village or other population centre. A rural polling division is defined as a polling division that is not an

urban polling division. An urban voting area contains approximately 350 eligible voters and no more than 400 eligible voters. Where practical, a rural polling division contains approximately 250 eligible voters.

Recommendations:

That *The Election Act, 1996* be amended to:

1. include a clarification in residency requirements for persons with no fixed address;
2. include revisions to subsection 16 (c) (i) with respect to the date of residency and the day of the election;
3. include a change so that a Canadian Citizen who is at least 18 years of age and works for the Canadian Forces, or is a spouse or dependant living with that member of the Canadian Forces, leaves Saskatchewan and intends to return and reside in the province, he or she does not lose his her Saskatchewan residency for purposes of voting;
4. include a definition for “member of the Canadian Forces” as “a member of the regular force or a special force of the Canadian Forces; or a member of the reserve force of the Canadian Forces who is on full-time training or active service”;
5. include a change so that a Canadian Citizen, who is at least 18 years of age and works for an international organization or the Saskatchewan or Canadian government, or is a spouse or dependant living with a staff member of an international organization or the Saskatchewan or Canadian government, leaves Saskatchewan and intends to return and reside in the province, he or she does not lose his or her Saskatchewan residency for purposes of voting; and
6. include a change so that the size of urban polling divisions be increased to contain approximately 350 eligible voters and no more than 400 eligible voters; that the size of rural polling divisions be reduced to contain, where practical, approximately 250 eligible voters.

ENUMERATION [SECTION 22]

1. Permanent Register of Electors [Section 22]

Background:

In the Report of the all Party Committee on Revisions to *The Electoral Act* in 2004 it was unanimously recommended that a Permanent Register of Electors:

- be developed based on a new enumeration done outside an election period; and
- be maintained in a computerized database that is based on land location (rather than postal code).

When the amendments to *The Election Act, 1996* were introduced in the Legislative Assembly in May, 2005, the then Minister of Justice called the introduction of a Permanent List of Electors the most important amendment to *The Election Act, 1996*. Regulations were to follow at a later date. No such Regulations came into being. Most Canadian jurisdictions including, Alberta, British Columbia, Canada, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nunavut, Ontario, Prince Edward Island and Québec currently have a permanent List of Electors. While Manitoba does not have a permanent List of Electors it has now begun to build an address database.

How the preliminary List of Electors is created impacts on other parts of The Act, most notably section 243, limits on election expenses. Instead of the Returning Officer sending the Office of the Chief Electoral Officer the number of preliminary electors for each constituency two weeks into the election on which to base spending limits, the Office of the Chief Electoral Officer will now know Preliminary List of Electors numbers at the start of the election. Similarly the revised List of Electors numbers which are not usually submitted until just before Election Day would be available several days earlier.

In the case of New Brunswick, their legislation was changed in 1998 to move towards a Permanent Register of Electors. It took about eight years to develop their data base and tools to the point where they could declare a Register of Electors. Elections New Brunswick declared it just prior to the electoral boundaries being redrawn in the province, which allowed Elections New Brunswick to move elector addresses to the new constituencies without having to do an enumeration. At this point it is not known how long it will take to develop the database and tools to reach the point where the Office of the Chief Electoral Officer could declare a Register of Electors.

The legislation of New Brunswick may well be particularly suited to serve as an example for Saskatchewan as it may take awhile to implement a Permanent List of Electors. As more resources were added to Elections New Brunswick, the Office was able to build on and complete its Permanent List of Electors. To this end some possible draft amendments based on New Brunswick's legislation with some additional wording from Alberta's legislation are included as Appendix One at the end of the document.

2. Enumerator's Right of Access to Residential Premises [Section 23]

Background:

Currently an enumerator is entitled to access any residential premises between 8:00 a.m. and 10:00 p.m. The Office of the Chief Electoral Officer is of the opinion that 10:00 p.m. is too late, especially if an enumeration occurs in the fall. An alternative of 9:00 a.m. to 9:00 p.m. would be better. Elections Canada's hours for targeted enumeration or revision are 9:00 a.m. to 9:00 p.m. Legislation in Alberta and Ontario also specifies these times. Prince Edward Island's legislation specifies 9:00 am to 6:00 p.m. and 7:00 to 10:00 p.m. and Northwest Territories specifies 9:00 a.m. to 8:00 p.m. British Columbia, Manitoba, New Brunswick, Nova Scotia, Nunavut, Québec and Yukon guarantee access for enumerators/revising agents but do not specify the hours. Times should be consistent between federal and provincial jurisdictions wherever possible, so as to avoid confusion.

3. Enumeration in Long Term Care Institutions [Section 23]

Background:

During the 26th General Election, Elections Saskatchewan and some Returning Officers had some difficulties with the administrators of the Regina Qu'Appelle Health Authority with respect to the right of eligible voters to be enumerated. The administration was of the opinion that *The Health Information Protection Act* (HIPA) takes precedence over all other legislation including *The Election Act, 1996*.

The RQHA initially did not want residents of long term facilities such as the Wascana Rehabilitation Centre to be enumerated; basic information such as name and address of eligible voters could not be provided to the enumerator unless the voter or their family signed a letter giving express written consent allowing them to be enumerated. After considerable discussion, on the day before the close of enumeration the RQHA administration relented and the information required by the enumerator was given to the applicable Returning Officer by the institution, unless their family had requested that the voter not be enumerated.

Manitoba's legislation allows enumeration in long term care institutions. Nova Scotia, Québec and Yukon have similar legislation.

4. Preliminary Lists of Electors [Section 24]

Background:

A Permanent Voters' List, or List of Electors, would require one more full enumeration collecting birthdates and gender which are essential in future matching of changes. If there are two persons named "Kim Smith" at the same address and one moves away, is the person moving away the person with a May 12, 1965 birthdate or a December 22, 1988 birthdate. Is the person moving male or female? In order for the "final full enumeration" to be the best it can be, it should be completed outside the Writ period. In Manitoba where a fixed date for elections has recently been put into legislation, the time period for enumeration has been changed; it is now outside the writ period. In Yukon, which does not have a Permanent List of Electors, enumeration takes place during the Writ period. In Nova Scotia where updating occurs between elections, the enumeration is held during the Writ period. Other jurisdictions have a Permanent List of Electors; some of these jurisdictions have an enumeration/confirmation prior to an election such as British Columbia (which is using a mail-in enumeration prior to the May, 2009 General Election). In Northwest Territories and Nunavut, the Chief Electoral Officer may at any time direct that an enumeration take place and designate when it shall take place.

5. Use of Voters' Lists Restricted to Electoral Purposes [Subsections 24(11) (12), 25(1) & 177(4)(5)]

Background:

The matter of the privacy of names on the Voters' List has become more of an issue with the public. It was raised by the voting public both during the 26th General Election and after the election.

Currently in subsections 177(4)(b) and (5), The Act makes it clear that the Chief Electoral Officer may enter into an agreement with respect to sharing or using a Voters' List or any voter data collected pursuant to *The Election Act, 1996*, with any political party or any candidate at the Provincial or Federal level and that if any political party enters into agreement with the Chief Electoral Officer, that any political party may use the Voters' List or voter data for any purpose related to The Act or any other Act or Acts of the Parliament of Canada governing elections. However The Act does not specifically state that a Voters' List, or any voter data collected pursuant to *The Election Act, 1996*, cannot be used for any purpose other than an electoral purpose.

In Alberta, a List of Electors, including a post-polling-day List of Electors may be used only as follows:

- by a registered political party or a registered constituency association, for communicating with electors, including for soliciting contributions and recruiting party members;
- by a member of the Legislative Assembly:
 - ♦ for carrying out the duties and functions of the member,
 - ♦ 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;
- by a candidate, for communicating with electors during a campaign period including for soliciting contributions and campaigning; and
- by election officers for the purpose of carrying out their duties as per The Act.

In Ontario, a person who obtains information, directly or indirectly, from the Permanent Register or from a List of Electors prepared from the Permanent Register:

- shall use it only for electoral purposes;
- shall not use it for commercial purposes; and
- may disclose it to others only after obtaining their written acknowledgement that they are bound by the restrictions in The Act.

The provision applies whether the person obtained it in printed or electronic format or examined it in either format without obtaining a copy. The Chief Electoral Officer may provide guidelines and every registered party shall develop and implement a policy to ensure that its candidates, Members of the Assembly, employees and agents comply. Every other provincial, territorial and federal jurisdiction in the country has similar strongly worded prohibitions that the Saskatchewan legislation currently does not have.

The matter recently became an issue at the federal level. The Offices of the Auditor General (OAG) and the Office of the Privacy Commissioner (OPC) released separate but concurrent audits of four federal institutions, including Elections Canada on Thursday February 12, 2009. The OAG's report focused on the management of identity information, while the OPC's report examined privacy management. The OAG's audit was favourable towards Elections Canada's quality management systems for the National Register of Electors. The OPC's audit found that Elections Canada is aware of the importance of privacy and has undertaken positive measures to strengthen its policies and procedures in terms of privacy protection. However, it also made a number of recommendations to improve Elections Canada's practices and better protect privacy. The Privacy Commissioner expressed concerns that information found on Voters' Lists could be misused if it fell into the wrong hands. The OPC acknowledged that Elections Canada is following The Act in its distribution of the lists. Where necessary, Elections Canada will be making a number of recommendations to Parliament for legislative change.

Alberta, British Columbia, Manitoba and Québec, have higher penalties for offences related to Voters' Lists/Lists of Electors ranging from:

- Alberta, where the penalty is up to a \$100,000 or imprisonment for a term not longer than one year or both;

- British Columbia, where the penalty is up to \$20,000 or imprisonment for a term not longer than two years, or both;
- Manitoba, where the penalty is up to a \$10,000 or imprisonment for a term not longer than one year or both; and
- Québec, where the penalty is \$500 to \$30,000.

6. Personal Security of Voters [No current section in The Act]

Background:

Privacy of names on the Voters' List is of utmost concern. Each election there are frantic calls from individuals who have been enumerated, but who do not wish for their names to be printed on the Voters' List due to personal security concerns. For example, if a former spouse or boyfriend/girlfriend is stalking the individual or an individual is in a witness relocation program, they may have concerns with their name being on the Voters' List. Manitoba has a system whereby voter information that would otherwise appear in the poll book or on the List of Electors such as name and address would be replaced with a numeric identifier. To anyone viewing the polling book, the numeric identifier does not reveal the identity of the elector, nor the polling division in which they reside. If the elector's name and address already appear on the List of Electors, steps must be taken to remove that information, since access to the List of Electors is provided to candidates and political parties as well as to others wishing to view it within the offices of the Returning Officers. Some voters with a disability may also have reason to be concerned with the privacy of their names on the Voters' List. In Manitoba, where this provision has been in effect for two elections, twenty-five and twenty-two persons have applied for personal security protection during the 2007 and 2003 general elections, respectively. British Columbia, Canada, Ontario, Québec and Yukon have similar legislation. Alberta is considering a recommendation for similar provisions.

7. Drop Occupation and Replace with Birthdate and Gender on List of Electors [Subsection 24(2)]

Background:

Currently Saskatchewan is the only national, provincial or territorial jurisdiction in Canada to still ask for "occupation" on its List of Electors. The most recent jurisdiction to stop including "occupation" on its List of Electors was Prince Edward Island. Elections Prince Edward Island has not asked for "occupation" or used "occupation" for any elections since early 2003 for reasons of privacy. Instead the elector's date of birth is requested. The reference to "occupation" was recently removed from Prince Edward Island's legislation.

In the event of a Permanent List of Electors it would be impossible to keep occupation updated from election to election. Many persons change occupations over time and there is no way of capturing this change.

Returning Officers are getting more and more complaints about the issue of privacy and the asking of occupation by enumerators and the inclusion on the List of Electors. Initially it was members of police services or correctional services that were complaining about being asked their occupation and

were refusing. The complaints about being asked for occupation are now becoming more widespread across the province, as privacy becomes more and more an important issue to the general public.

Most national, provincial and territorial jurisdictions across the country ask for birthdate and gender on their List of Electors. Birthdate is recognized as the best way of identification and matching for those jurisdictions that have a Permanent List of Electors. This recommendation was first made in the Annual Report of 2006 - 2007 and has been updated.

Note: This recommendation also pertains to **Election Act - Regulations** - which is included after the Housekeeping Recommendations on page 72.

8. Distributing and Posting of Voters' Lists [Section 25]

Background:

Currently The Act specifies that ten copies of the Voters' List be delivered to each candidate and five copies be sent to the Chief Electoral Officer. One paper copy must be posted in the Returning Office and in the head office of each municipality in the constituency or if there is no head office for a municipality in the constituency, in an office of Canada Post located in the municipality.

Now that an electronic Voters' List is available; it is a waste of paper to produce ten copies for each candidate and five copies for the Chief Electoral Officer. Instead one paper copy and one electronic copy should be provided to each candidate and to the Chief Electoral Officer. During the 26th General Election, as in other elections, complaints were received that copies of the Voters' Lists have been stolen from municipal offices and Canada Post outlets and that the privacy of voters was in jeopardy. Whether or not a Permanent Voter's List/List of Electors is put in place, the privacy of the voter needs to be protected and placing the Voters' List/List of Electors in the lobby of a municipal office or Canada Post Office no longer is acceptable in terms of voter privacy.

Note: Some actual suggested wording to correspond with the following recommendations for the purpose of either change to Legislation (preferred) or Regulations are included in Appendix One at the end of this document.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. a Permanent List of Electors be created as follows:
 - (a) that sections 22 to 25 be revised to include provisions for a Register of Electors and details on how the register is updated;
 - (b) all public sources be required to provide timely updates of name, address, gender and birthdate from the use of public databases including, but not limited to, the Ministry of Health, Saskatchewan Government Insurance, SaskEnergy, SaskPower, SaskTel and Information Services Corporation; and
 - (c) a public body providing information to update the Register of Electors may charge a reasonable fee for providing the information, but the fee may not exceed an amount that represents the actual cost of producing a copy of the information;

2. the hours an enumerator is entitled to access in any residential premises be changed to between 9:00 a.m. and 9:00 p.m.;
3. it specifically states that *The Election Act, 1996* supersedes *The Health Information Protection Act* with respect to the right for eligible voters to be enumerated;
4. the enumeration takes place outside the Writ period;
5. a List of Electors, including a post-polling-day List of Electors may be used only as follows:
 - (a) by a registered political party 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 and recruiting party members;
 - (c) by a candidate, for communicating with electors during a campaign period including for soliciting contributions and campaigning; and
 - (d) by election officers for the purpose of carrying out their duties as per The Act;
6. a specified penalty be added for misusing a Voters' List or any voter data collected as per The Act with a penalty of a fine of not more than \$15,000 or imprisonment for a term not longer than two years, or both;
7. voter information in a poll book or List of Electors may be replaced by a numeric identifier for instances of personal security protection and that election officers, political parties and candidates be required to delete or obscure personal information belonging to individuals who have personal security concerns;
8. all references to occupation on the List of Electors be dropped and that instead the elector's birthdate and gender be included on the List of Electors;
9. one paper copy and one electronic copy should be provided to each candidate, registered political party and to the Chief Electoral Officer; and
10. Lists of Electors are no longer posted in municipal offices or Canada Post offices.

REVISION [SECTIONS 26, 27 & 28]

Background:

Currently The Act allows for one day of a court of revision to be held on the fourth day before Election Day at the home of each enumerator. Given that:

- Saskatchewan now has a fixed election date;
- representatives of registered political parties, represented at the Premier's All Party Committee in 2004, unanimously recommended the creation of a Permanent Voters' List;
- one final full enumeration would be required before the creation of a Permanent Voters' List;
- such a final full enumeration should occur outside the Writ period; and
- recruiting enumerators who in addition to seven - ten days of enumeration must be available for eight hours on a weekday (currently slated for 2:00 - 10:00 p.m. Thursday, November 3, 2011) is becoming increasingly difficult; the revision process should change considerably.

The revision period should start soon after the Writ is issued. Revision Agents should be hired in the field by each Returning Officer based on the number of new housing developments, university residences and personal care facilities in each constituency. The "court of revision" should take place

in the Returning Office. Revision should be completed seven days prior to Election Day in order for the additions, deletions and corrections to the Voters' List to be made electronically and tagged on the electronic copy, or printed on different coloured paper. The Returning Officer can act as Revising Officer with the Election Clerk as alternate. The printed copy should be delivered to the Deputy Returning Officers and candidates four days before Election Day. In past elections getting hand-written revision lists just prior to, or on Election Day, or having to copy off hand-written lists has been an issue.

Currently there is no provision for a relative or other individual to add the name of a relative or friend on to the Voters' List or to correct any errors in the particulars, such as spelling of name, apartment number etc. Canada, Manitoba and Québec have such legislation. In New Brunswick another qualified voter can add a person's name on to the Voters' List. In Nova Scotia an elector or his agent may add a name or make corrections to the particulars of a voter on the Preliminary Voters' List.

An enumerator currently can delete a name off a Voters' List without providing any notification to the person whose name has been removed. During the 26th General Election, Elections Saskatchewan received a complaint from a voter whose name had been removed from the Voters' List. When the voter went to his polling place to vote, he was told that his name had been removed because he was deceased. Manitoba requires that objections to the inclusion of a name on the Voters' List must be made in writing and must specify:

- the name and address, as shown on the preliminary Voters' List of the person who is the subject of the objection;
- the basis of the objection, including a statement of the facts supporting the objection;
- the name and address of the person making the objection; and
- unless it is known that the subject of the objection is dead, when an objection that appears to have merit is received, the Returning Officer must promptly send a copy of it by method that provides confirmation of delivery (registered mail/courier), to the subject of the objection at:
 - ♦ the subject's address as shown on the preliminary Voters' List; and;
 - ♦ any other address for the subject provided by the objector; and
- if the objection is made on the basis that the person is dead, the Revising Officer must search by records kept under *The Vital Statistics Act* to determine if there is a record of the person's death.

British Columbia, Canada, Nova Scotia, Nunavut, Ontario, Québec and Yukon have similar legislation.

Recommendations:

That sections 26-28 of *The Election Act, 1996* be amended so that:

1. revision begins after a voter information card has been sent to each voter and ends 7 days prior to Election Day (before the beginning of the Advance Polls);
2. revision is done in the Returning Office via the Returning Officer serving as Revising Officer and by Revising Agents in the field, personal visit or by mail;
3. revised Lists of Electors are produced in electronic format;
4. one electronic copy and one paper copy be provided to each candidate, registered political party and the Chief Electoral Officer;

5. a person's relative, spouse or common-law partner may apply to have the person's name added to the List of Electors or to correct any information about the person on the Preliminary List of Electors; and
6. the deletion of a name on the List of Electors be formalized including that the person so deleted is informed of the deletion in case the person wishes to question the deletion.

Part IV - Voting

DIVISION A - COMMENCING AN ELECTION

Day of the Week for By-Election [Section 31]

Background:

For planning purposes it is very advantageous for electoral administrations to know on what day of the week an election is going to occur. Most, if not all, other Canadian electoral jurisdictions have a set day of the week in which all elections (including by-elections) must occur (unless the day is a holiday which results in an election day being held the day following). Elections in Canada, New Brunswick, Northwest Territories, Nunavut, Prince Edward Island, Québec, and Yukon occur on Mondays, Elections in Manitoba occur on Tuesdays, Ontario elections take place on Thursdays. Only Alberta and Newfoundland and Labrador do not have elections on a certain day of the week. With the fixed date for the next general election being Monday, November 7, 2011 it appears logical that all by-elections should also occur on Mondays.

Recommendation:

That *The Election Act, 1996* be amended so that all by-elections must be held on Monday unless that day falls on a holiday in which case the election would occur the next day.

POLLING LOCATIONS

1. Accessibility [Sections 36 & 129]

Background:

Currently there are no requirements for the polling locations for regular polls or advance polls to be accessible. Saskatchewan is one of only three national, provincial or territorial electoral jurisdictions not to include a provision requiring that advance polls be accessible. Most jurisdictions have a requirement that regular polling locations be accessible unless the Returning Officer can show that finding an accessible poll location is not possible. In Manitoba, for example, a voting place must be accessible to physically disabled persons unless the Returning Officer satisfies the Chief Electoral Officer that it is impractical to obtain the use of such places while also ensuring that the voting place is in a convenient location for the majority of voters in the polling division. Most other jurisdictions across the country have similar legislation. The exception for advance poll accessibility is Alberta where advance polls should be "convenient to electors" but "accessibility" is not specifically mentioned. In Alberta, regular polls must be "readily accessible to handicapped persons". Nunavut does not mention accessibility for either advance polls or regular polls.

At a “Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities” held in April 2008 with a number of disability stakeholders it was pointed out to the Chief Electoral Officer and Assistant Chief Electoral Officer just how important it is to provide polling places that are “accessible”. Being accessible does not just include level access, it also includes for example, accessible parking.

2. Removal of Restrictions [Subsection 36(9)]

Background:

Currently there is a restriction that no Returning Officer shall establish a polling place in a building with respect to which a permit has been pursuant to *The Alcohol and Gaming Regulations Act, 1997*. Rural Returning Officers are having an increasingly difficult time finding polling place locations and suitable Returning Office locations (because absentee voting takes place in the Returning Office effectively from the day after the election is called the Returning Office is a polling place). The Returning Office has been interpreted as a “polling place”. There have been instances where for example a curling rink could not be used for a polling place or Returning Office because of the building having a liquor permit.

Manitoba recently removed the restriction regarding the placement of polling places and Returning Offices in buildings which have a liquor permit. Only two jurisdictions still have a restriction on polling places being situated in a licensed premise: Alberta and Ontario. In Alberta, no polling place may be situated in a licensed premise, but with the prior written approval of the Chief Electoral Officer, a polling place may be situated in an adjacent constituency if a Returning Officer is unable to find a suitable place in the constituency for the polling place. In Ontario, in the case where no other location is available, the Chief Electoral Officer is able to authorize the use of a polling place in licensed premises. Ontario also stipulates that the following factors be taken into account with regard to the location of polling places:

- a location’s convenience for electors;
- a location’s capacity;
- the extent to which electors are likely to be familiar with a location;
- any significant geographic barriers that electors will encounter in reaching a location; and
- any other factors that may be relevant to the proper conduct of the election.

All other jurisdictions have no restrictions regarding the use a licensed premises for a polling place.

3. Transfer Certificates

Background:

A. Transfer Certificates for Polling Places that Lack Access [Section 36]

Returning Officers try to locate their polling stations in polling places that are accessible. In some locations, despite the best efforts of the Returning Officer no accessible locations are available. This amendment would allow the voter to go to the next closest polling place that was accessible. In federal elections the Returning Officer or Assistant Returning Officer shall issue a transfer certificate

in the prescribed form, and hand the certificate to the person who delivered the application to the officer, if the officer is satisfied that:

- the elector's name appears on a List of Electors for the constituency; and
- the polling station established for the polling division in which the elector resided does not have level access.

New Brunswick, Nova Scotia and Ontario have similar provisions in their legislation.

While some jurisdictions have a time limit to request a transfer certificate, to have any time limit undermines the reason for it (for example a voter may not discover that polling place is not accessible until they arrive on Election Day). The legislation for Elections Canada was recently amended to remove the time limit.

At the "Public Forum" in April 2008 a number of disability stakeholders pointed out the importance on continuing to advocate for transfer certificates to be used in the event that a fully accessible polling place cannot be set up. The Saskatchewan Human Rights Commission is also advocating for this change through its interaction with the Office of the Chief Electoral Officer.

B. Transfer Certificates for Election Officials, Party Volunteers and Candidates [Section 36]

Background:

Deputy Returning Officers, Poll Clerks, other election officials and the scrutineers of candidates are encouraged to vote in advance polls. There are however occasions when replacement officials and newly signed up scrutineers effectively lose their right to vote because of their desire to play an active role by working or volunteering at a polling place on Election Day. Canada, New Brunswick, Nova Scotia and Ontario have provisions in their legislation allowing for transfer certificates. Canada also has a transfer certificate for a candidate whose name appears on the List of Electors. Such a transfer certificate may also assist any poll officials or party volunteers who have a disability by making it more convenient to vote in the poll where they are working or volunteering. The candidate may request a transfer certificate to vote at another polling station in the same constituency.

C. Additional Reasons for Transfer Certificates [Section 36]

Background:

In general the percentage of voter turn out is decreasing over time. Every election there are instances where a Returning Officer may have had to change a polling place due to unforeseen circumstances. In some cases there is confusion and the elector may go to the wrong polling place. In disgust and frustration the elector may abandon his or her attempt at voting.

D. Who Can Request a Transfer Certificate

Background:

In Canada, the application for a transfer certificate is in the prescribed form and shall be personally delivered to the Returning Officer or Assistant Returning Officer for the elector's constituency by the elector, his or her friend, spouse, common-law partner or relative, or a relative of his or her spouse or

common-law partner. In Nova Scotia, a transfer certificate may be requested in writing by an elector or a person designated by the elector. In Ontario, the elector or another person acting on the elector's behalf may request a transfer certificate.

The recommendations regarding transfer certificates were first made in The Chief Electoral Officer's Annual Report of 2006 - 2007 and have been updated.

Recommendations:

That *The Election Act, 1996* be amended to:

1. require that all advance polls and Returning Offices be accessible;
2. require that polling places must be accessible to persons with disabilities, unless the Returning Officer satisfies the Chief Electoral Officer that it is impractical to obtain the use of such places;
3. add the provision that voting places be placed in a convenient location for a majority of voters in the polling division;
4. remove the restriction regarding the placement of polling places and Returning Offices in buildings which have a liquor permit;
5. allow for transfer certificates for:
 - (a) electors with a disability whose polling place does not have level access;
 - (b) election officials, party volunteers and candidates; and
 - (c) any elector who presents himself or herself at the wrong polling station as the result of a change in the assignment of polling stations or advance polls that took place after the issuance of the original voter information card to the electors; and
6. specify who can submit the request for transfer certificate on behalf of the elector.

DIVISION B - CANDIDATES AND NOMINATIONS

1. Nomination Paper and Name on Ballot Paper [Clause 35(3)(a) & Subsection 44(6)].

Background:

Currently subsection 44(6)(a) of *The Election Act, 1996* indicates that "The nomination paper must state: the name... of the candidate ..." and subsection 35(3)(a) states that "Every Returning Officer shall cause a printer to print on each ballot paper the names ... of the candidates as set out in the nomination papers ...". In the past few years the Office of the Chief Electoral Officer has had occasion to consider whether the term "name" is detailed enough. The determination of "last" or "family" name has been affected by the breaking up of relationships, the creation of new relationships, and how possible name changes including the hyphenation of last names may informally or formally result in the change of last names.

It has been the practice of the Office of the Chief Electoral Officer to allow any contraction, abbreviation or nickname indicated to be used on the ballot. The legislation in Manitoba formalizes the option of using an abbreviation or nickname. British Columbia, Canada, Newfoundland and Labrador and Northwest Territories have similar legislation. This recommendation was first made in the Annual Report Compendium of 2003 - 2005 and has been updated.

2. Handling and Forfeiture of Deposits [Section 47]

Background:

Currently a Returning Officer shall return a candidate's deposit if the candidate is elected or if the candidate obtains at least 50% of the number of valid votes cast in favour of the candidate elected.

In *Figuera v. Attorney General of Canada (1999)*, the judge struck down as contrary to section 3 of *The Charter*, federal legislation that required a candidate for election to Parliament to pay a \$500 deposit that was refundable if the candidate received 15% of the vote.

In October 2007, in *De Jong v. Attorney General of Ontario*, the Ontario Superior Court struck down a provision in the Election Act which required candidates to forfeit their \$200 nomination deposits if they receive less than 10% of the vote. The provision was struck down on the grounds that it violates the right to vote guaranteed in the *Canadian Charter of Rights and Freedoms*. The Attorney General of Ontario has not appealed the case.

Currently in Alberta the nomination deposit is \$500.00. Half of the nomination deposit is refunded to the candidate's campaign if the candidate is elected or if they receive at least half as many votes as the winning candidate. The other half of the nomination deposit is refunded if the candidate's campaign financial statement is filed on time. Elections Alberta has recommended that the portion of the nomination deposit that is contingent upon the election outcome be eliminated. Canada, Northwest Territories and Nunavut return the entire candidate's deposit if the business manager or candidate submits the candidate's financial return on time.

If challenged in court, Saskatchewan's nomination deposit, that is contingent upon the election outcome, would likely be found to violate *Charter* rights and therefore should be changed.

Currently the deposit is repaid to the candidate. Increasingly, some registered political parties are paying for the nomination deposits for all the candidates endorsed by their registered political party. With the nomination deposits being required in the form of certified cheque or money order it has also been noticed that the certified cheques or money orders are in the name of the person obtaining them, other than the candidate. In Canada and British Columbia, the deposit is returned to the candidate's business manager or official agent. This change has also been recommended by Elections Alberta.

Ontario returns cash deposits (which Saskatchewan no longer accepts) to the candidate while deposits by cheques are issued to the issuer of the cheque. In Nova Scotia, the deposit may be returned to either the candidate or his or her official agent or personal representative. In Manitoba and Québec, no deposits are required. The other six jurisdictions still require that the deposit be repaid to the candidate. If the return of the deposit is linked to the submission of the Candidate's Return on or before the deadline, a strong argument can be put forward for the deposit to be returned to the business manager since he or she is ultimately responsible for submitting the Candidate's Return of Election Expenses.

If the recommendation regarding “Candidate’s Election Expenses Returns [Section 267]” on page 64 is approved then section 47 should also be amended to have the “Chief Electoral Officer” return the candidate’s deposit rather than the “Returning Officer” as it would be the Chief Electoral Officer who would know whether or not the candidate’s return was received within the deadline as per The Act.

3. Candidate’s Representatives - “Bingo Sheets” [Section 54]

Background:

Registered political parties have indicated that they are having more difficulty finding persons to act as candidate’s representatives. Poll officials have also complained that some candidate’s representatives are trying to cover multiple polls at the same time resulting in candidate’s representatives asking poll officials to yell from one poll to another. Manitoba has a provision in the legislation that at intervals chosen by the Chief Electoral Officer, the candidate’s representative receives a record of the persons who have voted at the polling station from the Poll Clerk. The record is commonly known as a “bingo sheet”. For the October 14, 2008 federal election, Elections Canada used a new multi-copy “bingo sheet” to be completed every half hour by the Poll Clerk. The Supervisory Deputy Returning Officer collects these “bingo sheets” for all polling stations in the polling place and places one copy in the file for each candidate. The (reduced number of) candidate’s representatives can then pick up the “bingo sheets” for all polling stations in the polling place in one stop. This reduces the need for as many candidates’ representatives while reducing the problems of candidates’ representatives potentially disrupting voters when they can not hear the voter number of the voter who has just voted. The possibility of harmonizing this practice with that of Elections Canada will also make it easier for candidates’ representatives to have the same rules provincially and federally.

4. Leave of Absence Without Pay for Candidate [No Section in The Act]

Background:

Prior to and during the 26th General Election, the Office of the Chief Electoral Officer received several calls wondering why *The Election Act, 1996* did not include provisions for a leave of absence without pay for an employee wishing to run as a candidate in a provincial election. British Columbia, Canada, Manitoba and Québec, all have legislation allowing candidates to take a leave of absence from their employer upon applying in writing for a leave. In Québec, these leave provisions also apply to the official agent of a candidate. In Manitoba, an employee who has been named as an election volunteer by a candidate or registered political party is also covered by these provisions.

5. Withdrawal of Candidate [Section 52]

Background:

Currently a candidate may withdraw “at any time after his or her nomination and before the close of polling day.” In the 26th General Election, one candidate withdrew after the deadline for close of nominations. The Returning Officer for the constituency and Elections Saskatchewan received

hundreds of complaints from electors about not being able to vote for a candidate of the political party of their choice. In British Columbia, a candidate may withdraw “up until 48 hours before the start of “Advance Voting”. In Northwest Territories, a candidate may withdraw “anytime before the 24th day before Election Day”. In Yukon, a candidate may withdraw up to three days after nomination day. In Nunavut, a candidate may withdraw up to three hours after the close of nominations.

Recommendations:

That *The Election Act, 1996* be amended to:

1. require that the term “name” or “names” be changed to “legal name” or “legal names” and additionally that “the individual must indicate the name, or any contraction or abbreviation of his or her name, or nickname, that he or she wishes to be used on the ballot papers in the election”;
2. make the refund of the \$100 nomination deposit contingent upon the receipt of the candidate’s return of election expenses on or before the deadline stated in The Act;
3. have the Chief Electoral Officer return the refund of the nomination deposit to the candidate or business manager;
4. incorporate the use of a “record of the persons who have voted” at the polling station; and
5. add leave of absence without pay provisions for employees wishing to run as candidates in a provincial election.

Recommendation:

That the Legislative Assembly consider amending section 52 of *The Election Act, 1996* to address the concern regarding the withdrawal of candidates after the close of nominations leaving a constituency without a candidate for one of the registered political parties.

DIVISION C - PROCEDURES PRIOR TO VOTING

Opening Of Polling Place - Black Lead Pencil [Section 57]

Background:

Currently the Deputy Returning Officer shall provide a “black lead pencil” in each voting station of the polling place. At the “Public Forum” held in April 2008 it was pointed out that some individuals had a great deal of trouble using a pencil to mark their ballot. These individuals indicated that there should be a black marker provided at each polling station as an alternative to the “black lead pencil”. Alberta, New Brunswick, Northwest Territories, Nova Scotia and Ontario allow for a pencil, pen, or “marker” or do not specify the writing device to be used.

Recommendation:

That *The Election Act, 1996* be amended so that a black marker may also be provided, upon request, to mark the ballot.

DIVISION D - VOTING

Who Is Entitled To Be In Polling Place and At Counting of Votes [Subsection 63(1)]

Background:

Currently The Act provides for the Chief Electoral Officer, Assistant Chief Electoral Officer, Returning Officer, Election Clerk, Supervisory Deputy Returning Officer, if any, Deputy Returning Officer, Poll Clerk, an interpreter, if any, the candidate, up to two candidate's representatives, any other persons authorized by the Returning Officer, Supervisory Deputy Returning Officer or Deputy Returning Officer to assist in preserving the peace at a polling place. Each election there are requests to be able to enter the polling place from:

- members of the media; and
- school teachers.

The media are consistently told that they are not allowed in the polling place but often find their way in anyway, particularly where a political party leader is voting on Election Day or at an advance poll. This causes complaints from other media outlets that see that one media outlet did get into the polling place. In Alberta, 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 agreed to the visit of the media in the polling place. In New Brunswick, media are allowed in the polling place only to take pictures of the candidates voting. In Newfoundland and Labrador, a Deputy Returning Officer may permit a member of the news media to enter a polling place for the purpose of reporting on the activities in the poll on the terms and conditions approved in advance by the Returning Officer. In Yukon, during polling hours, the Chief Electoral Officer may permit representatives of the media to be present at a polling place. The rules are established by the Chief Electoral Officer. In Canada, there is no legislation allowing for the media to be in the poll, however, during the October 2008 federal general election, the media consortium challenged Elections Canada on this matter. As a result Elections Canada allowed a select group of media to be in the polling place when a leader of a political party was voting. Elections Canada received some complaints about this policy; for example, media could take pictures of the Leader of the Green Party, while the media was not allowed to take pictures of other candidates voting in that same constituency. In Manitoba, policy allows media into the polls under strict conditions.

In Saskatchewan, there have been complaints on Election Day at the 2003 and 2007 general elections from school teachers who thought that they should be allowed to bring their students into the polling place to see democracy in action. Some of these complaints also made their way to Members of the Legislative Assembly who enquired about the Office's interpretation of the Election Act on this matter. In two provinces, Alberta and Nova Scotia, legislation allows students in the polling place. In Alberta, with the consent of the Supervisory Deputy Returning Officer or a Deputy Returning Officer, students may briefly visit the polling place in their school, for educational purposes. In Nova Scotia, at the discretion of, and on such terms and conditions specified in writing, the Chief Electoral Officer, any person or group of persons may attend the polling place for educational purposes. In Manitoba, there is an unwritten, unofficial policy that teachers and students may attend at a polling place when the polling places are not busy.

There should also be a provision such as those in place to allow for “any other persons authorized by the Chief Electoral Officer” to attend the polling place. From time to time election officials from other jurisdictions come to visit during an election particularly if new provisions are being used. Such an amendment would allow the Chief Electoral Officer to authorize such attendance. Manitoba allows in the polling place, “any other person that the Returning Officer or the Chief Electoral Officer allows to be present”, British Columbia allows members of the Chief Electoral Officer’s staff authorized by the Chief Electoral Officer. Alberta’s legislation is similar adding “and visiting officials from other electoral jurisdictions authorized by the Chief Electoral Officer”. New Brunswick will be recommending adding “any other person authorized by the Chief Electoral Officer”. British Columbia allows any election official authorized by the Returning Officer. Nova Scotia allows any person necessarily present in order to comply with any section of The Act.

Recommendation:

That *The Election Act, 1996* be amended to:

1. allow for media to attend the polling place when a political party leader is voting where prior arrangement is made with the Returning Officer;
2. allow for school teachers to attend the polling place with prior approval of the Returning Officer (to arrange for least busy time of the day); and
3. allow for “any other persons authorized by the Returning Officer or Chief Electoral Officer” to attend the polling place.

When Voter’s Declaration Can Be Demanded [Section 69]

Background:

Currently The Act is not as clear as it might be regarding who can challenge a voter and how a challenge should be administered. British Columbia and Manitoba have clearer legislation on this point. In Manitoba, a Deputy Returning Officer, candidate, candidate’s representative or eligible voter may challenge a person’s right to vote if he or she believes that the person:

- is not an eligible voter;
- has already voted in the election; or
- is falsely representing himself or herself as another person in order to vote.

A challenge must be made before the voter’s ballot is put in the ballot box. The person making the challenge must state the reason for it. If no reason for the challenge is given, the voter who was challenged may proceed as if no challenge has been made. The Poll Clerk must record the name of the person making the challenge and the reason beside the name of the voter in the poll book.

In British Columbia, a challenge may be made only by an election official, a candidate’s representative or a voter for that constituency and only on the basis that the individual proposing to vote is not entitled to vote. In order to receive a ballot, an individual whose right to vote has been challenged must either provide evidence satisfactory to the election official responsible that the individual is entitled to vote, or make a solemn declaration before the election official responsible as to the individual’s entitlement to vote. The election official must record in the poll book that the individual was challenged, the name of the individual who made the challenge, and whether and

how the individual challenged, satisfied the requirement. Canada, New Brunswick, Nova Scotia, Ontario and Yukon have similar legislation.

Recommendation:

That *The Election Act, 1996* be amended so that the provisions for challenges are clarified.

Identification (Drivers Licence) Should Have Legal Land Descriptions [No Current Section in The Act]

Background:

As in the Weyburn-Big Muddy By-Election in 2006, and in subsequent By-Elections and the 2007 General Election, all voters whose names are not on the Voters' List or who are applying to vote as an absentee voter must show **one piece of identification** bearing the voter's name, signature and ordinary place of residence such as the Saskatchewan driver's licence **or two pieces of identification: one** bearing the name and signature of the voter and **the other** bearing the name and ordinary place of residence of the voter. Currently all Saskatchewan drivers' licences for persons who do not have door to door mail delivery, list a post box number, not a legal land description, physical address or street address. For urban voters the Saskatchewan driver's licence is the most easily available identification document. Rural voters have more difficulty proving their ordinary place of residence because of the lack of a legal land description, physical address or street address on their Saskatchewan driver's licence. The Office of the Chief Electoral Officer has had many requests from Returning Officers and voters that the Office recommend that the government include the driver's legal land description, physical address or street address on the driver's licence in addition to the postal box number. Now that Elections Canada requires identification to vote at federal elections, whether or not the voter's name is on the Voters' List, there will be increased requests for the changes to be made to the Saskatchewan driver's licence. The understanding of the Office of the Chief Electoral Officer is that Saskatchewan Government Insurance (SGI) will soon be voluntarily collecting both the physical legal land description as well as the postal address, but has no plans at this time to include both the addresses on the driver's license.

Recommendation:

That the Legislative Assembly discuss the possibility of adding the driver's legal land description or physical address on the Saskatchewan driver's licence in addition to the postal box number.

Deposit of Ballot [Section 75]

Background:

Currently under section 75, voters are required to surrender their marked ballots, once completed, to the Deputy Returning Officer. The Deputy Returning Officer removes and destroys the counterfoil (which contains a unique number that could identify the ballot); checks the back of the ballot received from the voter to see that the initials of the Deputy Returning Officer are on the ballot; and deposits the ballot in the ballot box. The number on the counterfoil is used to facilitate correct annotation of the Poll Book (to accurately record which voter has voted). At the 26th General Election, as in previous elections, a number of voters have expressed the desire to deposit their own ballots, both to finalize the voting process and to ensure confidentiality of the vote.

Elections Canada asks the elector to return the ballot to the Deputy Returning Officer who puts the ballot in the ballot box, or at the elector's request, allows the elector to deposit the ballot in the ballot box. In Manitoba the legislation was changed to allow for **either** the Deputy Returning Officer **or** the voter to put the ballot in the ballot box after the Deputy Returning Officer has examined the ballot for his or her initials on the back of the ballot. Alberta is currently considering a recommendation for the voter to deposit the ballot in the ballot box, or for the "friend" to deposit the ballot in the case of a "friend" providing assistance to the voter. British Columbia, Nunavut and Prince Edward Island allow **either** the voter **or** the Deputy Returning Officer to deposit the ballot. New Brunswick, Newfoundland and Labrador, Ontario and Québec allow voters to deposit their ballots in the ballot box themselves.

Recommendation:

That *The Election Act, 1996* be amended so that either the voter, poll official or "friend", in the case of a "friend" providing assistance to the voter, **or** the voter or "friend", in the case of a "friend" providing assistance to the voter, may deposit the ballot in the ballot box.

Assistance to Voters [Section 77]

Background:

Currently subsections 77(4) and (5) allow a friend to accompany a **blind** voter into the voting station and to mark the ballot for the voter. A friend may assist only one voter. An election official may assist as many voters as required. Members of the individual's family or other caregivers may be in the best position to communicate with the voters and assist them in marking their ballots. In the 26th General Election there were several complaints from relatives of individuals who were not blind, but who were physically disabled, wondering why they could not have their loved one assist them in voting behind the voter's screen. All jurisdictions have provisions permitting the Deputy Returning Officer to assist a voter to mark his or her ballot. All jurisdictions except Yukon also allow for someone, other than the Deputy Returning Officer, to assist a voter to mark his or her ballot. Of the thirteen jurisdictions that do allow a friend to assist a voter, only Saskatchewan has a stipulation that the voter must be **blind** in order for a "friend" to assist in marking the ballot.

Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Québec allow for disability, physical disability, physical infirmity, physical cause, physical incapacitation or difficulty reading or writing as reasons for requesting a "friend" to assist a voter. Canada, Newfoundland and Labrador, Northwest Territories and Nunavut have no distinctions as to the reason why a voter may be assisted.

At a "Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities" held in April 2008 with a number of disability stakeholders present, it was suggested that the reasons for a "friend" to assist a voter should be expanded beyond that of "blindness" to any disability preventing a voter from voting themselves. By using the terms "any disability" it would include both physical disabilities and mental disabilities, as mental illness may be another reason why a voter may request that an individual be allowed to assist the voter.

Canada, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ontario and Prince Edward Island have a limit of a “friend” assisting one voter. Manitoba and Northwest Territories have a limit of a “friend” assisting two voters. British Columbia and Québec have a provision permitting an individual to assist more than one member of the **individual’s family**. Alberta has no limits on the number of voters that a friend may assist.

The term “friend” has been confused amongst some voters, poll officials and candidate’s representatives during past elections. Some have insisted that a “spouse” or “other relative” could not be a “friend”. Canada has a provision that specifies that a “friend, spouse, common law-partner, or relative or relative of a spouse or common-law partner” may assist a voter. Northwest Territories and Nunavut allow “a friend or relative” to assist a voter. British Columbia, Manitoba and Québec respectively allow “an individual”, “another person” and “another elector” to assist a voter.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. “a friend may assist a voter” is replaced by “a friend, spouse, common law-partner, relative or relative of a spouse or common-law partner may assist a voter”;
2. a “blind voter” is replaced by a “voter who has any disability preventing a voter from voting him/herself”; and
3. either an exception be added allowing “an individual to assist more than one family member of the individual’s family” **or alternatively** that “a friend, spouse, common law-partner, relative or relative of a spouse or common-law partner may assist up to two voters”.

Assistance to Voters Who are Deaf or Mute [Currently no Provision in The Act]

Background:

Currently there are no special provisions in The Act for voters who are deaf or mute. Canada, Ontario and Québec have specific provisions in their legislation where the elector may be assisted, or has the right to be assisted at the poll by a sign language interpreter. Elections New Brunswick is considering recommending even more comprehensive legislative changes which include assistance of voters with hearing impairments.

Recommendation:

That *The Election Act, 1996* be amended so that a hearing impaired or mute elector may be assisted by a person capable of interpreting sign language.

DIVISION E - SPECIAL VOTING PROVISIONS

Absentee Voters - Delete Requirement to Provide Evidence [Sections 86-89]

Background:

Prior to the Weyburn-Big Muddy By-Election in 2006, electors wishing to vote as an absentee voter were required to meet one of several criteria (such as being a member of the Canadian Forces, an operator of a long distance transportation business, an individual who is unable to vote because of

business commitments or because of his or her employer's directions). The legislation changed after March 2006; therefore the criteria to be an absentee voter was changed to "a voter who presents evidence satisfactory to the Returning Officer of the constituency in which the voter is eligible to vote, or to the Chief Electoral Officer, that the voter will be unable to vote at an advance poll or on polling day in the constituency". The revised criteria and stream lined procedures were very popular with electors. There was a 270% increase in the number of absentee voters from 1,109 during the 2003 general election to 3,001 in the 2007 general election. In reality it is not practical for the voter to "provide evidence satisfactory to the Returning Officer or the Chief Electoral Officer". In actuality very few voters presented such evidence in the past election, therefore this wording is redundant and should be deleted.

In discussion at the "Public Forums" held in April of 2008, it was pointed out that any perceived barriers to applying for absentee voting should be removed. In Alberta, British Columbia, Canada, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island and Yukon no evidence is required to be presented in order to prove that the voter is eligible for absentee voting.

Recommendation:

That *The Election Act, 1996* be amended so that the words "provide evidence satisfactory to the Returning Officer or the Chief Electoral Officer" be deleted and changed to "sign an oath confirming their eligibility".

Mobile Polls [Sections 90-93 & 286(1) (b)]

Background:

In 2004, the all-party committee on revisions to *The Election Act, 1996* advised the Chief Electoral Officer to adapt the use of the mobile poll for use in private personal care facilities and personal care homes. The use of the mobile poll was adapted for the 2007 General Election. There were 108 mobile polls across the province, each serving from one to nine private personal care facilities and personal care homes. These mobile polls were very well received by residents, family members and the administration of most personal care facilities and personal care homes. It meant that the residents could vote in their home and that family members or staff of the facility did not have to assist persons to vote several blocks away from the facility, particularly in early November when the weather can sometimes be inclement.

There were, however, several problems:

- The legislation currently states that "a Returning Officer may establish one or more mobile polls if: (a) there are, in the opinion of the Returning Officer, special or unusual circumstances requiring mobile polls; and (b) the Chief Electoral officer has approved the establishment of the mobile polls." Now that the use of mobile polls for small and medium personal care homes and personal care facilities will routinely be a regular practise, the wording of subsection 90(1) should be changed;
- In Moose Jaw, Regina and Saskatoon there were numerous complaints from voters and candidates' campaigns wanting the mobile poll provisions to be extended to senior citizen's apartment blocks; and

- There was a problem in that the legislation says “that a voter may vote at a mobile poll only if the voter signs a declaration in the prescribed form stating, in addition to the statements contained in the voter’s declaration, that he or she has not and will not have a reasonable opportunity to vote at an advance poll or at a polling place on polling day.” In other words, despite the small personal care homes being enumerated as per the legislation and legal interpretations obtained by the Office of the Chief Electoral Officer, all voters in the mobile poll had to take an oath (see additional recommendation on page 44).

The above amendment would be particularly advantageous to any seniors’ with disabilities living in senior citizen’s apartment blocks.

Recommendations:

That *The Election Act, 1996* be amended so that:

1. the use of mobile polls for personal care facilities and personal care homes be formalized in the legislation; and
2. the use of mobile polls be extended to include senior citizens’ apartment blocks.

Exemption of Mobile Polls and Hospital Polls from Identification Requirements [Subsection 71(1)]

Background:

As part of the amendments to *The Election Act, 1996* which became effective in March 2006, provisions streamlined absentee voting. As a result, the requirement for having another resident voter in the same constituency who was not related sign both the absentee voter application form and the certificate envelope containing the ballot to be returned to the Returning Office was deleted. Instead the absentee voter is asked to sign a declaration and provide satisfactory proof of the voter’s identity and place of ordinary residence with his or her application form. Similarly all persons required to make a declaration must provide satisfactory proof of their identity and place of ordinary residence. This has led to anomalies whereby a voter in a mobile poll who has been enumerated and is already on the Voter’s List, would be asked to sign a declaration and provide satisfactory proof of the voter’s identity and place of ordinary residence. Elections Saskatchewan received many complaints about this from voters in mobile polls, their families, political parties, Returning Officers and poll officials. Persons living in a mobile poll should not be required to provide satisfactory proof of the voter’s identity and place of ordinary residence. These voters should be like any other voters whose names are on the Voters’ List and who are not required to produce identification.

Alberta, New Brunswick and Yukon require only an oath to be taken by the voter; no proof of residency is required in a mobile poll. Voters in hospitals have never been required to produce identification, as it is not realistic to expect that the person in hospital will have access to the necessary identification. The amendments may have inadvertently suggested that hospital voters, who are required to take a declaration on the certificate envelope, also need to provide satisfactory proof of the voter’s identity and place of ordinary residence. This should not be the case.

The Act should be amended so that eligible voters, who are in hospitals, remand centres or temporarily displaced polls on Election Day should not have to provide satisfactory proof of voter’s identity and place of ordinary residence. Persons in hospitals, remand centres and temporarily

displaced polls normally do not have identification with them, therefore making the oath/declaration on the certificate envelope sufficient. In the case of hospitals, the hospital bracelet can also be deemed to be sufficient identification. In Alberta, New Brunswick and Newfoundland and Labrador, only an oath is taken by the voter in a hospital. In Manitoba, the voter signs an oath and the hospital bracelet is used as identification.

The following recommendations are a result of the experience of implementing the amendments, which were proclaimed March 22, 2006 and the practical experience of the Weyburn-Big Muddy and Martensville By-Elections and the 26th General Election. These recommendations were first made in the Annual Report of 2005 - 2006 and have been updated. At a "Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities" held in April 2008 with a number of disability stakeholders it was pointed out to the Chief Electoral Officer and Assistant Chief Electoral Officer that provisions for persons in hospitals and personal care facilities should be as streamlined as possible.

Recommendations:

That *The Election Act, 1996* be amended to clarify that:

1. eligible voters living in a mobile poll who are on the List of Electors no longer have to sign a declaration to be able to vote; and
2. eligible voters voting at a hospital poll not be required to provide satisfactory proof of the voter's identity and place of ordinary residence.

Voting in Remote Areas [Currently No Provision in The Act]

Background:

In some remote areas it is extremely difficult to find two persons wishing to be poll officials in the community, arrange for them to be trained and operate a poll on Election Day. In such small remote communities of twenty-five or less persons, a tragedy such as a funeral may also prevent anyone from being a poll official. In Alberta, the Returning Officer, with the approval of the Chief Electoral Officer, may designate any area of the constituency as a remote area to be served by special ballot and therefore no polling place is established and no Deputy Returning Officer or Poll Clerk is appointed. In Yukon, if before enumeration, the Returning Officer believes that twenty-five or fewer electors are residing in a polling division, the Returning Officer may direct the electors to vote by mail-in ballot.

Recommendation:

That *The Election Act, 1996* be amended to allow the Returning Officer, with the approval of the Chief Electoral Officer, to designate any area of the constituency as a remote area to be served by absentee ballot and therefore no polling place is established and no Deputy Returning Officer or Poll Clerk is appointed.

Voting in Hospitals [Sections 103 - 105]

Background:

During the 26th General Election, Elections Saskatchewan and some Returning Officers had some difficulties with the administration of the Regina Qu'Appelle Health Authority (RQHA) with respect to the rights of eligible voters who were in the hospital on Election Day. Section 105(3) of The Act states that:

If a voter in a hospital is unable to go to a polling place established pursuant to subsection (1) and requests that he or she be permitted to vote at any other place in the hospital, the Deputy Returning Officer or the Poll Clerk shall take the ballot box and all other election material to the place designated by the voter and shall ensure that the voter may vote in secrecy.

The administration of the RQHA said *The Health Information Protection Act* (HIPA) takes precedence over all other legislation including *The Election Act, 1996*. Therefore poll officials could not go bed to bed to allow voters to vote unless the person had filled out a survey which comes with their evening meal the night before or on a breakfast tray on the day of the election. This presents a problem as some patients may arrive after the meal is served or may be on “no food” at the time the questionnaire was issued. Strict adherence to the RQHA’s interpretation could lead to voters losing their right to vote because they were “not in the right place at the right time to receive their survey”. After great discussion leading up to Election Day, the RQHA agreed not to enforce their interpretation of HIPA on Election Day. **Note:** that in order to comply with infectious disease policy, a hospital volunteer was employed by Elections Saskatchewan for each hospital poll to ensure that the infectious disease protocol was followed at all times.

Alberta, Manitoba, New Brunswick, Northwest Territories, Ontario, Québec and Yukon, have legislation which says that the poll officials must go bed to bed for hospital voting (and that the approval to do so does not rest with the administrator of the hospital). Canada, Newfoundland and Labrador and Prince Edward Island have to get the approval of the hospital administrator before taking the vote bed to bed.

Additionally, the administration of the RQHA had not been following Elections Saskatchewan’s interpretation of sections 103 and 105 that a “stationary poll” also had to be set up for a portion of the polling hours in the hospital for voters who were ambulatory and therefore able to walk to a polling station in the hospital. Reluctantly, at the last minute, the RQHA agreed to have a stationary poll. At the time of writing this report a call has come in from the Ministry of Health to discuss policy on the matter of voting in hospitals and long-term care institutions in the Province.

Recommendations:

1. That *The Election Act, 1996* be amended to specifically state that *The Election Act, 1996* supersedes *The Health Information Protection Act* with respect to the right to vote; and
2. That the Legislative Assembly decides whether a stationary poll should be compulsory or whether the Returning Officer, after consultation with the Chief Electoral Officer, be given the authority to decide if a stationary poll is advisable in a specific hospital. [If the Returning Officer

is given authority as recommended above, then an amendment would also be required to subsection 121(3) with respect to a hospital poll in a by-election].

Homebound Voting [A New Special Voting Provision]

Background:

There are some individuals who are not well enough either to go to an advance or regular polling place or to go to a local store to photocopy their identification which is needed to apply to be an absentee voter. With advances in health care there are more individuals with disabilities living in their homes for longer periods of time. Sometimes the caregivers of such individuals are similarly not able to leave the loved one for whom they are caring. An election official could personally deliver the homebound voting package.

Manitoba has had legislation for Homebound voting for many years. Recently the legislation was expanded to include caregivers. Northwest Territories and Nunavut also have legislative provisions regarding Homebound Voting as a stand-alone provision.

Alberta, Canada, Northwest Territories, Nunavut, Prince Edward Island, Québec and Yukon also have similar provisions under “special ballot” or “mail-in ballot” voting.

In Manitoba, the Returning Officer is given authority to “arrange for the ballot to be given to a homebound voter”. In Canada and some other jurisdictions, a “Special Ballot Coordinator” is responsible for delivering the ballots to homebound voters. In Canada, New Brunswick and some other jurisdictions this “special ballot coordinator” is also responsible for the administration of the equivalent of the “absentee voting system”. As in Canada and New Brunswick, the Returning Officer, Election Clerk and Administrative Assistant should also be given the authority to be able to administer absentee or homebound voting in the absence of the Special Ballot Coordinator. This recommendation was first made in the Annual Report of 2006 - 2007 and has been updated.

Recommendations:

That *The Election Act, 1996* be amended to include provisions for “Homebound Voting” to allow a person to vote at home:

1. if he or she is unable to go in person to a polling place due to a disability; or
2. if he or she is providing care to a person who is unable to leave home; and
3. to give the Returning Officer, Election Clerk and Administrative Assistant the authority to be able to administer absentee or homebound voting in the absence of the “Special Ballot Coordinator”.

Advance Voting [Sections 129-135]

The provisions for advance polls have enabled many electors to vote who otherwise may not have voted. More changes however are recommended in order to further assist potential voters, especially those voters with disabilities. There was a 270% increase in the number of absentee voters from 1,109 during the 2003 general election to 3,001 in the 2007 general election. At least half of these absentee voters were electors who voted in person in the Returning Office. These in-person absentee voters perhaps could be better served by having an Advance Poll in the Returning Office.

1. Advance Voting Without Providing Reason [Section 130]

Background:

Currently electors wishing to vote at the Advance Polls are required to meet one of several criteria set out in The Act:

- a voter who believes that he or she will be absent from his or her ordinary residence on polling day;
- a voter who:
 - ♦ is an election officer or is a candidate's representative; and
 - ♦ has reason to believe that, because of his or her responsibilities, he or she will be at a polling station other than the polling division in which he or she is entitled to vote; or
- a voter who has a physical disability.

Using a strict legal interpretation, it is very likely that a person would have to be "unable" to vote, in the sense that they were lacking the ability or power to do so. A voter would not be eligible to use the advance poll if other options were simply "inconvenient".

Advance poll restrictions should be eliminated in an effort to make voting easier and more accessible via the removal of administrative barriers. This would be a way of accommodating the demanding and unpredictable schedules of many electors who find that conflicting priorities keep them from voting during the prescribed hours on the one day designated for voting. Bearing in mind that there was a huge 89% increase in the number of advance poll voters in 2007 (49,572) as compared to the 2003 election (26,174) it is safe to say that some of those persons may not have been taking a strict interpretation of the current legislation. Given that it would be very difficult to get a conviction for an offence in this section, and given that no electoral office wants to be seen as discouraging voter turnout, it is recommended that the legislation should be changed to match reality.

British Columbia, Canada, Manitoba, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Ontario, Prince Edward Island and Yukon either have no reason required for advance voting or state that if for any reason the elector expects to be unable to vote on Election Day, he or she may vote at the Advance Poll. Elections Alberta has recommended similar changes.

Alternatively, if the reason for advance voting is not eliminated then one of the possible requirements, "a voter who has a physical disability" should be changed to "a voter who has a disability". At a "Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities" it was pointed out that some individuals with disabilities other than physical may be better served via an advance poll.

2. More Flexibility for Number of Days of Advance Polls [Subsection 31(1)]

Background:

Currently advance polls must be held in each location for five days or none at all. Manitoba has more flexibility. For example, the one or two major communities in a constituency may have five full days

of advance polls, while smaller communities which previously did not have any advance polls, could be assigned one or two days (within the five possible advance poll days) at the discretion of the Returning Officer. While it may have been very hard to justify five days of advance polls in each community from a financial perspective, it would be much easier to justify a community getting one or two days of advance polls. In Manitoba, an advance voting station must operate in the Returning Office between the second Sunday before Election Day and the Saturday before Election Day, and if the Chief Electoral Officer approves, advance voting stations may operate at other locations between the first and last day specified in the legislation, on days specified by the Returning Officer. Newfoundland and Labrador has even more flexibility with the Chief Electoral Officer setting the dates of advance polls on one or more of the seven days preceding Election Day and the number, days and hours of the Advance Polls.

3. Advance Voting in Returning Offices [Section 129]

Background:

Alberta, British Columbia, Manitoba, New Brunswick, Northwest Territories, Nunavut, Ontario and Québec have advance polls located in the Office of the Returning Officer. With a Permanent List of Electors on the horizon it is important to make voting as simple as possible. “A One Stop Shopping” concept where an individual can be added to the List of Electors and then vote at the same time in the same location would be advantageous and may increase voter turnout. The deadline for receipt of absentee ballots is 8 days before Election Day. The advance polls began 6 days before Election Day. Some persons came into the Returning Office on the 7th day before Election Day wanting to vote but were unable to do so because they were caught between the Absentee application deadline, (8 days before Election Day) and the beginning of the advance polls (6 days before Election Day). Advance polls in the Returning Office starting one day earlier in the election calendar would alleviate this shortfall. There were such situations in several similar instances in the Weyburn-Big Muddy By-Election, Martensville By-Election and the 26th General Election.

As noted earlier in the section on absentee voting, as least half of the 3,001 persons who voted in the 2007 General Election using the absentee provisions, voted in person in the Returning Office. It is worth noting that at least 1,501 of the 3,001 absentee ballots, as per *The Election Act, 1996* were not counted until the final count, 12 days after Election Day, could have been counted on Election night as advance poll ballots had there been an advance poll at each Returning Office. This recommendation was first made in the 2003 - 2005 Annual Report Compendium and has been updated.

4. Advance Polling - Central Urban Locations [Section 129]

Background:

While the voter turnout increased in the last provincial general election from 70.95% in the 2003 election to 76.02% in the 2007 election, this is lower than the rates of 80-84% in the period from 1978 to 1991. The falling level of young voters (age 18-24) is of particular concern. New approaches and ideas to increase voter turnout should be explored. Two research studies commissioned by Elections Manitoba on low voter turnout in Manitoba, one after the 2003 General Election and one after the

2007 General Election, indicated 63% and 60% respectively of non-voters are “irregular voters”. These voters will vote when circumstances allow. They planned on voting but other things got in the way. A similar study commissioned by Elections Alberta that 43% of non-voter respondents identified reasons that may be considered distractions in the sense that they took their attention away from voting. Another 10% of non-voter respondents are considered as displaced voters. Displaced voters indicate that they did not know where to vote, were not on the Voters’ List or that the polls closed too early.

One way of increasing voter turnout, especially among “irregular”, “distracted” or “displaced voters” may be to bring the advance polls to the voters, or in other words bring the advance polls where voters already congregate such as shopping malls. Centralized advance polls in the cities of Moose Jaw, Prince Albert, Regina and Saskatoon (and perhaps other cities) would serve not only the constituencies in the area surrounding each city but may also serve voters from other parts of the province. For example, voters from elsewhere in the Province who are visiting family members in the city, who had not thought of applying for absentee voting, or whose plans had changed suddenly, and also employees who find themselves working outside their constituency of residence may use this type of advance poll. A Permanent List of Electors would enable the poll officials in the Central Urban Advance Poll to check if the elector is on the List of Electors and if so, the poll official would give the elector a ballot and indicate on the List of Electors that the elector has voted. In this way, for example, the young adults from all across the city who are visiting the malls in Regina; the individual from La Ronge who is sent to attend a week long training session in Saskatoon a week before the election; the couple from Gravelbourg doing their shopping at a mall in Moose Jaw would all be able to vote at the Central Urban Advance Poll even though that advance poll is not located in their constituency. In order to maintain the integrity of the system, voting by non-residents of the constituency in which the Central Urban Advance poll is located would have to show identification in order to confirm both the voter’s identity and place of ordinary residence.

The province of British Columbia has a similar process that works well. The Central Urban Advance Poll locations would not be set up as an alternative to having at least one advance poll location in each constituency but rather as an additional alternative. Manitoba legislation now allows for residents of the constituency, and non-residents of the constituency, who are eligible voters, to vote at a central advance polling place to convenience voters and as a possible way to increase voter turnout. The Manitoba general election in May 2007 was the first occasion to use this new provision in Manitoba. The voter turnout at advance polls doubled and the top two advance poll voting locations in terms of number of voters were a major suburban shopping mall in Winnipeg and the Winnipeg International Airport. This was a very popular change for voters, a number of who may not have otherwise voted. This recommendation was first made in the 2003-2005 Annual Report Compendium and has been updated.

5. Voting for Students at Post Secondary Institutions in the Province [A new Special Voting Provision]

Background:

During the 26th General Election, the leader of one registered political party made the suggestion that students should be able to vote at a poll at a university or college notwithstanding, for example, that

they may live in any one of the twelve constituencies in Saskatoon. Currently a student as per subsection 18(11) of *The Election Act, 1996* may be deemed to be ordinarily resident in **either** the polling division in which he or she was residing immediately before leaving to pursue his or her studies **or** in the polling division to which he or she has moved for the purpose of pursuing his or her studies and in which he or she was residing on the day on which the writ was issued. It is recommended that this choice remain. However, given:

- the concern about voter turn-out in the 18 to 24 age group;
- that students generally have a very full schedule with time being an issue; and
- that on Polling Day, the poll they currently would be obliged to vote at, (if they did not opt for the absentee voting option) could be on the other side of the city.

There should be “super polls” set up in all major post secondary institutions in the Province so that post-secondary students would be able to vote more conveniently. The legislation in Manitoba regarding the central urban locations of the Advance polls allow for such polls to be put in place for the next Manitoba general election. (The last Manitoba election was in June 2007 at a time when most students were not working or living on campus; whereas the next Manitoba General Election will be held in October 2011, a time when most students will be working and/or living on campus).

Recommendations:

That *The Election Act, 1996* be amended to:

1. eliminate eligibility criteria associated with Advance Poll voting to enable any elector to vote at the Advance Polls; or if the eligibility criteria is not eliminated, **then alternatively**; to change one of the eligibility criteria from “a voter who has a physical disability” to “a voter who has a disability”;
2. allow flexibility as to how many days within the five advance poll days that can be assigned to any one community;
3. allow advance polls to be set up in the Office of the Returning Officer for 6 days starting one day earlier in the electoral calendar;
4. allow central advance polling locations to be set up to service eligible voters from anywhere in the province; and
5. allow eligible voters who attend university and college, to vote at a poll at their university or college in the Province.

DIVISION F - NORTHERN CONSTITUENCIES

No recommendations in this division.

Part V - Procedures After Voting

1. Contents of Return to the Writ [Section 154]

Background:

Generally there are about 30-50% new Returning Officers at each election. In order that new Returning Officers learn what worked well in the previous election and to learn from past mistakes, it is important that each Returning Officer complete a report on the details of the election in their constituency. In 2003 approximately 25% of Returning Officers gave some type of written feedback

to Elections Saskatchewan. In 2007, a report was developed asking each Returning Officer to complete a number of questions outlining the details of the election in their constituency. A return rate of approximately 80% resulted. Some Returning Officers did not complete the report because it was not a requirement as per The Act. Some jurisdictions, such as Manitoba make it compulsory that the Returning Officer must give the Chief Electoral Officer a complete statement of the conduct of the election within 30 days after the return of the writ. Ontario also requires that a specific report be submitted by each Returning Officer on the accommodation of electors with disabilities within their constituency. Alberta, Canada, New Brunswick, Newfoundland and Labrador and Québec, also have similar legislation making a Returning Officer's Report to the Chief Electoral Officer compulsory.

2. Return to the Writ [Subsection 171 (1), Section 31 & Subsection 156(1)]

Background:

Currently the return to the Writ is 23 days after polling day. This is accounted for by:

- the final count being 12 days after election day (subsection 31(3) (e) and Section 145). This time is needed by Returning Officers to send the special ballots from hospitals and remand centres to the Chief Electoral Officer to be sorted and sent back to the Returning Officer to be counted and for absentee votes to be returned from across the world; and
- the deadline for a recount to be requested when not automatically entitled is another 10 days after Final Count. This seems like a long time given that recounts, when not automatically entitled are rarely requested and that these timelines were developed before the advent of facsimile machines and e-mail. A deadline of 6 days for a recount to be requested when not automatically entitled seems more appropriate which subsequently reduces the Return of the Writ to 19 days after Election Day (Saturday, November 26 instead of Wednesday November 30 for the 27th General Election in 2011).

Other jurisdictions across the country vary widely from having no set deadlines for Return to the Writ such as in British Columbia and Québec, to 7 days after Election Day in Yukon to 20 days after the election in Alberta. The rest of the jurisdictions are somewhere in between.

3. Procedure During Recount or Addition [Section 161]

Background:

Recounts can be a very time consuming process, especially if there has been a lot of growth in the constituency since the last boundaries commission resulting in a higher number of voters. Manitoba gives the judge some flexibility to appoint any person as an official to assist in the recount. In this way the judge may not need to be involved in the count of every ballot. Instead the official, appointed with oversight from the scrutineers present, could be involved with counting all ballots. The judge would concern himself/herself with the ballots whose count is objected to by a scrutineer and the ballots which have been previously rejected by a Deputy Returning Officer. British Columbia, Canada and Northwest Territories have similar legislation.

4. Communication Devices in Polling Places [Subsection 190(6)]

Background:

Currently The Act says that “No person shall bring into or possess or use in, any polling place any cellular phone or other communications device”. With the widespread use of cellular phones and other communication devices the issue is not so much having a cellular phone in possession by candidate’s representatives or voters, but rather talking, texting or taking pictures, which may cause interference with voters. For example, a candidate’s representative talking loudly about one specific candidate or that “candidate x” is better than “candidate y”. On occasion some poll officials have taken the current legislation too literally, for example demanding and removing a cell phone from a voter who simply had the cell phone visibly attached on their belt but not in use. Access to land-line phones in some polling places may be limited. The only way to notify the Returning Officer about a potential emergency and forward on poll results may be a cellular phone.

In Ontario, communication devices are not allowed in the poll unless permission from the Returning Officer is received in advance, New Brunswick has a similar provision unless the Chief Electoral Officer has given written permission. Northwest Territories and Yukon allow poll officials communications device in the polling place. Canada has a provision in its Election Act that a representative of a candidate shall not use a communications device at a polling station during voting hours. New Brunswick, Northwest Territories, Ontario and Yukon have similar legislation.

Recommendations:

That *The Election Act, 1996* be amended:

1. so that the return of the Writ must include a report on the conduct of the election in each Returning Officer’s constituency, including the accommodation of electors with disabilities within their constituency, as directed by the Chief Electoral Officer;
2. by reducing the deadline from 10 days after Final Count to 6 days after Final Count for a recount to be requested, when not automatically entitled; and as a result the return to the writ be reduced by 4 days, from 23 days after Election Day to 19 days after Election Day;
3. so that the judge in a recount may appoint any person to assist in the recount; and
4. to change the prohibition of “No person shall bring into or possess or use in, any polling place any cellular phone or other communications device”, to no person shall talk, text or take any pictures using any communications device in any polling place, with the exception of Election Officers when communicating on election business.

Part VI - Election Offences and Corrupt Practices /Part VII - Registration and Election Financing

Review of the Enforcement and Prosecution Provisions of *The Election Act, 1996*

Background:

While the initial recommendation on whether or not to prosecute alleged offences of *The Election Act, 1996* lies with the Chief Electoral Officer, the final decision on whether to prosecute rests with the Director of Public Prosecution of the provincial Ministry of Justice. Two reasons may be given for looking at alternatives:

- the Chief Electoral Officer's expertise in the area of knowledge of *The Election Act, 1996*; and
- the Public Prosecutor may be more focussed on alleged criminal activity, rather than on alleged infractions of *The Election Act, 1996*.

Across the country there are two distinct variations on the Ministry of Justice deciding on whether or not to prosecute for alleged violations. In Northwest Territories, Ontario and Québec, the decision on whether or not to prosecute rests with the Chief Electoral Officer. A variation exists in Alberta and Prince Edward Island where the Chief Electoral Officer has the power to institute proceedings pertaining to Election Finances. Another variation exists in Yukon where the Chief Electoral Officer or another person who is a qualified elector may institute proceedings. In Canada and Nunavut, it is the decision of a commissioner on whether or not to initiate prosecution (Canada-Commissioner of Canada Elections and Nunavut-Integrity Commissioner). In Manitoba, it has long been the responsibility of the Chief Electoral Officer on whether to initiate prosecution. In recent amendments to *The Election Act* of Manitoba, it has become the responsibility of a commissioner to decide on whether or not any prosecutions should be initiated. This recommendation was first made in the Annual Report of 2005 - 2006 and has been updated.

Definition of Advertisement [Section 215]

Background:

There are many new electronic forms of communication. Currently The Act refers to "any electronic or digital display". In order to be more specific this could be broadened to include specifically telephone, internet website or message, electronic mail, facsimile or text message. British Columbia, Canada, Manitoba and Nova Scotia have similar broad definitions. Alternatively examples could be built into guides using the example above.

Time Limit on Prosecutions [Section 219]

Background:

Currently a prosecution cannot commence more than two years following the date of the alleged offence. This restricts the pursuit of justice in situations where the offence is not identified well within the two-year time frame. It requires that the alleged offence is detected or reported, the matter investigated, and sufficient time is available for the Chief Electoral Officer to form an opinion that prosecution is warranted before the matter is referred to the Director of Public Prosecution of the Saskatchewan Ministry of Justice and Attorney General. At this point the Director of Public Prosecution may very well want to conduct a further examination of the matter before deciding whether or not to institute a prosecution.

Federally, a prosecution can commence no later than five years after the day on which the commissioner became aware of the facts and no later than ten years after the day on which the offence was committed. If the offender has left the jurisdiction of the court, the prosecution may be instituted within one year after the offender's return. Ontario allows for prosecution to be instituted more than two years after the facts on which it is based first came to the Chief Electoral Officer's knowledge. In Manitoba, the deadline for commencing prosecution is up to one year following the date on which the Chief Electoral Officer has reasonable and probable grounds to believe that an

offence has been committed. In Québec, a prosecution can begin no later than one year from the date on which the prosecutor became aware of the commission of the offence. However, no proceedings may be instituted where more than five years elapsed from the commission of the offence. In British Columbia, a prosecution can commence no later than one year after the Chief Electoral Officer has knowledge. In Prince Edward Island, no prosecution shall be instituted more than one year after the facts upon which the prosecution is based first came to the knowledge of the Chief Electoral Officer.

Further to a change in the time limit on prosecutions, registered political parties and candidates should be required to retain records related to a campaign for a period of five years and require political parties to retain records related to annual activities for a period of five years.

Interpretation of Election Expenses [Subsections 220 (f) & (h) (ix), 261(2)(b)]

Background:

1. Candidates with Disabilities

Some electors with disabilities have indicated that efforts should be made to assist persons with a disability in becoming candidates. In Manitoba, election expenses do not include money spent or liabilities incurred, and the value of donations in kind accepted, in respect of reasonable expenses incurred by a disabled candidate in relation to a candidate's disability to enable the candidate to campaign in an election. Reasonable expenses are eligible for 100% reimbursement but are not included in the expenses limit. In British Columbia, expenses relating to the provision of care of a person with a physical or mental incapacity, for whom the candidate normally provides such care, and in the case of a candidate who has a disability, additional expenses that are related to the disability are considered as personal expenses. Personal expenses are exempt election expenses. Canada also considers additional expenses that are related to a disability as personal expenses.

2. Child Care Expenses

Similarly in Manitoba, election expenses do not include money spent or liabilities incurred, and the value of donations in kind accepted, in respect of reasonable child care expenses incurred by a candidate to enable the candidate to campaign in an election period. Reasonable expenses are eligible for 100% reimbursement but not included in the expenses limit. Similarly British Columbia and Canada consider child care expenses as personal expenses which are exempt election expenses.

Alterations in Registration [Section 226 & Subsection 227(1)]

Background:

Changes have been made to party leaders or chief official agents which have taken months to reach Elections Saskatchewan and no documentation is attached. It is very difficult to contact party leaders and chief official agents if their names, and contact information is unknown. Currently there is no specified expense for the failure to comply with Subsection 226(1) except during the ten days after a writ of election. Under the general offence provisions, the Office of the Chief Electoral Officer would not expect a positive response for a request to prosecute.

Like Saskatchewan, Alberta, British Columbia, Canada, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia and Ontario specific changes in party information such as party leader and chief official agent must be sent in writing to the Chief Electoral Officer. The time period for most of the above jurisdictions is 30 days, for British Columbia it is 60 days, and there is no time limit in New Brunswick.

However in some jurisdictions there is a specified penalty. The legislation in British Columbia was recently amended so that if a registered political party does not comply by supplying any alterations in the registration information as per The Act, the Chief Electoral Officer may suspend registration of the political party. The suspension continues until the information is filed with the Chief Electoral Officer. Similarly in Alberta, New Brunswick, Nova Scotia, Ontario and Prince Edward Island, failure to provide alterations in registration may result in the de-registration of the political party. In Yukon, the Chief Electoral Officer, may by notice to the most recent address provided by the party, request the party to confirm or update the particulars of its registration, if a party fails to respond in writing to the request for 30 days, the Chief Electoral Officer, may on six months further notice to the same address, cancel the registration of the party.

Possible Extension for the Deadline for Receipt of the Registered Political Party's Annual Fiscal Returns [Section 250 & Subsection 227(1)(C)]

Background:

Currently the Chief Electoral Officer has no flexibility to extend the deadline for the submission of the Registered Political Party Annual Returns. The Chief Electoral Officer at present has only the deregistration option. On occasion personal circumstances may prevent the submission of the Return on time. There should be flexibility for the Chief Electoral Officer to extend the deadline for 30 days for a valid reason.

If a registered political party subsequently fails to submit the annual fiscal return by either the legislated deadline or the extended deadline, the Chief Electoral Officer should have the ability to impose an administrative fine of \$50 for every day late (maximum \$750). After this time de-registration would be pursued as currently laid out in Subsection 227 (1) (c) of The Act.

In Manitoba, the person required to file may apply for an extension which the Chief Electoral Officer may grant. The application for an extension must be made before the time period, or before any extension already granted expires. In British Columbia, the Chief Electoral Officer must make note of failure to meet deadline in the register. There is a late filing fee of \$100, or a higher amount set by regulation, which must be paid and the report must be filed by June 30th of that year, or a later date permitted by a court under The Act.

In Canada, the Chief Electoral Officer, on the written application of the chief official agent of a registered political party or, if there is no chief official agent, its leader, may authorize an extension for the receipt of a registered political party's annual return or a registered political party's fiscal return. The Chief Electoral Officer may not authorize an extension unless the Chief Electoral Officer

is satisfied by the evidence submitted by the applicant that the circumstances giving rise to the application arose by reason of:

- the absence, death, illness or misconduct of the chief official agent or a predecessor;
- the absence, death, illness or misconduct of a registered agent of the registered party or of an agent, a clerk or an officer, or a predecessor of one of them; or
- inadvertence or an honest mistake of fact.

New Brunswick only offers an extension if the deadline for submitting registered political party annual returns should fall during an election in which case it would be extended to 90 days after Election Day. This recommendation was first made in the Annual Report Compendium of 2003 - 2005 and has been updated.

Party Elections Expenses over the Limit [Section 243]

Background:

Currently, there is no specific penalty mentioned for parties incurring election expenses over the limit. As with all alleged infractions of *The Election Act, 1996* as per Section 216 of The Act (see next page) there is the option of recommending prosecution.

General offence

- 216 (1)** Any person who contravenes any provision of this Act is guilty of an offence and is liable on summary conviction to the penalties set out in this Act with respect to that offence.
- (2)** If no penalty is prescribed with respect to that offence, the person, if convicted, is liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding two years or to both.

In Manitoba and Ontario, the amount of reimbursement must be reduced by the amount equal to the amount of election expenses incurred that exceed the total election expenses permitted. In British Columbia, if a registered political party's election expenses exceed the applicable election expenses limit, the Chief Electoral Officer must suspend the registration of the political party for six months and the registered political party must pay to the Chief Electoral Officer a penalty of double the amount by which the election expenses exceed the limit (unless relief is granted by the court). In Newfoundland and Labrador, a person who knowingly incurs or authorizes election expenses contrary to The Act or exceeds the maximum set in The Act or who wilfully submits a false statement of election expenses, commits an offence and is liable on summary conviction to a fine not exceeding \$10,000, or a prison term not exceeding three months or both. (This is a higher level of fine than for some other offences under their Election Acts).

In New Brunswick, a person who knowingly incurs or authorizes election expenses exceeding the maximum expense limit commits an offence. Upon conviction of an offence, the fine is not less than \$500 and not more than \$10,250. Upon a second offence the maximum fine rises to \$25,250. Federally, a chief official agent who exceeds the election expense limit is guilty of an offence upon summary conviction. The chief official agent is subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months or to both. A chief official agent who wilfully exceeds the election expense limit is guilty of an offence. Upon summary conviction, the chief official agent is

subject to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year or both; or on conviction on indictment, to a fine of not more than \$5,000 or to imprisonment for a term of not more than five years or both.

Candidate Election Expenses over the Limit [Section 252]

Background:

Currently, there is no specific penalty mentioned for candidates incurring election expenses over the limit. As with all alleged infractions of *The Election Act, 1996* as per section 216 of The Act (see below) there is the option of recommending prosecution.

General offence

- 216 (1)** Any person who contravenes any provision of this Act is guilty of an offence and is liable on summary conviction to the penalties set out in this Act with respect to that offence.
- (2)** If no penalty is prescribed with respect to that offence, the person, if convicted, is liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding two years or to both.

In Nova Scotia, Northwest Territories and Nunavut, candidate election expenses over the limit are considered offences similar to Saskatchewan's general offences. In Manitoba and Ontario, the amount of reimbursement must be reduced by the amount equal to the amount of election expenses incurred that exceed the total election expenses permitted.

In Newfoundland and Labrador, a person who knowingly incurs or authorizes election expenses contrary to The Act or exceeding the maximum set in The Act or who wilfully submits a false statement of election expenses commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 or a prison term not exceeding three months or both. In Québec, every official agent is liable to a fine of \$1,000 to \$10,000 if he or she incurs or authorizes election expenses exceeding the maximum under The Act. (In Newfoundland and Labrador and Québec, this is a higher level of fine than for some other offences under their respective Acts).

In British Columbia, unless granted relief by a court, a candidate whose election expenses exceed the applicable election expenses limit is subject to the following penalties:

- if a Member, the Member ceases to hold office and the seat becomes vacant; and
- the candidate must pay to the Chief Electoral Officer a penalty of double the amount by which the election expenses exceed the limit.

In New Brunswick, a person who knowingly incurs or authorizes election expenses exceeding the maximum expense limit commits an offence and if convicted his or her election is null and void and the seat shall be vacated. Federally, an official agent, a candidate or person authorized, who wilfully contravenes the election expense limit is guilty of an offence that is an illegal practice and upon summary conviction:

- liable to a fine of not more than \$1,000 or imprisonment for a term of not more than three months or both; and

- in the case of illegal practice during the next five years after the date of conviction is not entitled to be elected or sit in the House of Commons; or
- hold any office in the nomination of the Crown or the Governor in Council.

Audit Subsidy for Registered Political Party's Fiscal Returns [Section 250]

Background:

In subsection 267(3) there is a provision for reimbursement of auditing expenses for a registered political party election expenses return. "The amount of auditing expenses that a registered political party is eligible to be reimbursed for is the lesser of: (a) the adjusted amount of \$2,000; and (b) the amount actually charged by the auditor." For some smaller registered political parties the expense of auditing the registered political party annual return is a hardship. In the spirit of *The Charter of Rights* and the goal of a level playing field for all registered political parties the above hardship should be removed by expanding the audit subsidy to annual returns.

In Ontario, the subsidy for registered political parties' election expense returns and their annual financial returns is the lesser of the adjusted amount of \$1,200 or the actual amount of the auditor's account. In New Brunswick, each registered political party is eligible for up to \$2,000 reimbursement for its annual auditing expenses. In Québec, the Chief Electoral Officer will reimburse the authorized parties one half of the costs incurred for the audit of the financial report up to \$15,000. In Manitoba, \$16,000, or any lesser amount that the Chief Electoral Officer considers reasonable is the subsidy for auditing the registered political party's annual fiscal returns. This recommendation was first made in the Annual Report of 2006 - 2007 and has been updated.

Deadline for Reimbursement of Auditing Expenses [Sections 261 & 262]

Background:

Each election there are some candidates and some registered political parties that fail to submit their audit reimbursement request in a timely manner. There is currently no deadline in the legislation. Some candidates and registered political parties may take five or more months. This lack of response takes up much staff time to contact candidates and official agents multiple times and also delays the financial reporting of the election. At the time of writing one Member of the Legislative Assembly has not yet submitted audit expenses for reimbursement almost twelve months after the election. Of the four other jurisdictions that provide a subsidy for the reimbursement of auditing expenses none have a deadline for reimbursement of auditing expenses. In Manitoba, the invoice for auditing the candidate election returns and the registered political party election returns go directly to the Chief Electoral Officer to be paid rather than the candidate or party sending the proof of payment to the Chief Electoral Officer and reimbursing the candidate or registered political party as is done in Saskatchewan.

COMPLIANCE

Background:

Every election there are some candidates who either do not file their candidate election expense returns, are late in filing their candidate election expense returns, or do not respond or refuse to cooperate with requests for further information. In the past, some candidates and political parties have been very slow in returning their candidate returns and their registered political party returns. In addition, there may also be delays in responding to the Office's request for additional information for candidate returns or registered political party returns.

The November 7, 2007 general election was no exception. For the 2007 general election:

- the candidate election returns for six candidates were not received by the deadline;
- at the time of writing there is still one candidate's election expenses return which has not been received;
- there were a number of candidates and/or their business managers who refused to cooperate with requests from the Office of the Chief Electoral Officer; and
- some of these candidates and business managers were very abusive when speaking to the staff from the Office of the Chief Electoral Officer.

For the Cumberland By-Election, also at the time of writing, the business manager for one of the candidates for the Cumberland By-election was four and one-half months late in submitting the candidate's return of election expenses.

1. Compliance Measures Relating to Political Parties (Consequences if Deadline is not Met or Registered Political Party Election and Annual Expense Returns are not Filed) [Section 251 & Subsection 227(1)]

Background:

Currently in Saskatchewan, the ultimate consequence of a registered political party not submitting its registered political party election expenses returns is de-registration of the political party as per Section 227 of The Act. Currently the Chief Electoral Officer has no flexibility to extend the deadline for the submission of the registered political party annual returns.

In Alberta, if the chief financial officer of a registered political party does not submit its financial statement within six months of Polling Day, he or she is guilty of an offence and liable to a fine of not more than \$5000. Elections Alberta has recommended administrative penalties including forms of orders, for example reprimands, formal and public warning orders to come into compliance. In British Columbia, the Chief Electoral Officer must make note of the failure to meet the deadline in the official register, there is a late filing fee of \$100 (or a higher amount set by regulation) and the report must be filed by June 30th of that year, or a later date permitted by a court under The Act.

In Ontario, the chief financial officer must submit audited annual financial statements to the Chief Electoral Officer by May 31st each year and must submit audited election financial statements to the Chief Electoral Officer within six months after polling day. If convicted for knowingly contravening

the requirement the chief financial officer is liable to a fine of not more than \$5,000, and the party, on conviction, is liable to a fine of \$50 for each day that the default continues.

2. Compliance Measures Relating to Candidates (Consequences if Deadline is not Met or Candidate's Election Expenses Returns are not Filed) [Sections 261 & 265]

Background:

Currently there are consequences to a candidate **if the deadline is missed**, (or an extension is requested and the new deadline is missed) **and the candidate would have been eligible for reimbursement**. In these cases the candidate and his or her campaign manager lose the full amount of what the reimbursement would have been. For the 2007 general election, four of the six candidates whose candidate's election expense returns were late, paid this penalty. The four candidates and their business managers did not receive any reimbursement for which they would have otherwise been eligible for had their candidate return not been received after the legislated deadline. Three of the candidates did not request an extension before the deadline date. One of the candidates requested an extension but the return was received after the new extended deadline.

One hundred per cent forfeiture of any reimbursement for submitting a candidate's return of election expenses after the legislated deadline may be viewed as too heavy-handed, but there have been relatively few candidates submitting their returns late, particularly those receiving a reimbursement. Perhaps 50% forfeiture would be more appropriate.

As with all alleged infractions of *The Election Act, 1996* as per Section 216 of The Act (see below) there is the option of recommending prosecution.

General offence

- 216 (1)** Any person who contravenes any provision of this Act is guilty of an offence and is liable on summary conviction to the penalties set out in this Act with respect to that offence.
- (2)** If no penalty is prescribed with respect to that offence, the person, if convicted, is liable to a fine of not more than \$5,000 or to imprisonment for a term not exceeding two years or to both.

For some minor alleged offences, such as missing a deadline for the submission of a candidate's return it is debatable whether the public interest will be served by attempting to prosecute the individual. The probability of the Director of Public Prosecutions approving to go forward with such prosecution and the prosecution being successful would be extremely rare.

3. Options for Candidates who Miss Deadline or Do not File Candidate's Election Expenses Returns:

(a) Compliance Agreements

Since 2000, the *Canada Elections Act* has made reference to compliance agreements. In Election Canada's case, a compliance agreement is a voluntary agreement between the Commissioner and the person (the contracting party) in which they agree to terms and conditions that the Commissioner considers necessary to ensure compliance with the *Canada Elections Act*. A compliance agreement

may include a statement by the contracting party in which he or she admits responsibility for The Act or omission that constitutes the offence. It is important to note that the admission of responsibility does not constitute a criminal conviction by a Court of Law and does not create a criminal record for the contracting party. In order to maintain transparency, a notice that sets out the contracting party's name or omission in question and a summary of the compliance agreement is made public in the *Canada Gazette* and on the Elections Canada website.

In Yukon, the legislation was changed in 2000 in order to add "compliance orders". If, during an election period, the Chief Electoral Officer believes that any person is contravening the provisions of The Act, the Chief Electoral Officer may issue a certificate addressed to the person setting out the particulars of the contravention and ordering the person to cease contravening The Act. A certificate may order a person to cease doing any action that contravenes The Act, or to comply with any requirements of The Act. The Chief Electoral Officer may file a certificate issued in the Office of the Clerk of the Supreme Court of Yukon. The certificate filed is deemed to be a judgment of the Supreme Court in favour of the Chief Electoral Officer and may be enforced, on application to the court by the Chief Electoral Officer, as a judgment of the court. A certificate may be served on a candidate or candidate's agent by delivering it to any address of the person provided to an election officer under The Act.

(b) Late Filing Fee to be Paid by Candidate

The possibility of issuing administrative fines may be an efficient way to underline the importance of prompt responses to requests for information while minimizing the interest liability for this Office when it takes more than ninety days to process the Return. The fines would be deducted from any balance owing to the candidate or registered political parties not submitting their returns on time and not responding to information requests promptly.

The possibility of issuing administrative fines, to be deducted from any balance owing to the candidate or registered political party, or fines to be paid to the Minister of Finance in the case of candidates or registered political parties not submitting their returns on time and not responding promptly to information requests promptly, may be an efficient way to underline the importance of timely responses to requests for information while minimizing the interest liability for this Office when it takes more than 90 days to process the Return.

In British Columbia, if the candidate's return is not filed within 30 days after the original filing deadline, it cannot be filed until a late filing fee of \$500 is paid. In Québec, every person who fails to file a report or a return within the pre-prescribed time is liable to a fine of \$50 for each day of delay. In Newfoundland and Labrador, there is also a late filing penalty of \$50 per day for campaigns that fail to file their required financial returns by specified deadlines.

In Manitoba, after 30 days, or any extension approved by the Chief Electoral Officer, a late filing fee for a candidate or a chief financial officer of \$25 per day for each day late up to 30 days (\$750) is applicable for late filings of returns and additional information requested. Late filing fees are publicly disclosed. Late filing fees can be deducted from reimbursements due, effective January 2009. No prosecution will be instituted if filed and the late filing fee is paid within 60 days after the return was required. In Alberta, it has been recommended that administrative penalties be assessed including

reprimands, formal and public warning orders to come into compliance and costs and fines for every day that the candidate's return of election expenses is late.

(c) Late Filing Fee to be Paid by Registered Political Party

An administrative monetary fine could be directed to the registered political party that endorsed the candidate who does not submit a candidate's return of election expenses by the deadline as per The Act. Imposing a late filing fee on a registered political party for each of their candidates who fail to submit his or her return would put pressure on registered political parties to assist in tracking down candidates and business managers who cannot be located or fail to respond to notices from the Office of the Chief Electoral Officer.

(d) Prohibition from Sitting as a Member of the Legislative Assembly

Each election there are one or more candidates who refuse to submit a candidate's return of election expenses. If a candidate is not eligible for reimbursement of any election expenses, there is neither an incentive to submit a candidate's return of election expenses nor a penalty for not submitting a candidate's return of election expenses. In order to ensure compliance there could be a prohibition from running as a candidate for one or two elections or an administrative monetary fine directed to the candidate.

In Nova Scotia, if the candidate's return of election expenses is not delivered to the Chief Electoral Officer on time, the candidate shall be disqualified from sitting or voting in the House of Assembly until the report is delivered, unless a judge by order excuses the delay. A person who sits or votes in the House of Assembly contrary to this legislation is liable to a fine of \$500 for each day on which he or she so sits or votes. In British Columbia, if the candidate's return is not received by the late filing period (30 days after original deadline) and if the candidate is a Member of the Legislative Assembly, the member ceases to hold office and the seat becomes vacant. In Ontario, if a candidate, or chief financial officer of a candidate, fails to file a financial statement, he or she, is ineligible to stand as a candidate. In Nunavut, no successful candidate shall sit or vote in the Legislative Assembly as a member until their financial return is sent to the Chief Electoral Officer. In Prince Edward Island, where the official agent of a candidate fails to file a financial report and auditor's report, the candidate is ineligible to stand as a candidate at any election up to and including the next general election unless the candidate or agent has filed such financial reports and auditor's report with the Chief Electoral Officer. Federally, any person who commits an offence under the *Canada Elections Act* is not entitled to be elected or sit in the House of Commons or hold any office of the Crown or Governor-in Council.

(e) Prohibition from Being a Candidate or Business Manager for Four Years

Candidates and/or their business managers who refuse to comply with requests for the submission of returns or for additional information could be disqualified from serving as a candidate or business manager in the next or subsequent election.

In Ontario, if a candidate or a chief financial officer of a candidate, fails to file his or her financial statement, report and auditor's report, he or she is ineligible to stand as a candidate up to and including the next general election. In British Columbia, in all cases the individual is disqualified from being nominated as a Member of the Legislative Assembly until after the next general election, unless before the individual is nominated, the outstanding election financing report is filed with the

Chief Electoral Officer and a late filing penalty of \$10,000 is paid to the Chief Electoral Officer. The Chief Electoral Officer must present a report to the Speaker respecting a member who may be subject to the above penalty.

(f) Deregistering Political Party

In British Columbia, the Chief Electoral Officer must deregister a political party if candidate election finance returns are not filed by the end of the late filing period for 55% or 15 candidates, whichever is the lesser, representing the political party in the general election.

If the above compliance measures are put into legislation, the Office of the Chief Electoral Officer would be obliged to increase its education and training opportunities for candidates, business managers and chief official agents.

Eligibility for Reimbursement - Candidate (Interest Paid) [Subsection 265 (5)(b)]

Background:

Currently, The Act states that “a further amount as interest ... times the prime rate of interest of the bank holding Saskatchewan’s general revenue fund for each day following 90 days from the date the Chief Electoral Officer has received the election expense return that the amount (of reimbursement) remains unpaid”. No other provincial, territorial or federal electoral jurisdiction in the country has such a provision.

After the 2003 general election, the Minister of Finance paid out \$1,205 in interest to the business managers of candidates who had not yet received the final 25% of their reimbursement; in major part due to some of those same candidates and their business managers being tardy in replying to requests for additional information required. With improved procedures, the Office of the Chief Electoral Officer was just able to complete the processing of the candidate returns for all candidates receiving a reimbursement prior to the 90 day deadline. It does not seem appropriate that the Minister of Finance should bear interest costs paid to the business manager of candidates who are tardy in supplying required information.

Candidate’s Election Expenses Returns [Section 267]

Background:

Currently, “within three months after polling day, the business manager of each candidate shall file with the Returning Officer” a candidate’s election expenses return (the return). In the 26th General Election there was a smorgasbord of ways in which this process took place. Some business managers, with the Office’s approval, sent the return directly to the Chief Electoral Officer because the Returning Officer was away on vacation at the time of submitting the return. Some business managers sent the return directly to the Chief Electoral Officer without the knowledge of the Returning Officer causing the Returning Officer to delay sending all of the returns for that constituency until such time as they could find out where the “missing” return was. Some business managers delayed sending the return because they could not get in touch with the Returning Officer. Others sent the return to their party headquarters for the party headquarters to send the return to the Chief Electoral Officer. As a result of this variety of responses, office time was spent tracking down

Returning Officers and/or business managers to locate errant returns. The principle reason for submitting the return to the Returning Officer was for transparency because the Returning Officer preserved a copy of the return and made “copies available for public inspection for at least six months during normal office hours of the Returning Officer”. As of the past three by-elections and the 26th General Election, the Office of the Chief Electoral Officer scans the returns and posts them “as filed” to the Elections Saskatchewan website as soon as possible after receiving the returns. Once the return has been reviewed it is posted to the Elections Saskatchewan website a second time “as reviewed”. This is a much more convenient way to inspect the returns and it avoids any possible security concerns with a member of the public wishing to view documents at the home of the Returning Officer. Every other jurisdiction in Canada (provincial, territorial and federal) requires the candidate’s return to be submitted directly to the Chief Electoral Officer.

Charities and Political Contributions [No Section in The Act]

Background:

In the past, there has been some confusion as to whether charities may make charitable contributions, for example, the province’s two universities. The legislation should be very clear as it is in British Columbia where charitable organizations are no longer allowed to make political contributions. A charitable organization includes any organization whose objective is the relief of property, advancement of education or religion, protection of health, or governmental or municipal purposes beneficial to the community. This definition applies whether or not the organization is a registered charity for income tax purposes. Canada and Ontario have similar legislation to British Columbia.

Recommendations:

That *The Election Act, 1996* be amended to:

1. alter the intent of the provisions pertaining to the enforcement of The Act;
2. require registered political parties and candidates to retain records related to a campaign for a period of five years;
3. require registered political parties to retain records related to annual activities for a period of five years;
4. include broadening the definition of advertising;
5. extend the time limit on prosecutions, so that prosecution may commence up to two years after the date on which the facts upon which the prosecution is based first came to the knowledge of the Chief Electoral Officer;
6. exempt from the definition of election expenses, reasonable expenses incurred by candidates with disabilities in order to campaign, expenses relating to the provision of care of a person with a physical or mental incapacity for whom the candidate normally provides such care, and by a parent for reasonable expenses for child care in order to campaign; or include such expenses as personal expenses of a candidate;
7. allow that 100% of reasonable expenses for candidates with disabilities or child care, be eligible for reimbursement but not included in the expense limit;
8. clarify that the resolution of the changes of party leaders or chief official agents be attached and forwarded to the Chief Electoral Officer within 30 days after the changes occur and that failure to do so will result in the de-registration of the registered political party;

9. make it possible for a chief financial officer to ask for an extension from the Chief Electoral Officer for the receipt of the registered political party's fiscal period return if such request for extension is received before the deadline stated in The Act;
10. add a provision that in the event of a registered political party exceeding the total election expenses permitted, the amount of reimbursement paid to the eligible registered political party must be reduced by double the amount of election expenses incurred that exceed the total election expenses permitted;
11. add a provision that in the event of a candidate exceeding the total election expenses permitted, the amount of reimbursement paid to the candidate must be reduced by double the amount of election expenses incurred that exceed the total election expenses permitted;
12. include a provision for a subsidy of auditing expenses for the registered political party annual expense returns the same as that of the registered political party election returns at the rate of the lesser of (a) the adjusted amount of \$2,000 (currently \$2,631); and (b) the amount actually charged by the auditor;
13. require that the audit reimbursement request be received within three months after submitting the candidate's return of election expenses or the registered political party return of election expenses; **or alternatively** have the invoice for auditing the candidate's election return and the registered political party's election return go directly to the Chief Electoral Officer for payment;
14. change the forfeiture of reimbursement from 100% to 50% for not submitting a candidate's return of election expenses within the legislated deadline or the extension granted;
15. allow for compliance agreements or compliance orders to be issued, if during the period from the issue of the Writ until 8 months after Election Day, the Chief Electoral Officer believes that any person is contravening the provisions of The Act. The Chief Electoral Officer may issue a certificate addressed to the person setting out the particulars of the contravention. A certificate may order a person to cease doing any action that contravenes The Act, or alternatively order a person to comply with any requirements of The Act. The Chief Electoral Officer may file a certificate issued with the Registrar of the Court of Queen's Bench. The certificate filed is deemed to be a judgment of the Court of Queen's Bench in favour of the Chief Electoral Officer and may be enforced, on application to the court by the Chief Electoral Officer, as a judgment of the court. A certificate may be served on a candidate or business manager or chief official agent by delivering it to any address of the person provided to an election officer under The Act;
16. implement a compliance agreement or a compliance order, by imposing a daily fine of \$50 day to a maximum of \$1500 (30 days) if a registered political party fails to submit its annual return or election return on time or within the extension granted by the Chief Electoral Officer. Failure to submit the return within 30 days after the deadline stated in The Act or the extension granted by the Chief Electoral Officer reverts to the provisions of subsection 227(1) of The Act (de-registration);
17. implement a compliance agreement or a compliance order, by imposing a late filing fee of \$50 per day to a maximum of \$1,500 (30 days) if a candidate or business manager fails to submit his or her candidate's election return;
18. implement a compliance agreement or a compliance order, by imposing an administrative fee of \$25 per day to a maximum of \$750 if a candidate or business manager fails to respond to a request for information in a timely manner;
19. implement a compliance agreement or a compliance order, by imposing the following penalties if the candidate or business manager fails to submit the candidate's return of election expenses

within 30 days after the deadline stated in The Act, or the extension granted by the Chief Electoral Officer:

- (a) in the case of a candidate declared elected, a Member ceases to hold office and the seat of the Member becomes vacant;
 - (b) in all cases the individual is disqualified from being nominated as a Member of the Legislative Assembly until after the next general election, unless before the individual is nominated, the outstanding election financing report is filed with the Chief Electoral Officer and a late filing penalty of \$4,000 is paid to the Chief Electoral Officer;
 - (c) the Chief Electoral Officer must present a report to the Speaker respecting a member who may be subject to above penalty; and
 - (d) the Chief Electoral Officer must deregister a political party if candidate election finance returns are not filed by the end of the late filing period by the lesser of 55% or 15 of the candidates representing the political party in the general election;
20. to change the time period after which the Minister of Finance is obliged to pay interest costs to the business managers of candidates who have not received the final 25% of their reimbursement from 90 days to 180 days **or alternatively**, drop this provision;
21. drop all references to the candidate's election expense return being filed with the Returning Officer, and instead that the candidate's election expense return be filed with the Chief Electoral Officer and similarly that the Chief Electoral Officer publish a summary of the return rather than the Returning Officer; and
22. make it clear that charitable organizations are not allowed to make political contributions.

Part VIII - General

Preparation and Tabling of Reports [Subsection 286(1)]

Background:

The coming into force of the *Senate Nominee Act* would require an addition to the summary details of the report to be prepared and submitted to the Speaker after an election.

Recommendation:

That *The Election Act, 1996* be amended so that the summary details of the report to be prepared and submitted to the Speaker after an election include details of any Senate Nominee Election held in the Province.

Electoral Advisory Committee [No Current Section in The Act]

Background:

The Office of the Chief Electoral Officer established the first all-party Electoral Advisory Committee in the fall of 2001. The Advisory Committee was formed to give registered political party representatives the opportunity to advise on the administration of *The Election Act, 1996* and *The Political Contributions Tax Credit Act*, with a particular emphasis on the future needs of Saskatchewan's electorate and political stakeholders. The inaugural meeting was well received by all

attending and was very useful in getting feedback for the administration of *The Political Contributions Tax Credit Act*. The advisory committee subsequently met:

- in November 2005, to discuss the Strategic Plan 2005-2011 and the then pending amendments to *The Election Act, 1996*;
- in April 2006, to discuss preparations for the pending by-election in Weyburn-Big Muddy;
- in November 2006, to discuss the administration of the Weyburn-Big Muddy By-Election and preparations for the Martensville By-Election; and
- in May 2008, the committee met to discuss the administration of the 26th General Election and the preparations for the Cumberland By-Election.

It is the Office's intention to fully utilize this vehicle for communication more regularly than in the past.

Some jurisdictions have the composition set in legislation such as Manitoba's Advisory Committees as set out in *Manitoba's Elections Act* and *Elections Finances Act* and Québec's Advisory Committee set out in Québec's Election Act. British Columbia, Canada, New Brunswick, Newfoundland and Labrador and Ontario also have similar advisory committees set out in their respective legislation. Nova Scotia has an Election Commission. This recommendation was first made in the Annual Report Compendium of 2003 - 2005 and has been updated.

Recommendations: That an electoral advisory committee be mandated under *The Election Act, 1996* as follows:

1. one representative be appointed by each registered political party;
2. the leader of a registered political party must advise the Chief Electoral Officer of the name and contact information of the party's representative;
3. the Chief Electoral Officer must call meetings of the advisory committee from time to time to seek the committee's advice about the proper administration of The Act, including the appropriate location of voting places; and
4. advice and recommendations of the advisory committee are not binding on the Chief Electoral Officer.

Pilot Projects During By-Elections [No Current Section in The Act]

Background:

By-elections are a very useful opportunity to test out some new initiatives and as a test for the general election. Some new initiatives for the Martensville By-Election in 2007 included the use of:

- The Elections Saskatchewan Permanent Register of Eligible Electors (ESPREE) software - Phase I - an electronic List of Electors based on Elections Alberta's *Alberta Register of Electors System* (AROE);
- New "redesigned" newspaper ads, radio advertising and news releases; manual for Deputy Returning Officers (DROs) and Poll Clerks; Posters to Recruit Enumerators; Pre-Writ Action Plans by the Returning Officer; an Access-based Election Daily Operational Plan; Voter Information Cards with poll location and advance poll location mailed by Canada Post to all voters who had been enumerated in all regular polls; magnifying glasses at the poll for voters with some degree of visual impairment; cardboard ballot boxes; internet access and e-mail for the Returning Office; mobile polls which visit licensed personal care homes in the constituency

(previously only large personal care facilities had their own poll) and; post-election debriefing via written report and in-person session with the Returning Officer and Election Clerk.

All of these pilot projects involving changes to policies, procedures, materials etc. were successful and were expanded and used for the 26th General Election.

Sometimes, however, there are initiatives, such as the accommodation of voters who are disabled, that would require legislative change. At a “Public Forum on Voting and Ways to Improve Accessibility to Voters with Disabilities” held in April 2008 with a number of disability stakeholders it was pointed out to the Chief Electoral Officer and Assistant Chief Electoral Officer that there should be a number of changes to legislation to better serve electors with disabilities.

A provision in the legislation allowing for more substantial pilot projects during by-elections, such as the use of electronic marking systems for visually impaired voters would allow testing in a by-election before including in legislation for a general election. The Chief Electoral Officer of Canada may carry out studies on voting, including studies respecting alternative voting means, and may device and test an electronic voting process for future use in a general election or a by-election. Such a process may not be used for an official vote without the prior approval of the committees of the Senate and of the House of Commons that normally consider electoral matters. British Columbia, Ontario and Québec have similar legislation. Elections Alberta has recommended such a change in legislation. New Brunswick has similar provisions in its Municipal Election Act and the extension of pilot projects to provincial legislation is in the discussion stage.

The sections of The Act which would not be complied with should be itemized and no later than 21 days before Election Day, copies of the directive should be provided to the Speaker, the leader of each registered political party and on the Office’s website. Any election held in accordance with this proposed section would not be invalid by reason of any non-compliance with this Act that is authorized by the Chief Electoral Officer’s direction. Within 6 months after polling day, the Chief Electoral Officer should make a report to the Speaker on the voting equipment, vote-counting equipment or alternative voting methods used at the election and make recommendations to the Speaker with respect to amending The Act so as to adopt voting equipment, vote-counting equipment or alternative voting methods on a permanent basis.

Recommendations:

That *The Election Act, 1996* be amended to allow that at a by-election:

1. the Chief Electoral Officer may direct the use of voting equipment, vote-counting equipment or alternative voting methods that are different from what The Act requires;
2. such direction does not invalidate the election; and
3. the Chief Electoral Officer make a report on any pilot projects used, with recommendations as soon as practicable after the by-election.

Prohibition Against Advertising on Election Day [No Current Section in The Act]

Background:

On Election Day for the 26th General Election, Elections Saskatchewan received numerous complaints about Election Day advertising. Prior to Election Day, Election Saskatchewan received numerous

inquiries from media outlets confused about the difference between federal and Saskatchewan provincial legislation. In 1991, changes to the Broadcast Act, eliminated the blackout period for political advertising on Election Day across the country. Prior to 1991, the Canadian Radio-television and Telecommunications Commission (C.R.T.C.) administered the Election Day advertising blackout across the country. After that time it was up to each individual jurisdiction to set legislation regarding any advertising blackout during an election. If advertising occurs on Election Day, it is not possible for anyone to respond to the advertising before the close of voting. British Columbia, Canada, New Brunswick, Newfoundland and Labrador, Northwest Territories, Ontario and Québec have made it an offence in their Election Acts to publish, broadcast or transmit election advertising on Election Day. There may be some advantage in harmonizing provincial and federal legislation on this matter.

Recommendation:

That the Legislative Assembly consider amending *The Election Act, 1996* to re-institute an advertising ban on Election Day.

PART IX - CONSEQUENTIAL, TRANSITIONAL, REPEAL AND COMING INTO FORCE

No recommendations in this Part.

ADDITIONAL RECOMMENDATIONS RECEIVED BY THE OFFICE OF THE CHIEF ELECTORAL OFFICER

Background:

From time to time after an election, the Office of the Chief Electoral Officer receives recommendations for changes to *The Election Act, 1996*. In this spirit...they are included below.

The Office of the Chief Electoral Officer in February and March 2009 received the following submissions:

- a submission from the organization, Association Des Juristes D'Expression Francaise De La Saskatchewan requesting that *The Election Act, 1996* be translated into French; and
- six submissions from individuals across the province requesting changes to *The Election Act, 1996* with respect to contribution limits for individuals, corporations and unions; annual subsidies from the public purse and a review of the current third party advertising provisions.

Recommendation:

As the Office of the Chief Electoral Officer is a non-partisan Office of the Legislative Assembly and the issues raised are substantive public policy issues, the Office forwards the above recommendations to the Legislative Assembly for information.

HOUSEKEEPING AMENDMENTS

Obsolete Term [Subsection 2(6)]

Background:

The use of “stereotypes” is obsolete and should be deleted.

Recommendation:

That *The Election Act, 1996* be amended to delete the words “stereotypes or”.

Locking Ballot Boxes [Sections 6, 59, 100, 108, 116, 124 & 135]

Background:

Throughout The Act there are references to “a seal for locking the ballot boxes”. Since the Weyburn-Big Muddy By-Election cardboard ballot boxes have been used. Special pressure sensitive seals are now used instead of metal seals.

Recommendation:

That *The Election Act, 1996* be amended, with references to “locking the ballot boxes” replaced with “sealing the ballot boxes”.

Auditor’s Written Consent to Serve on Nomination Paper [Subsection 44(6)]

Background:

The business manager’s written consent to serve is required on the nomination paper. It was an oversight that the auditor’s written consent to serve was not included in this subsection.

Recommendation:

That *The Election Act, 1996* be amended to add the auditor’s written consent to serve on the nomination paper.

Election Day [Throughout Act]

Background:

In an effort to make Election Acts more easily read and to embrace the idea of simple language a number of jurisdictions such as Manitoba have replaced all references to “Polling Day” with “Election Day”.

Recommendation:

That *The Election Act, 1996* be amended so that any and all references to “Polling Day” be amended to “Election Day”.

Obsolete Terms [Section 138(2)]

Background:

The use of the word “departments” is obsolete and should be replaced with the word “ministries”. There is no longer a “Postmaster General of Canada”. The term should be replaced with “of any proper officer of Canada Post Corporation”.

Recommendation:

That *The Election Act, 1996* be amended to delete the word “departments” and replace with the word “ministries” and to delete the words “Postmaster General of Canada” and replace with the words “the appropriate officer of the Canada Post Corporation”.

Deleting from Register [Subsection 227(1) (C)]

Background:

Subsection 275(4) [tax receipts] is referred to in this subsection. However, subsection 275(4) has not been proclaimed in *The Election Act, 1996*. Instead tax receipts are referred to in section 13 of *The Political Contributions Tax Credit Act, 2001*.

Recommendation:

That *The Election Act, 1996* be amended to delete “subsection 275(4) [tax receipts]” and replace with “Section 13 of *The Political Contributions Tax Credit Act, 2001*”.

Registered Political Parties to File Information [Subsection 230(1)]

Background:

The auditor’s written consent to serve as auditor should be added to this section. It was an over-sight that the auditor’s written consent to serve was not included in this subsection.

Recommendation:

That subsection 230(1) of *The Election Act, 1996* be amended to add the auditor’s written consent to serve.

Time Limit to Enforce Claims Against Candidates [Subsection 256(1)]

Background:

In the amendments which came into force in March, 2006 references to the deadline for the filing of candidate’s election returns in subsection 261(1) was changed from “within three months after the day fixed for return of the writ” to “within three months after polling day”. It was an over-sight not to change the reference in subsection 261(5) from “within 60 days of the day fixed for the return of the writ” to “within 60 days after polling day”. References to deadlines with respect of deadlines in the case of the candidate’s return of election expenses should be consistent.

Recommendation:

That *The Election Act, 1996* be amended to change the reference in subsection 256(1) from “within 60 days of the day fixed for the return of the writ” to “within 60 days after Election Day”.

Candidate’s Election Expenses Returns [Subsection 261(5)]**Background:**

In the amendments which came into force in March, 2006, references to the deadline for the filing of candidate’s election expenses returns in subsection 261(1) was changed from “within three months after the day fixed for return of the writ” to “within three months after polling day”. It was an oversight not to change the reference in subsection 261(5) from “within three months after the candidate returned has been declared elected” to “within three months days after polling day”. References to deadlines with respect to the candidate’s return of election expenses should be consistent.

Recommendation: That *The Election Act, 1996* be amended to change the reference in subsection 261(5) from “within three months after the candidate returned has been declared elected” to “within three months after Election Day”.

ELECTION ACT - REGULATIONS**Drop Occupation on the Ballot (The Election Act Regulations - Appendix)****Background:**

In a previous recommendation in this report, it was recommended that occupation be deleted from the List of Electors. All provincial and territorial jurisdictions across the country have dropped the listing of the candidate’s occupation from the ballot. Federally, the candidates’ occupation is only included on the ballot if the candidate makes a written request to that effect to the Returning Officer before the deadline for nominations.

The occasion of dropping the occupation from the ballot would be a good opportunity to increase print size on the ballot recognizing the aging population of the Province and to assist voters with a minor visual disability. This recommendation was first made in the Annual Report of 2006 - 2007 and was updated.

Recommendation:

That *The Election Act, 1996* be amended to drop all references to occupation on the ballot and to increase the point size of the printing on the ballot.

Note: This recommendation also pertains to the recommendation about dropping of occupation and replacing with birthdate and gender on the List of Electors on page 26.

Note: If some or all of the preceding amendments to The Act are adopted, there will need to be some subsequent amendments to some forms which are prescribed in the **Election Act - Regulations**.

Compensation of Election Officers [Section 15]

Background:

In the 26th General Election the need for numerous changes in the Schedule of Fees Regulation were identified. Currently one category, clerical assistance is below the provincial minimum wage. The prosperous economy in the Province means that rates for all positions must be raised to remain competitive and to be able to hire qualified individuals. Positions used in the 2007 general election which have been paid out of the Office of the Chief Electoral Officer such as Automation Coordinator should be added to the Schedule of Fees. In practice, election workers have not been subject to labour legislation with respect to overtime, statutory holidays and vacation pay. Manitoba has clarified this fact by stipulating these exemptions in the Schedule of Fees Regulation. The Office will do a cross-jurisdiction comparison in order to draft a proposed Schedule of Fees. Rates should be adjusted periodically to remain competitive. In order to allow for Returning Officer recruitment prior to the April 1, 2010 launch of the remapping of polling subdivisions within each constituency, the Schedule of Fees should be amended on or before January 1, 2010.

Recommendations:

That Schedule of Fees Regulation be amended:

1. on or before January 2010 in order to allow for Returning Officer recruitment for any vacancies to be completed prior to the re-mapping process, for all 58 constituencies, which begins April 1, 2010 for the November 7, 2011 General Election; and
2. so that a formula be used to adjust rates similar to the formula used to adjust the expense limits for candidates and registered political parties in January every four years starting with January 2014. Specific recommendations with regards to the Schedule of Fees will come from the Office of the Chief Electoral Officer for consideration in the fall of 2009.

Appendix One - Suggested Wording for Amendments to *The Election Act, 1996* or *The Election Act Regulations* putting in place a Permanent List of Electors

1. There is a new Section 23.0 created as follows after Section 23

23.1 That an enumeration takes place starting 32 days before the issue of the writ and that it shall last for 22 days, (the first Thursday after the Labour Day Weekend, September 8, 2011, and ending September 30, 2011). The Preliminary Voters' List to be data entered, proofed, completed and available to be given to candidates by Tuesday, October 11, 2011. The preliminary Voters' List to be provided to all registered political parties, Members of the Legislative Assembly and candidates who have filed their form to become a potential candidate under Subsection 236(1) of The Act .

23.2 The preliminary List of Electors for any polling division or part of a polling division may be prepared from information in the Register of Electors established and maintained under section 24, or from information obtained by an enumeration carried out in accordance with section 20.16, or in part from the Register of Electors and in part from an enumeration.

2. There be a new Section 24.0 - Register of Electors created as follows after Section 24

Register of Electors

24.1 The Chief Electoral Officer shall establish and maintain a Register of Electors in printed form, on film, by electronic means or otherwise, from which lists of electors for each polling division of each constituency may be compiled for use at elections, by-elections, referendums or plebiscites conducted in accordance with this Act or under an Act to which this Act applies.

24.2 The register may be created and revised by any or all of the following:

- (a) conducting door to door enumeration in accordance with sections 20-23 of The Act, of all or some of the constituencies, or portions of any of them, as determined by the Chief Electoral Officer;
- (b) using information provided by the Chief Electoral Officer of Canada that was used for compiling the List of Electors for use at a general election, by-election, plebiscite or referendum conducted by the Chief Electoral Officer of Canada.

24.3 The Register of Electors shall contain information about persons who are ordinarily resident in the Province who, based on information available under this Act, the Chief Electoral Officer has reason to believe are qualified electors or will be qualified electors on satisfying age or residency requirements.

24.4 The Register of Electors may be established from any or all of:

- (a) a general enumeration throughout the province or an enumeration of part or all of any constituency conducted in accordance with the provisions of this Act; or
- (b) a List of Electors that was prepared for an election, plebiscite, or referendum held under the statutes of the Province or Canada, to the extent that such a list includes

electors who the Chief Electoral Officer has reason to believe have resided in the Province for at least 6 months.

24.5 As soon as the establishment of the Register of Electors has been completed, the Chief Electoral Officer shall give notice of that fact in *The Gazette*.

24.6(1) On or before the 31st day of October in each year, the Chief Electoral Officer shall send one paper copy and one machine readable copy of the List of Electors, as taken from the Register of Electors,

- (a) to the elected member in respect of his or her constituency; and
- (b) on request, to each registered political party.

24.6(2) The lists of electors mentioned in subsection (1) shall set out, for each elector, the surname, given names, gender, civic address/legal land description with postal code, and mailing address with postal code if different than the civic address/legal land description.

24.6(3) This section does not apply if the date mentioned in subsection (1) falls during a general election, or if the poll at a general election was held during the 3 months preceding that date.

3. There be a new Section 24.0 - Updating the Register created as follows after Section 24.6

Updating the Register

24.7(1) The Register of Electors shall be updated and maintained from information:

- (a) that electors have given the Chief Electoral Officer through individual applications for registration or in the course of an enumeration carried out under section 20-23;
- (b) that is held by the Chief Electoral Officer for Canada and that may be given to the Chief Electoral Officer for the province; or
- (c) that is held by any provincial ministry or agency and that the Chief Electoral Officer considers reliable and necessary for updating the surname, given names, gender, date of birth, date of death, telephone number, and present or previous civic address/legal land description or mailing addresses of electors who are included in the register, or for identifying persons who may become eligible to be electors within 6 months by meeting age or residency requirements including all public sources be required to provide timely updates of name, address, gender and birthdate from the use of public databases including but not limited to the Ministry of Health, Saskatchewan Government Insurance, SaskEnergy, SaskPower, SaskTel and Information Services Corporation.

24.7(2) A public body providing information under subsection 24.7(1)(c) may charge a reasonable fee for providing the information, but the fee may not exceed an amount that represents the actual cost of producing a copy of the information.

24.7(3) The register may be revised from time to time as the Chief Electoral Officer considers necessary but must be revised as soon as possible after the Report of the Constituency Boundaries Commission 2012 (and the reports of subsequent Boundaries Commissions every ten years) has been passed into law.

24.7(4) The register may be created or revised manually or by means of any computer-based system and may be kept in printed form or may be stored in any computer-based system or any other information storage device that is capable of reproducing any required information in legible printed form within a reasonable time.

24.8 After polling day, the Chief Electoral Officer shall update the Register of Electors from any information obtained during the election period under this Act.

24.9(1) Where the Chief Electoral Officer collects information from any provincial ministry or agency, and also including the Chief Electoral Officer of Canada shall not add a new elector to the Register of Electors unless:

- (a) the Chief Electoral Officer sends the elector the information relating to that elector;
- (b) the elector indicates that he or she wishes to be included in the register;
- (c) the elector confirms, corrects or completes the information provided in paragraph (a) in writing, and returns it to the Chief Electoral Officer; and
- (d) the elector provides the Chief Electoral Officer with a signed certification that the elector is a Canadian citizen.

24.9(2) This section does not apply in respect of the adding of a new elector:

- (a) at the elector's own request;
- (b) at the time the Register of Electors is established under section 24.2; or
- (c) based on a List of Electors established under the statutes of the Province or Canada, to the extent that such list contains the surname, given names and civic address/legal land description of an elector, and from which it can be presumed that the elector has resided in the province for at least 6 months.

24.10(1) Any person may at any time request that the Chief Electoral Officer include that person in the Register of Electors, by providing

- (a) a signed certification, in the form prescribed by regulation, that he or she is a Canadian citizen, of the full age of eighteen years, has resided in the Province for at least six months and is not for any reason disqualified as an elector;
- (b) his or her surname, given names, gender, date of birth, civic address/legal land description, and mailing address if different than the civic address/legal land description; and
- (c) satisfactory proof of identity; including birthdate and place of ordinary residence.

24.10(2) In addition to the information referred to in subsection (1), the Chief Electoral Officer may invite the person to provide his or her telephone number, and previous civic address/legal land description, if any, but the person is not required to do so.

- 24.11** An elector may give the Chief Electoral Officer any changes to the information in the Register of Electors relating to that elector, and the Chief Electoral Officer shall make the necessary corrections to the register.
- 24.12** The Chief Electoral Officer may at any time
- (a) contact a person to verify the Chief Electoral Officer's information relating to that person; and
 - (b) request the person to confirm, correct or complete the information within 60 days after receiving the request.
- 24.13(1)** The Chief Electoral Officer shall delete from the Register of Electors the name of any person who;
- (a) is not, or is no longer, qualified to vote at an election in the Province;
 - (b) requests in writing to have his or her name deleted from the register; or
 - (c) dies.
- 24.13(2)** The Chief Electoral Officer may delete from the Register of Electors the name of any person who fails to reply to a request referred to in paragraph 24.12(b) within 60 days.
- 24.14** If an elector so requests in writing, information in the Register of Electors relating to that elector shall be used only for provincial, municipal, rural community and federal electoral or referendum purposes.
- 24.15** If a person so requests in writing, the Chief Electoral Officer shall send the person all the information in the Chief Electoral Officer's possession relating to that person.
- 24.16(1)** The Chief Electoral Officer may enter into an agreement with the Chief Electoral Officer for Canada concerning the acquisition of information contained in the federal Register of Electors or any List of Electors established under the statutes of Canada. This information is necessary or desirable to assist in establishing or maintaining the provincial Register of Electors or a List of Electors for a provincial election or plebiscite. This arrangement could be reciprocated for use by Elections Canada.
- 24.16(2)** The Chief Electoral Officer may, for the purpose of ensuring the protection of personal information given in accordance with an agreement mentioned in subsection (1), include in the agreement any conditions that the Chief Electoral Officer considers appropriate regarding the use that may be made of that information.
- 24.16(3)** Information provided to the Chief Electoral Officer for Canada in accordance with an agreement mentioned in subsection (1) may be used only for the purpose of updating the federal Register of Electors or for establishing a List of Electors for an election or a referendum held under the statutes of Canada.
- 24.17(1)** The Chief Electoral Officer may at any time direct a general enumeration to be conducted throughout the Province, or may direct a Returning Officer to conduct an enumeration in any polling division or part of a polling division to identify electors residing in that area.

24.17(2) An enumeration under subsection (1),

- (a) if conducted during an election period, shall be used to prepare or revise the preliminary lists of electors throughout the province or in affected polling divisions; and
- (b) if conducted outside of an election period, shall be used to establish or update the Register of Electors.

Appendix Two - Other Related Acts that May Need to be Amended

1. The Vital Statistics Act, 1995 and/or The Vital Statistics Administration Transfer Act

That the Registrar of Vital Statistics shall disclose to the Chief Electoral Officer information respecting, the name, address, gender, date of birth and date of death and other related information of any person for the purpose of establishing or maintaining a Register of Electors or List of Electors under *The Election Act, 1996*.

2. The Automobile Accident Insurance Act

That the Registrar (or other appropriate administrator) shall disclose to the Chief Electoral Officer the name address, date of birth, gender and other related information of a person found in any record of Saskatchewan Government Insurance (Motor Vehicles) for the purpose of establishing or maintaining a Register of Electors or List of Electors under *The Election Act, 1996*.

3. The Department of Health Act

That the Deputy Minister of Health shall disclose to the Chief Electoral Officer the name address, date of birth, gender and other related information of a person found in any record of the Ministry of Health for the purpose of establishing or maintaining a Register of Electors or List of Electors under *The Election Act, 1996*.