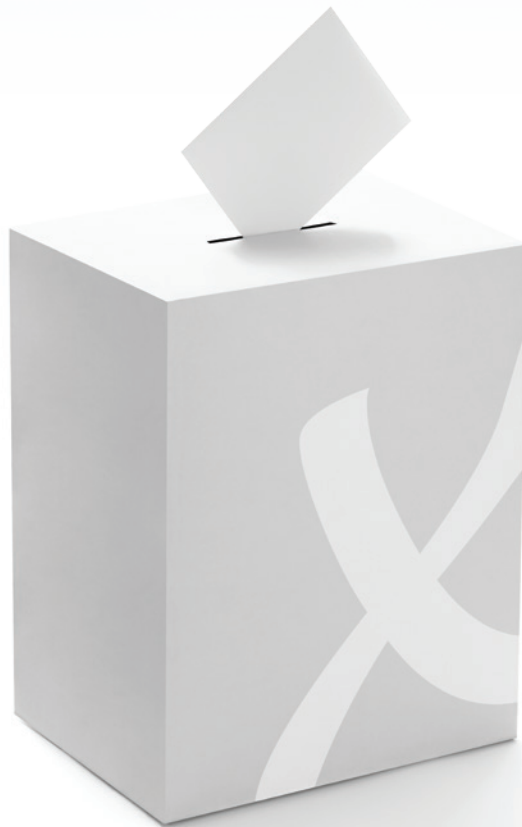


ELECTIONS SASKATCHEWAN
CHIEF ELECTORAL OFFICER'S ASSESSMENT

MODERNIZING SASKATCHEWAN'S REFERENDUM LEGISLATION

SEPTEMBER 2019





OFFICE OF THE CHIEF ELECTORAL OFFICER
(ELECTIONS SASKATCHEWAN)
#301 – 3303 HILLSDALE STREET, REGINA, SASKATCHEWAN
CANADA S4S 6W9

TELEPHONE: (306) 787-4000 / TOLL-FREE: 1-877-958-8683
FAX: (306) 787-4052 / TOLL-FREE: 1-866-678-4052
EMAIL: info@elections.sk.ca
WEBSITE: www.elections.sk.ca

SEPTEMBER 2019

ISBN 978-0-9958097-2-7

MODERNIZING SASKATCHEWAN'S REFERENDUM LEGISLATION -
CHIEF ELECTORAL OFFICER'S ASSESSMENT-2019-1(v1.0)



TABLE OF CONTENTS

Executive Summary	2
About Elections Saskatchewan	4
Values	5
Stakeholders	5
Responsibilities	5
1.0 Introduction	8
2.0 Current Legal Framework for Ballot Question Votes in Saskatchewan	10
2.1 The Referendum and Plebiscite Act	10
2.2 The Referendum and Plebiscite Regulations	11
2.3 Criticisms of the Current Legal Framework for Ballot Question Votes	11
2.4 Integral Features for a Modern Ballot Question Vote Legal Framework	12
3.0 Four Options for Referendum Voting Arrangements	15
3.1 Option 1. Referendum held in conjunction with a provincial election, voting in-person:	15
3.2 Option 2. Referendum held at a time between general elections, voting in-person:	16
3.3 Option 3. Referendum administered using a postal vote:	16
3.4 Option 4. Referendum administered using internet and/or telephone electronic voting:	17
4.0 Recommendations	20
4.1 Recommended Options	20
4.2 Recommended Legislative and Regulatory Changes	21
5.0 Conclusion	24
Appendices	25
A – History of Provincial Referendum and Plebiscite Votes in Saskatchewan	26
B – Legal Features of Ballot Question Votes in Canada	27
C – Comparison Table — Ballot Question Votes in Canada	29
D – Federal, Provincial and Territorial Ballot Question Votes Held in Canada since 1990	37
E – Bibliography of Information Resources regarding Ballot Question Votes	39

EXECUTIVE SUMMARY

Twice over the past three years, the provincial media has reported on the possibility of a referendum in Saskatchewan. The first set of articles dealt with the potential sale of a crown corporation while the second revolved around the possibility of Saskatchewan joining Alberta in holding a vote on Canada’s equalization payment system.

One of the responsibilities of the Chief Electoral Officer is to ensure an appropriate level of “event readiness” is maintained at all times. Elections Saskatchewan must be able to effectively and efficiently deliver a referendum or plebiscite if instructed to do so. However, getting ready for a provincial referendum — especially one that is likely to occur at a time separate from a provincial election — involves immediately facing a set of serious and seemingly intractable problems.

The current legal framework for holding referendums does not reflect current electoral procedures, lacks overall coherence and extensively references legislation that is no longer in force. This is the result of provincial legislation and regulations regarding ballot question votes not having been addressed since they were developed just prior to their one and only use in 1991. Since that time, jurisdictions across the country have introduced features which improve the integrity and acceptability of any referendum or plebiscite vote, all of which are absent from Saskatchewan’s legislation.

This Chief Electoral Officer’s Assessment examines Saskatchewan’s current referendum and plebiscite legislation and regulations and provides a roadmap to repair and modernize an outdated framework.

Four possible options to administer a referendum, all described in greater detail throughout this assessment, have been identified, and are as follows:

Option 1	Referendum Held in Conjunction with General Election
Option 2	Referendum Between General Elections, Voting In-Person
Option 3	Referendum Using Postal Voting
Option 4	Referendum Using Internet/Telephone Voting

Ultimately, the Chief Electoral Officer recommends repealing the current legal framework for referendums and plebiscites. In its place, the Chief Electoral Officer recommends amending *The Election Act, 1996* to allow for two different referendum options, Options 1 and 3 above, to co-exist.

Option 1	Referendum Held in Conjunction with General Election
Option 3	Referendum Using Postal Voting

The option to be used would be dependent on the timing of the vote. If the referendum were to be held at the same time as a general election, then Option 1, holding it in conjunction with the election is preferable and offers a number of logistical efficiencies. If, however, the vote must be held between general elections, then Option 3, whereby the voting is conducted using mail-in ballots is recommended for the greatly reduced costs it offers in comparison to an in-person vote.

Saskatchewan’s legal framework for conducting a referendum or plebiscite urgently needs to be addressed and modernized. Until such updates are made, no meaningful preparations for holding a provincial referendum can be made, which may have significant impact on the timing and cost of such events.



Michael D. Boda, D. Phil., Ph.D.
Chief Electoral Officer
Province of Saskatchewan

Regina, Saskatchewan
September 27, 2019

ABOUT ELECTIONS SASKATCHEWAN



The many component parts involved in planning, organizing and implementing elections in Saskatchewan are overseen by what is described as an election management body (EMB).

Internationally, an EMB is defined as an independent, non-partisan institution that is responsible for impartial election administration within a jurisdiction governed as a democracy. In Canada, each province, territory, and the national jurisdiction has an EMB that impartially administers elections, upholds the democratic electoral rights guaranteed within the Canadian constitution, and conducts electoral events in accordance with applicable electoral legislation.

Elections Saskatchewan fulfills this mandate for the province, serving as the secretariat to the statutory Office of the Chief Electoral Officer. Elections Saskatchewan has a leadership team based in Regina and dispersed across

the province's 61 constituencies that each elect a Member of the Legislative Assembly.

In the months leading to a general election, Saskatchewan's electoral service grows steadily and during the election period includes approximately 12,000 temporary workers from all walks of life, each serving provincial voters in administering an event that is fundamental to sustaining Saskatchewan's democratic traditions.

Elections Saskatchewan is guided in its work by a strategic plan which covers the years 2017 through 2022. The plan is a leadership document detailing the desired future of election management in the province and the path to attaining that goal. It includes a Vision, Mission and a two-fold Strategic Imperative that focuses on balancing current effective delivery of electoral processes within Saskatchewan's democratic traditions with a desire to modernize, innovate and influence electoral best practice.

VISION

We are a leader in establishing and refining best practice in election management.

MISSION

Elections Saskatchewan is an independent office of the Legislative Assembly, created to plan, organize, deliver and regulate provincial electoral events for the people of Saskatchewan.

STRATEGIC IMPERATIVE

Sustain: Refine and improve our organization for the efficient and effective delivery of electoral events.

Modernize: Innovate toward best practice in election management.



VALUES

When creating the institution's strategic plan, Elections Saskatchewan's head office and field leadership team reflected on the values that are espoused by practitioners of election administration across Canada and around the world. In doing so, five core values were identified:

- Professionalism
- Service
- Impartiality
- Accountability
- Innovation

These values remain at the foundation of every activity conducted by the institution, guiding the actions and decisions of all staff members. They are values widely shared by election administrators and are defining elements of a modern election management body.

STAKEHOLDERS

Elections Saskatchewan has a tremendously broad and diverse base of stakeholders who it affects and by whom it is affected. These include:

- Voters and prospective voters;
- Registered political parties (including chief official agents, political party staff and volunteers);
- Candidates for election (including their business managers);
- Elected Members of the Legislative Assembly of Saskatchewan;
- Members of the Legislature's Board of Internal Economy;
- Constituency associations of registered political parties;
- Unregistered political parties, external organizations and advocacy groups;
- Media representatives, reporters, columnists, bloggers and contributors;
- Other Canadian Chief Electoral Officers and their institutions;
- Urban and rural municipality election officials;
- External data providers;
- Service organizations, vendors and contractors;
- Academic researchers and political analysts;
- Other independent officers of the Legislative Assembly; and
- Electoral boundary commissions.

Addressing the needs and concerns of these stakeholders is critical to the success of Saskatchewan's election management body and central to the institution's focus on service. Elections Saskatchewan's intent is to continually consult with its stakeholders to assess how well the institution is meeting their needs. It aims to identify clear opportunities for improvement and modernization of services.

Finding fiscally responsible, effective, and transparent methods for obtaining meaningful stakeholder input is necessary to define current and emerging needs that Elections Saskatchewan is expected to meet.

RESPONSIBILITIES

The Head Office Leadership Team

The Chief Electoral Officer (CEO) is an independent officer of the Saskatchewan Legislative Assembly. As head of Elections Saskatchewan, the CEO ensures the fair and equitable conduct of operational, administrative, and financial practices related to the electoral process. The CEO is assisted in these legislated responsibilities by a head office leadership team.

Elections Saskatchewan's primary responsibility is to maintain an appropriate state of provincial election readiness. To that end, Elections Saskatchewan must appoint and train requisite numbers of constituency returning officers and election officers to ensure electoral preparedness throughout each government's mandate, and to be fully ready for by-elections and scheduled general elections.

The Election Act, 1996 (the Election Act) also places a duty on the CEO to assist registered political parties, candidates, chief official agents, and business managers to ensure the *Election Act's* financial transparency and disclosure goals are met. Elections Saskatchewan publishes guides for party chief official agents and candidate business managers to help them fulfill their administrative and financial reporting responsibilities, compile the necessary support documentation, and ensure their annual financial disclosures are filed in accordance with *the Election Act* and *The Political Contributions Tax Credit Act, 2001* (Saskatchewan).

Where applicable, Elections Saskatchewan is responsible for assessing and reimbursing election expenses which are

paid from the province's General Revenue Fund. Elections Saskatchewan has established a financial review system to certify public reimbursement of election expenses through the examination and audit of registered political parties' and candidates' expense returns and required disclosure documentation. To promote transparency, expense return details are tabled in the Legislative Assembly and posted on Elections Saskatchewan's website.

Elections Saskatchewan is also responsible for investigating offences under *the Election Act*. While the Act is regulatory rather than criminal, the role of Elections Saskatchewan is to inspect, investigate, and inquire about instances where contravention of *the Election Act* is suspected or alleged, as deemed necessary by the CEO. Since this responsibility is a matter of considerable discretion and is often initiated by complaints filed by interested parties, it is incumbent upon Elections Saskatchewan to consider whether any specific situation has contravened the overall purpose, policy rationale, and/or legislative intent of the province's electoral legislation.

To ensure political stakeholders and the public are aware of important aspects of its role and mandate, Elections Saskatchewan maintains an outreach program that responds to public enquiries and liaises with registered political parties, candidates, and their chief official agents and business managers.

The CEO reports annually to the Legislative Assembly, via submission of a written report that is tabled by the Speaker, on matters related to administering *the Election Act*. In addition to such annual reporting, the CEO also prepares reports to be tabled in the Legislative Assembly on all elections administered by his office. The Chief Electoral Officer's Report on a Provincial General Election is published in four separate volumes: 1) Statement of Votes, 2) Administrative Review, 3) Statement of Expenditures, and 4) Legislative Change Recommendations. Administrative and financial reporting for constituency by-elections are encapsulated in individual by-election reports.

The environment within which Elections Saskatchewan is accountable is unique and complex due to the potential timing uncertainty of the provincial electoral cycle, the decentralized nature of election administration, its requirement for an extremely large temporary workforce,

and the interaction among registered political parties, candidates, media and the electorate. The integrated management of this highly decentralized process rests with Elections Saskatchewan and depends heavily on its impartial and effective administration of the process integrity controls contained in *the Election Act*.

The Field Leadership Team

While central electoral administration is the responsibility of Elections Saskatchewan's head office leadership team, the regional and constituency-level conduct of electoral events is the responsibility of the field leadership team.

Supervisory returning officers (SROs), each representing a different geographic zone of the province that comprises five to seven constituencies, are responsible for supporting returning officers within those constituencies in performing their duties. SROs act as a liaison between the head office and the constituency returning officers and provide oversight to ensure electoral events are administered and conducted at a consistently high standard across the province in accordance with direction from Elections Saskatchewan's executive leadership.

Representing Elections Saskatchewan at the local level, each constituency has a returning officer who is assisted by an election clerk. These two individuals are entrusted with upholding the neutrality of the province's decentralized electoral process within their constituency, and are responsible for the administration, conduct, and reporting of electoral proceedings for general elections, by-elections, referendums, and plebiscites.

An important part of achieving and maintaining election readiness is having constituency returning officers and election clerks appointed and in position within each of the province's 61 constituencies. The CEO appoints all provincial returning officers and election clerks. Notices of all returning officer appointments (or cancellations) are published in *The Saskatchewan Gazette*. Returning officer and election clerk vacancies are filled through independent merit-based competitions.



INTRODUCTION



1.0 Introduction

Although Saskatchewan has not held a referendum or plebiscite vote in 28 years, one aspect of the Chief Electoral Officer's mandate is to be ready to administer a provincial ballot question vote that could be required at any time.

Twice in the past three years the prospect of a referendum has come under active consideration by the provincial government. The first was in the summer of 2016 when then-Premier Brad Wall stated that, should a purchase offer for SaskTel be received, a referendum would be required before the crown corporation could be sold.¹ More recently, Premier Scott Moe raised the idea of a public vote a second time. On April 17, 2019, he announced his intent to engage in discussions with the then-newly-elected Premier of Alberta, Jason Kenney, on the topic of having Saskatchewan join Alberta in holding a referendum on the topic of abolishing federal equalization payments.²

The fundamental problem the Chief Electoral Officer has with preparing for a potential Saskatchewan referendum is that neither *The Referendum and Plebiscite Act*³ nor *The Referendum and Plebiscite Regulations*⁴ have been meaningfully updated since their creation immediately prior to the three-question plebiscite that accompanied the 1991 general election. At present, the legislative framework related to referendums lacks coherency while failing to engage with modern methods that take advantage of greater efficiencies and cost effectiveness in administering standalone ballot question votes.

The current regulations extensively reference sections of a previous version of *The Election Act* that was replaced in 1996 and is no longer valid. Many of these sections have no equivalent provisions available to reference in *The Election Act, 1996* which makes these regulations unusable for any detailed planning or operational purposes. It would be very difficult, if not impossible, for the Chief Electoral Officer to follow the instructions found in *The Referendum and Plebiscite Act* and its associated regulations and still maintain confidence in the legality or overall integrity of the process.

Further, the framework in place fails to provide a cost-effective method for holding ballot question votes at any

time other than during a provincial general election. The current assumption contained in *The Referendum and Plebiscite Act*, and echoed in its supporting regulations, is that every ballot question vote must be administered in the exact same manner as is used for a general election. While the legislation allows adding a second ballot during a general election (which permits a referendum to be administered in a cost-effective manner) the prospect of holding a standalone ballot question vote, using the general methods prescribed in the current legislation and regulations, is prohibitively expensive in comparison to available alternatives that have been successfully used in other Canadian provinces.

It is imperative that Saskatchewan's legislative framework for holding ballot question votes be updated and modernized. New legal arrangements must be adopted that provide flexibility to permit a referendum to be held outside of a general election in a manner that is democratic, fair, convenient for voters and cost-effective. Further, the Chief Electoral Officer is concerned that a new, more appropriate and less costly method for conducting a standalone referendum may only be identified and legislated within months or weeks of such an event being initiated. Should this occur, it will significantly increase both the costs and risks associated with the administration of that referendum vote. To be delivered successfully, an adequate amount of advance preparation time is required to professionally plan and manage the implementation of whatever alternative voting approach legislators might choose for a standalone referendum.

A legislative and regulatory update is urgently required in order that administrative preparations for any potential referendum can be efficiently and cost-effectively put in place. The purpose of this assessment is to examine the reasons the existing legal framework for provincial ballot question votes needs to be modernized and make specific reform recommendations for legislators to consider acting on.

“[T]he legislative framework related to referendums lacks coherency while failing to engage with modern methods...”

¹ Saskatoon Star Phoenix, August 26, 2016. *If SaskTel bid is made, referendum 'only way to deal with such an offer': Premier Wall*, available online at: <https://thestarphoenix.com/news/local-news/if-sasktel-bid-is-made-referendum-only-way-to-deal-with-such-an-offer-premier-wall/>

² CBC News, April 17, 2019. *Scott Moe suggests he could follow new Alberta premier's lead on equalization referendum*, available online at: <https://www.cbc.ca/news/canada/saskatchewan/sask-premier-alberta-anti-carbon-tax-1.5102178>

³ Chapter R-8.01 of the Statutes of Saskatchewan, 1990-91. Available online at: <https://publications.saskatchewan.ca/#/products/834>

⁴ Chapter R-8.01 Reg 1. Available online at: <https://publications.saskatchewan.ca/#/products/1413>

CURRENT LEGAL FRAMEWORK FOR BALLOT QUESTION VOTES IN SASKATCHEWAN

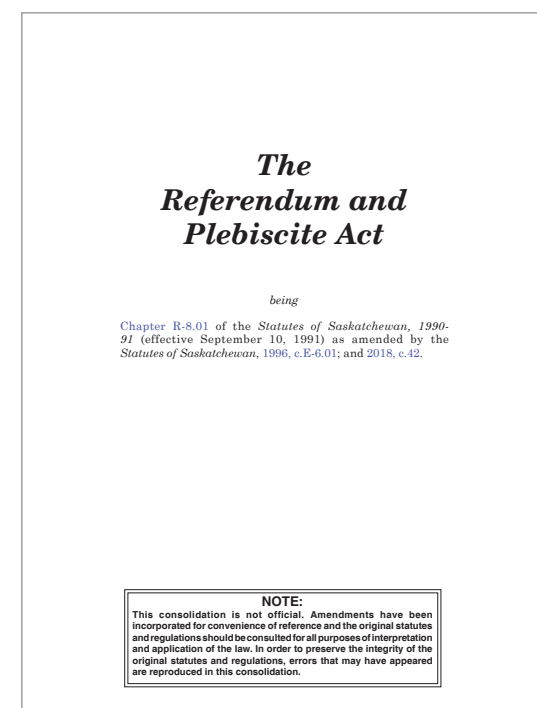


2.0 Current Legal Framework for Ballot Question Votes in Saskatchewan

With Saskatchewan's most recent ballot question vote last being held in 1991, it is perhaps not surprising that the legislative framework involved does not reflect modern public expectations or utilize the most efficient methods for conducting a referendum outside of a general election.

To understand the options for moving toward an improved approach to holding public votes on important public policies, it is necessary first to examine the province's existing legal arrangements with regard to ballot question votes, recognizing both their features and shortcomings.

2.1 THE REFERENDUM AND PLEBISCITE ACT



Saskatchewan's legislation on ballot question votes is a mere eight pages in length. Most of the statute's content is focused on describing procedural differences between how a referendum ballot question is to be decided, scheduled and announced as compared to a plebiscite ballot question vote.

Legislatively, *The Referendum and Plebiscite Act* makes important distinctions between two types of ballot question votes:

- A referendum is a vote on any question of public interest or concern and is ordered by the Lieutenant Governor in Council (cabinet). The results of a referendum can be legally binding if more than 60 percent of the ballots cast indicate votes supporting the same answer to the question, provided that at least 50 percent of those entitled to vote in the referendum do so.⁵
- A plebiscite is a vote on any question of public interest or concern and can be ordered by the Lieutenant Governor in Council, directed by the Legislative Assembly, or directed by the Minister of Justice. The legislation also includes provisions that allow citizens to force a plebiscite by submitting a petition signed by at least 15 percent of electors. In such a case, the Minister of Justice must direct that a plebiscite be held.⁶ The results of a plebiscite are never legally binding.

Around the world, the terms "referendum" and "plebiscite" have evolved to have differing and even contradictory meanings. In some definitions a plebiscite is a public vote to change the constitution or government of a country while a referendum is a direct vote on any other public policy topic. In other usage a referendum is defined as a vote to change the constitution while a plebiscite is a vote that does not affect the constitution.

Some countries, including Canada, have attempted to separate these terms based on whether the voting results are mandatory or advisory in nature. Referendums have often been defined in Canadian provincial and territorial laws as direct votes that oblige government to follow the result. On the other hand, provincial and territorial plebiscite laws have often had definitions to indicate that plebiscite voting results are meant only to assist government in making its final choice. However, exceptions to this general usage have occurred frequently in Canada, with federal referendums having always been defined as legally non-binding and some provincial plebiscite laws stating that voting results provide mandatory instruction to legislators.

In general, the Canadian public makes little or no distinction between the words referendum and plebiscite, and the term referendum is now the one most frequently used to describe any direct vote by citizens on a public policy ballot question. Most Canadians regard the two terms as being interchangeable when describing a direct vote by members of an electorate.

⁵ *The Referendum and Plebiscite Act*, sections 3 to 5.

⁶ *The Referendum and Plebiscite Act*, sections 6 and 7.

2.2 THE REFERENDUM AND PLEBISCITE REGULATIONS

Within the current legal framework specific instructions associated with administering a ballot question vote are found, for the most part, in *The Referendum and Plebiscite Regulations* which run 57 pages in length.

These regulations contemplate ballot question votes held at two times — one at the same time as a general election and another when held between general elections. Both options assume the same basis of operations as in a general election or by-election — an in-person vote cast at a polling station administered by election officers under the leadership and guidance of a constituency returning officer.

It must be noted that these regulations have the seeming intent of mirroring the practices found in the province's election legislation, but they have not been updated since they were created 28 years ago. As a result, the regulations refer to a version of *The Election Act* that was in force in 1991, and not *The Election Act, 1996* which replaced it five years later. Many of the references to election legislation made within the current regulations are therefore invalid — specific issues and criticisms related to this are discussed further below.

2.3 CRITICISMS OF THE CURRENT LEGAL FRAMEWORK FOR BALLOT QUESTION VOTES

Overall, Saskatchewan's current legislative framework for conducting ballot question votes is out-of-step with best practices and is needlessly complicated. In preparing this assessment, five specific criticisms of the legislation and regulation were identified.

The Act and its Regulations do not reflect current electoral procedures and lack overall coherence:

It must be recognized that the current legislation has only ever directly pertained to the one three-question plebiscite⁷ that was held in conjunction with the 1991 general election. The enormous logistical and cost implications of holding a standalone referendum (or plebiscite) were seemingly never contemplated in the original legislative design. The costs of such a vote could be expected to mirror those of the most recent general election with the exception of reimbursements paid to registered political parties and candidates. This would be a tremendously expensive exercise costing at least \$20M.

Overall, Saskatchewan's current legislative framework for conducting ballot question votes is out-of-step with best practices and is needlessly complicated.

In addition to other issues and problems identified within the current Act, the current regulations introduce significant legal problems in that they extensively reference a version of *The Election Act* that is no longer in force. Perhaps of even greater concern, these regulations do not reflect the many changes that have been made to provincial election law over the past three decades. Examples include:

- The use of a permanent register of voters;
- A requirement for voters to provide I.D. proving their identity and address;
- The ability of any voter to vote at an advance poll;
- Provisions for absentee voting; and
- Availability of homebound voting for individuals with disabilities.

Should a referendum or plebiscite vote be required at the time of the next or any future general election, or should legislators decide to continue with the requirement that standalone ballot question votes employ a voting process that mirrors a provincial general election, all 57 pages of *The Referendum and Plebiscite Regulations* will still need to be entirely rewritten. Without this minimal step being taken no meaningful preparation for administering a referendum in Saskatchewan can occur.

Majority support for a referendum is inappropriately defined as 60 percent voting support:

For any Saskatchewan referendum result to be considered binding, it must meet a threshold of 60 percent voting support. Those who believe a simple majority vote in legislatures has been adequate to decide most Canadian public policy matters will strongly disagree with this "supermajority" requirement.⁸ Critics point out that elected representatives are usually elected with less than 60 percent voting support, and that political parties often

form government with popular support levels of less than 50 percent of the participating voters. A referendum question should only be posed to citizens when the nature of the public policy question is considered to be of such importance that the government of the day does not believe it can decide without a public consultation vote. Ignoring a majority vote of the electorate when contemplating such fundamental questions is not appropriate in a modern democracy.

A minimum of 50 percent participation of all eligible voters is unrealistic:

Under current laws, a referendum can only be considered binding on a government if more than half of the persons eligible to vote actually cast a ballot. This requirement makes it highly unlikely, in a modern context, that a referendum voting result could ever "pass" the required participation threshold if the vote was not held in conjunction with a general election. Participation in standalone referendums has been shown, around the globe, to be significantly lower than turnout for general elections.

Calculating the number of "electors who are entitled to vote"⁹ requires making a statistically accurate estimate of the number of persons in the province who meet qualification criteria for voter registration at the time of a referendum. In general terms, this involves accurately determining the number of Canadian citizens, over the age of 18 years, who have resided in the province for at least six months.¹⁰

In advance of the 28th provincial general election, held on April 4, 2016, Elections Saskatchewan engaged a professional statistician to prepare an estimate of the eligible voting population. At that time the estimate provided indicated there were a total of 812,224 Saskatchewan residents that met the legal qualifications for voting. Of that total 434,244 voters cast ballots at the 2016 election — 53.5 percent of those eligible. For the 2011 general election, it was determined that only 51.1 percent of eligible voters had voted.¹¹

Unless it is required that a Saskatchewan referendum vote can only ever occur alongside a provincial general election, it is highly unlikely that voting participation rates would exceed 50 percent for a ballot question vote. Voting participation across Canada has been in a steep decline for the past three decades and there is already widespread concern that soon fewer than half of eligible

voters will be casting ballots in provincial and federal elections. Participation rates in local government elections are now often less than 30 percent of the eligible population — the 2016 municipal elections saw 20 percent participation rates in Regina, and a 2018 municipal by-election in Moose Jaw saw only 12 percent of eligible voters cast ballots.

Rules that provide the ability for citizens to petition for a non-binding plebiscite vote are too onerous:

The notion that citizens would be able to collect the names, addresses and signatures of 15 percent of the eligible voter population of the province to force government to hold a non-binding plebiscite vote on a policy issue seems highly unlikely. In fact, these rules have never been used. This would require the manual collection of more than 120,000 signatures along with a process of gathering sensitive personal information related to each signatory. No petition for a plebiscite has ever reached the stage of being submitted to the Chief Electoral Officer for verification¹² in the 28 years that this legislation has been in effect.

Plebiscite votes are seen as an expensive alternative to a public opinion poll:

A prevailing public perception has developed that equates a non-binding plebiscite to be little more than a formal opinion poll. This is frequently accompanied with voter opinion that plebiscites are an extremely wasteful expenditure of public funds. It is widely understood that scientifically developed survey methodologies have been established in recent decades which permit statistically accurate measurements of public opinion on any topic for a fraction of the cost, and in far less time, than is required for holding a province-wide public vote. Voters understandably question the value of voting in any exercise that is merely advisory, where votes are being used to gather information that could be accessed by other means. No doubt legislators are keenly aware of this sentiment and this may explain why plebiscites have not seen any recent application in Saskatchewan's public political life.

2.4 INTEGRAL FEATURES FOR A MODERN BALLOT QUESTION VOTE LEGAL FRAMEWORK

In addition to the general issues with the existing legal framework identified above, there are many important policy features, widely expected to be included in the legal framework of any modern democratic ballot question administration

⁷ See Appendix A – History of Provincial Referendum and Plebiscite Votes in Saskatchewan of this publication to see the three questions asked in the 1991 plebiscite.

⁸ In democracies around the globe supermajority voting support (i.e. more than 50 percent) and quorum participation requirements are usually reserved for referendums on constitutional amendment, national independence or jurisdictional secession. See 'Quorum and Turnout in Referenda' by Helios Herrera and Andrea Mattozzi in the *Journal of the European Economic Association*, Volume 8, Issue 4, June 1, 2010, Pages 838–871. Also see 'Voting on Independence and National Issues: A Historical and Comparative Study of Referendums on Self-Determination and Secession' by Matt Qvortrup in the *Revue Française de Civilisation Britannique* (French Journal of British Studies), XX-2, 2015, available online at: <https://journals.openedition.org/rfcb/366>.

⁹ *The Referendum and Plebiscite Act*, section 4(2).

¹⁰ *The Election Act, 1996*, section 16(1). Note that some British subjects (sec. 16(2)), some out-of-province students (sec. 18(12)) and some Canadian Forces members (sec. 18.1(4)) who do not meet the above criteria are also legally permitted to be registered and vote as Saskatchewan provincial voters.

¹¹ Elections Saskatchewan, *A Report on the Twenty-Eighth General Election, Volume 1, Statement of Votes*, January 23, 2017, pp. 8 and 309.

¹² *The Referendum and Plebiscite Act*, section 7(2).



and voting process, which are completely absent in *The Referendum and Plebiscite Act* and its supporting regulations. These missing policy components, which are required features in any new legal framework provisions, include:

Defining a clear process for ensuring a neutral and straightforward ballot question:

Studies have shown that the wording of a referendum question can have an important effect on voting outcomes, and this requires that a neutral review process is defined to ensure the ballot question is unbiased, easy to understand and unambiguous. In many jurisdictions the Election Management Body is provided oversight of the wording of a referendum question before it is finalized.¹³

Specifying the role of government and the provision of information:

Is the government allowed to campaign for the voting outcome it supports?¹⁴ Will government fund the dissemination of non-partisan information about the issue to voters? Is public funding to be made available to the “Yes” and “No” sides of the ballot question (possibly to “umbrella groups”) so that a public case is put forward on both sides of an issue? These questions must be provided clear and precise answers within the legal framework of a democratic referendum.

Establishing “level playing field” campaign advertising regulations:

Referendum advertising sponsors and proponent and opponent groups involved in campaigning for a specific voting result should each be required to be registered and make clear disclosures about their identity as part of their advertising or campaigning messages. Studies have shown that what voters are led to believe through advertising has a far greater influence on voting choices than dispassionate facts contained in official reports. While it may be impossible to regulate “truth” in political advertising it remains entirely possible to ensure accountability for advertising messages. Referendum advertisers and all proponent/opponent campaign groups should be required to register with the Chief Electoral Officer, and referendum advertising messages should be required to identify the name of the registered sponsor who placed the ad. Penalties and enforcement mechanisms should be established for non-compliant advertising.

Creating appropriate spending limits, contribution rules and public financial disclosure requirements:

Advertising sponsors and proponent/opponent groups campaigning for voting support and a particular ballot question voting outcome should each be required to be publicly transparent about their funding sources and expenditures. Rules should exist on how much campaigners and advertisers can spend during a referendum campaign and from where they are permitted to receive their funding. Contributors should be limited in the maximum contribution they can make to all combined referendum campaign groups or referendum advertisers, and their contributions should be publicly disclosed by the recipient campaign group or advertiser via required regular financial disclosure filings to the Chief Electoral Officer, which should be web-published on receipt.

Ensuring mechanisms exist to assure integrity of the voting and ballot counting processes:

Interested parties should be provided the opportunity to have observers and agents present during key processes in the administration of a ballot question vote. Referendum campaigners need to be assured that referendum administration is transparent, as this establishes trust and confidence in both the democratic voting process and the voting result outcomes. Access mechanisms should be defined in the referendum legal framework that clearly set out the ability for representatives of the different campaigns to observe key activities such as ballot envelope processing, vote counting, and results tabulation.

Providing clarity regarding the Chief Electoral Officer's reporting responsibilities:

The legal framework must specify how results are to be reported following the completion of a ballot question vote. Clarity must exist about how interim and final referendum voting results are to be tabulated, and the time frames for doing so. The rules must be clear about the whether the results are to be formally reported on a province-wide basis or on a constituency-by-constituency basis. Further, there needs to be clear guidance about whether the Chief Electoral Officer is required to report on the administration of the referendum, the costs associated with its delivery, and recommendations for amending the legal framework of referendums as part of formal reporting to the Legislative Assembly made following each ballot question vote.

FOUR OPTIONS FOR REFERENDUM VOTING ARRANGEMENTS

¹³ See the UK Electoral Commission's published *Referendum question assessment guidelines*, established in November 2009. These are available online at: <https://www.electoralcommission.org.uk/media/1303>.

¹⁴ The role of government in a referendum campaign is an important one to define. In 'best practice' cases around the globe, governments are not permitted to campaign for the referendum outcome they support. While it is expected that government should fund a neutral source of information, this can be supplemented by providing public funding to 'umbrella' proponent and opponent groups to ensure both sides of the debate on a referendum question are given adequate publicity. Such an approach was used in British Columbia's 2018 electoral reform referendum.



3.0 Four Options for Referendum Voting Arrangements

In the 28 years since Saskatchewan held its last provincial plebiscite 20 ballot question votes have been held across Canada,¹⁵ providing a broad range of examples on which to draw.

Almost none of the more recent ballot question events that have been conducted on a standalone basis have employed in-person voting methods that parallel those used in a general election. Innovations with telephone voting, internet voting, postal voting and special ballot provisions have been introduced in recent provincial standalone referendums. New methods for introducing referendum second ballot procedures and campaign rules during general elections have also been applied in some of the ballot question votes held in different provinces. British Columbia, Prince Edward Island and Ontario have been the leaders regarding modernization of referendum procedures in Canada.

Four general options have been shown to be viable for successfully conducting a referendum, although the details within each approach can vary significantly.

3.1 OPTION 1. REFERENDUM HELD IN CONJUNCTION WITH A PROVINCIAL ELECTION, VOTING IN-PERSON:

This type of ballot question vote was used in Saskatchewan's last ballot question vote held in 1991. During a provincial general election, voters are provided with a second ballot (in addition to the one used in voting for their Member of the Legislative Assembly) which is then deposited into a second ballot box and counted at the close of the voting period.

Administratively, this is a straightforward and low-cost method from a delivery perspective. Further, the bulk of logistical work required for the vote to take place is already being completed for the purpose of completing a general election (e.g., renting polling locations, hiring and training polling officials, etc.). It is also easy for voters to understand the concept of a second ballot asking a question on a public policy issue. In general, voter turnout will tend to reflect what is seen during the general election as the voter does not need to perform any extra steps or attend a separate polling location in order to vote in the referendum. With ballots being counted on election

day following the 8:00 PM conclusion of voting, referendum voting results are calculated quickly and interim results are usually made public on Voting Day.

While it is not possible to contain all costs associated with adding a referendum to take place alongside a general election, the additional costs are significantly less than those experienced with some other options. The differential includes costs related to the printing of a second set of ballots, additional staffing expenditures related to the extra training and administration associated with the second vote taking place, and public education costs related to the referendum vote. Depending on the role government assigns to an election management body, the public education costs can increase dramatically if the election management body is required to provide neutral information to all voters about both sides of the referendum topic in addition to providing standard voting process information.

Referendum Held in Conjunction with General Election	
PROS	CONS
Low cost	Distracts from election campaign
Easy for voters to understand	Draws parties/candidates into referendum issues
Voting results calculated quickly	May reduce overall voter turnout

While highly cost-effective, holding a referendum at the time of a general election can be seen as problematic from other perspectives. The referendum debate can become a major distraction from the election campaign or vice versa. Candidates and political parties can find themselves drawn into the referendum debate even though they would prefer that voters focus on other policy platform issues. Some political participants complain that requiring voters to choose their elected representative is far more important than expressing an opinion on a referendum question, and that voter attention spans suffer when the two types of voting are combined — some critics have demonstrated that combined election/referendum votes serve to dilute levels of citizen election engagement and reduce overall voting participation.

3.2 OPTION 2. REFERENDUM HELD AT A TIME BETWEEN GENERAL ELECTIONS, VOTING IN-PERSON:

In conducting this type of referendum, all of the voting arrangements essentially mirror what takes place for a general election, minus the presence and interactions of candidates or registered political parties. The 1992 National Referendum on the Charlottetown Accord was the most recent ballot question vote that presented this type of voting approach to Saskatchewan voters.

Administratively, this method of conducting a referendum is extremely challenging and is the most complex and costly option available. Elections Saskatchewan would be required to engage its Field Leadership Team in all 61 constituencies across the province to carry out preparations for the administration of a referendum vote, without necessarily knowing the exact timing of the event. This effort would involve securing temporary office space in every constituency, finding polling locations to hold the vote, and recruiting, hiring, and training more than 12,000 polling officials. Until voting dates are set, a great deal of “churn” must occur in trying to maintain the availability of locations and voting officers — and, of course, all of this will cost a great deal of money when it needs to be repeated in 61 constituencies. If a provincial referendum were to be run in the same manner as a general election the significant public cost of holding the referendum could easily become a subject of intense criticism.

Costs should be expected to closely resemble those of provincial general election, with the exception of the reimbursements provided to candidates and registered political parties. Using the 2016 provincial election costs as a reference, this translates to an expenditure of not less than \$20 million without considering inflationary changes, increased rental rates, and voting population increases. Furthermore, it should be expected that low voter turnout in comparison to a general election will increase the cost per vote.

Referendum Between General Elections, Voting In-Person	
PROS	CONS
Familiar process for voters	Most complex and costly method available
Voting procedures are well-established	Public cost of holding the referendum could become subject to intense criticism
“Gravitas” – underscores the importance of the vote choice	Low voter turnout in comparison to a general election will increase the cost per vote

Those who defend this approach make a valid point that this method is the easiest for voters to understand and engage with — being almost identical to voting in a general election it is a familiar process for voters, except the ballot has a question to be answered instead of a candidate to be chosen. It can also be said that voting procedures are well-established, and the minor differences compared to an election voting process are easily understood by the election officers who would need to be employed to administer the vote at the local polling location level within each constituency. Finally, there is an argument made that in-person voting — accompanied with established voting safeguards and the level of community engagement that is associated with the public act of casting a vote — lends a certain gravitas to the entire referendum process and demonstrates to all involved that the question being asked of voters is important and deserving of the same formality that is used to select legislative representatives.

3.3 OPTION 3. REFERENDUM ADMINISTERED USING A POSTAL VOTE:

This option would be new to Saskatchewan but has been successfully used in other Canadian jurisdictions. The most recent instance was British Columbia's 2018 referendum on electoral reform.¹⁶ The method has been widely endorsed by leading election administrators in developed democracies around the globe as it provides a secure, auditable voting process with proven integrity.¹⁷

¹⁵ See Appendix D of this publication for information on the 20 ballot question votes that have been administered in Canada since Saskatchewan's triple-question plebiscite vote held in conjunction with the 1991 provincial general election.

¹⁶ To view an informative infographic Elections BC prepared to describe the ‘lifecycle’ of a 2018 referendum postal ballot go to: <https://elections.bc.ca/docs/referendum/2018-Referendum-Ballot-Lifecycle.pdf>.
¹⁷ In addition to Canadian postal voting experience, there are also related administrative lessons to be learned from election administrators south of the 49th Parallel. In the 2016 US Presidential election approximately 25 percent of all votes (33 million) were cast via mailed-out ballots. Also, postal voting has become mandatory in some US States over the past two decades and more states are reported to be moving in that direction. In 1998 voters in Oregon passed an initiative requiring all elections in the state to be conducted by mail. In 2011, the Washington legislature passed a law requiring all of its counties to conduct vote-by-mail elections. As of 2013, all of Colorado's registered voters receive a vote-by-mail ballot automatically for each county, state and national election.



It should be noted that this option depends on the existence of a Register of Voters, which was introduced into Saskatchewan's legal framework in 2014. The issuance of postal voting packages to registered voters in a standalone referendum would leverage the continuously maintained provincial voter registry in a manner that has not been previously contemplated.

While many details would need to be considered more carefully, the general approach would be for every registered voter in the province to receive a ballot package in the mail, along with clear instructions on how to go about casting and submitting their vote. The package would include a deadline date for each voter to return their postal ballot to Elections Saskatchewan. An advertising campaign, concurrent with the mass ballot package mailout, would encourage any eligible voter not receiving a package to register or update their registration, either by phone or online. The timelines of the overall "voting period" would need to be long enough to allow voters who did not receive a ballot package in the initial mail-out to still have sufficient time to register or update their registration, and then receive and mail back their completed ballot in the provided pre-paid postage envelope.

Referendum Using Postal Voting	
PROS	CONS
Considerably reduced costs compared to in-person voting	Requires a new centralized administrative structure to be developed
Leverages the continuously maintained provincial voter registry	Requires a lengthy campaign period to allow voters time to send in their ballots by mail
Provides secure, auditable voting process with proven integrity	Voting results not ready until 10 days after voting ends

In terms of administering a postal vote, the entire process could be managed centrally at the head office level. Clearly, this would require a new centralized administrative structure to be developed. While this type of vote has been conducted elsewhere in Canada, Elections Saskatchewan would need to conduct further research to determine how to most efficiently manage such a process, considering

options such as the use of automated envelope sorters and openers, scanning tabulators for vote counting and interactive digital monitoring of mail volumes with Canada Post. In addition, plans would need to accurately determine the amount of space required for processing mailed ballots as well as establish the precise skills required and numbers of additional temporary personnel who would need to be hired or contracted to supplement the Elections Saskatchewan head office team. Postage, in both directions, would obviously be a significant expense. A comprehensive public communications campaign would be required to describe the referendum voting process and, depending on how government wished to provide referendum information to the electorate, it is possible that Elections Saskatchewan would also need to neutrally inform and educate voters about the arguments on both sides of the referendum question being asked.

While it is difficult to predict exact costs related to administering a postal vote, experience elsewhere indicates that it would be substantially less than half the cost of a standalone, in-person referendum vote held on province-wide basis. Estimates that Elections Saskatchewan prepared in 2016, when the prospect of a referendum on the sale of SaskTel was being considered, provided a cost projection of \$4 million for the preparation and administration of a postal vote referendum.

The other significant finding was that a minimum of 164 days would be required, following the creation of a legislative framework to permit postal voting, before referendum voting results would be available. Postal voting requires a lengthy campaign period to allow voters time to send in their ballots by mail — for the 2016 estimate the "postal voting period" was proposed to be 60 days in length, with central vote counting expected to require 10 days to complete following the voting period.

3.4 OPTION 4. REFERENDUM ADMINISTERED USING INTERNET AND/OR TELEPHONE ELECTRONIC VOTING:

Again, this option would be new to Saskatchewan but there is precedent for electronic voting being used successfully for a ballot question vote in another Canadian province.

Prince Edward Island's 2016 plebiscite on electoral reform featured both internet and telephone voting taking place over a 10-day period. The choice between two types of electronic voting was supplemented with two days of in-person voting being made available, and additionally saw the voting franchise being extended to 16 and 17-year old Island citizens.¹⁸



To ensure voting integrity, the option of voting online or via a telephone requires that every registered voter be sent a letter containing a unique personal identification number (PIN) that they must use in order to cast their ballot using a telephone or via a web browser on a computing device. Administratively, this type of process could also be managed centrally but given the unique information technology and cyber security requirements of internet and telephone voting, a third-party service provider would need to be selected and contracted to support the voting process. Several Canadian firms provide this service and would be very willing to competitively tender bids for providing an electronic voting infrastructure for a Saskatchewan referendum.

Referendum Using Internet/Telephone Voting	
PROS	CONS
Lowest cost option available	Requires an electronic voting services vendor to provide required infrastructure
Potentially greater voting participation by young citizens who are both tech-savvy and interested in voting	Public confidence in the voting results extremely vulnerable if hacking or denial-of-service attacks are successful
Appears to be modern, innovative, service-oriented and accessible ("voting available 24 hours a day")	Voting participation potentially reduced within portion of electorate having low digital literacy

The PEI experience showed that voting via the internet was the most popular of the three options made available, that voters appreciated the increased level of voting accessibility and that young people who were already inclined to vote were highly enthusiastic about being able to vote using technology — "online instead of in line." Media coverage during the PEI plebiscite voting period was largely oriented to excited descriptions of how the province was making voting process modern, innovative, service-oriented and accessible ("voting available 24 hours a day").

However, despite the increased accessibility of the ballot,

overall voter turnout for the plebiscite was only 36.5 percent, marking the lowest participation rates that had been recorded in many decades of Island voting. Although PEI voters were provided two days of in-person voting during the 10 days that voting was made available electronically, there was some post-plebiscite speculation that participation in the vote was potentially reduced within the portion of the electorate that had low digital literacy.

As with Option 3 above, Saskatchewan does not have a history of conducting votes in such a manner and wide-ranging public communications campaign would be required. In addition, a pre-referendum voter registration drive would need to be conducted to ensure as many eligible voters as possible were mailed their PINs to their current address. However, because Saskatchewan already has a voter registry in place, electronic voting via internet and telephone provides the lowest cost option available for conducting a standalone provincial referendum. The largest single cost would likely be the postage charges related to sending each registered voter their PIN and voting instructions.

It should be noted that the referendum regulations that governed Prince Edward Island's 2016 ballot question vote required the Chief Electoral Officer to "cause an audit to be conducted to ensure the integrity of the alternative voting process". The alternative voting process was defined in the regulations as the telephone and internet electronic voting methods that were made available.¹⁹

To meet this requirement, PEI's Chief Electoral Officer commissioned an "Independent Technical Panel on Voting Integrity" (ITPVI) to assess, test and monitor all aspects of the electronic voting process used in the 2016 plebiscite and to prepare a comprehensive audit report, which was made public following the vote. The audit team's conclusion, in their report's final section regarding future considerations in applying electronic voting options, advised proceeding with "caution and prudence" before implementing electronic election voting by telephone and the internet.²⁰ It was acknowledged that public confidence in the voting results would be extremely vulnerable if hacking or denial-of-service attacks were successful in a public voting process. The audit team recommended that electronic voting technology be used only for absentee voters in the foreseeable future and that Canadian election administrators be proactive in managing public expectations as to the challenges associated with the security and integrity of electronic voting systems.

¹⁸ A comprehensive description of the PEI Plebiscite on Democratic Renewal is available starting on page 23 of the 2016 Annual Report of the Chief Electoral Officer. This document is available online at: <https://www.electionspei.ca/resources/ceo-election-reports>.

¹⁹ Prince Edward Island Plebiscites Act, Chapter P-10, *Provincial Electoral System Plebiscite Regulation*, sections 1 (Definitions) and 12(Audit). Available online at: <https://www.princeedwardisland.ca/sites/default/files/legislation/P-10-Plebiscites%20Act.pdf>.

²⁰ Independent Technical Panel on Voting Integrity, *Voting Integrity Audit Report*, November 30, 2016, p. 25. Published as an Appendix (Section 3) to the 2016 Annual Report of the Chief Electoral Officer for Prince Edward Island.

RECOMMENDATIONS

4.0 Recommendations

This CEO Assessment has identified four viable options for conducting a referendum in Saskatchewan:

Option 1	Referendum Held in Conjunction with General Election
Option 2	Referendum Between General Elections, Voting In-Person
Option 3	Referendum Using Postal Voting
Option 4	Referendum Using Internet/Telephone Voting

Adopting any of these options would require both legislative and regulatory change. Upon establishing a new legal framework, significant planning and operational preparations would need to be undertaken by Elections Saskatchewan before any referendum campaign could begin. The importance of adequate planning and preparation cannot be overemphasized, particularly with respect to any referendum that is required to take place at a point somewhere within the four years between provincial general elections.

4.1 RECOMMENDED OPTIONS

It is the recommendation of the Chief Electoral Officer that the province implement a legal framework that provides for two approaches for conducting referendum votes, permitting the selection of the option to be used to be in accordance with the required timing of the vote. These two recommended options are:

Recommended options for conducting referendum votes

Option 1	Referendum Held in Conjunction with General Election	Should be used whenever the timing of a referendum can be linked to the timing of a general election
Option 3	Referendum Using Postal Voting	Should be used when a referendum is required to be held between general elections

While Option 1, an in-person referendum vote held in conjunction with a general election, is unquestionably a suitable and highly cost-effective administration option in an election year, this method becomes entirely unavailable during the four-year period between scheduled elections. It is simply unrealistic to assume that a referendum will never be required between scheduled general elections. It is for this reason that another viable option should be made available. For the conduct of a provincial referendum that is required to be held in the period between provincial elections, Option 3, a postal voting arrangement, is considered to offer the best path forward. A postal vote referendum is a proven, reliable and cost-effective approach that can be efficiently applied to be used in Saskatchewan. It affords wide accessibility to participating voters, has a proven record of facilitating the integrity of such a vote, and allows flexibility with respect to implementation at any time within an electoral cycle.

Option 2, a referendum held at a time between general elections, using an in-person vote, has been historically regarded as the only practical approach to holding a ballot question vote between general elections. However, it has evolved to become the most costly and complex referendum voting arrangement that is currently available. These reasons lead to a strong recommendation against any continuation of this option within the province’s electoral legal framework.

Option 4, a referendum administered using internet and/or telephone electronic voting, holds promise as a potential future “best option”, but currently carries substantial risks. These risks could result in long-term damage to the public’s current level of trust in the integrity of the provincial voting process. If the results of a provincial referendum were to be hacked, or if voters were unable to cast their electronic ballot as a result of a denial-of-service attack, or if some other significant electronic or communication systems failure should occur during the voting process, the damage to the reputation of Elections Saskatchewan and the loss of public confidence in its administration would be disastrous. Election management bodies around the world are monitoring developments in electronic voting and many eagerly await the arrival of a high-integrity full-security solution. However, that solution still appears to be some years away and it is for this reason that electronic voting has not been endorsed as a selected voting method by any jurisdiction in Canada with a voting population or geographic breadth approaching Saskatchewan’s size.





4.2 RECOMMENDED LEGISLATIVE AND REGULATORY CHANGES

It is the recommendation of the Chief Electoral Officer that the current problematic legal framework for provincial ballot question votes be addressed with a three-step process:

Recommended steps to alter Legislation and Regulations

Step 1	Repeal <i>The Referendum and Plebiscite Act</i> and <i>The Referendum and Plebiscite Regulations</i> ;
Step 2	Amend <i>The Election Act, 1996</i> by introducing a new “Referendum” section; and
Step 3	Develop and make public two template referendum regulations — one for a referendum held in conjunction with a general election, and another for a referendum vote held in the period between provincial elections.

The **first step** requires both *The Referendum and Plebiscite Act* and *The Referendum and Plebiscite Regulations* to be repealed. As discussed among the criticisms and the missing features listed in sections 2.3 and 2.4 above, both the statute and regulations are significantly out-of-date and no longer provide an accurate or adequate basis for either planning or conducting a ballot question vote in Saskatchewan.

The **second step** involves amending *The Election Act, 1996* in a manner that is proposed below to ensure all future referendums are administered in a manner that is fully consistent with the province’s primary electoral law while guaranteeing the enabling legislation for ballot question votes is prevented from drifting out of alignment, as has been the case with *The Referendum and Plebiscite Act*.

The provision of allowing citizens to force a non-binding ballot question vote by collecting the names, addresses and signatures of 15 percent of eligible electors in a petition to hold the vote is not proposed for reintroduction — this feature has never been used during the 28-year period it has been available.

Furthermore, it is proposed that any requirement for a referendum would only be brought about via an order from the Lieutenant Governor in Council.

The Chief Electoral Officer proposes that legislators consider adding the following new section 30 to *The Election Act, 1996* under a PART III major heading bearing the title REFERENDUMS:

30 Referendums on matters of public concern

(1) The Lieutenant Governor in Council may by order give directions to the chief electoral officer for the holding of a general referendum of electors when it appears expedient to the Lieutenant Governor in Council that an expression of opinion about the desirability of

a) amending existing legislation, or

b) introducing new legislation,

relative to any subject-matter should be obtained from the electors.

(2) The opinion of electors shall be asked in the form of a clear and unambiguous question which shall be submitted to the legislative assembly for approval. For the purposes of a referendum under subsection (1), the Lieutenant Governor in Council may make regulations governing the procedure for the referendum and the conditions, if any, that would make the referendum voting results legally binding.

(3) To the extent that administrative procedures for a referendum are not established under subsection (2), the referendum is to also be conducted in accordance with the regulations of the chief electoral officer.

It should be noted that the term “plebiscite” is not included in the above proposed legislative language. This assessment document has used the term “ballot question votes” to refer to both referendums and plebiscites, regardless of whether their voting results are to be considered legally binding or advisory in nature.



In the Chief Electoral Officer’s opinion, it would be preferable that any future provincial ballot question vote in Saskatchewan simply be referred to as a “referendum.” Regulations can make clear whether the voting results of a particular referendum are to be considered legally binding or not and whether a “supermajority” voting result or voter turnout threshold is required to achieve that binding result.

The **third step** recommended for modernizing the legal framework of ballot question votes in Saskatchewan involves the development of two different template referendum regulations. Ideally, these would be made public at the exact same time as the previous two stages of legislative framework change are introduced.

One regulation would fully detail how a referendum would be conducted if it were to be held in conjunction with a general election; the second would separately detail the regulated procedures that would apply for the

“postal voting” methodology that would be used in a standalone referendum.

It is recognized that each referendum will have a different context, and that the template generalized regulations that are associated with the timing of a referendum (either combined with a general election or standalone) will need to be amended to fit the unique requirements of each ballot question vote.

As noted above, the question of whether referendum results should be legally binding, or if certain voting support or participation thresholds need to be achieved in order to consider them binding, would need to be explicitly defined in the specific regulatory amendments (modifying the template) developed for each referendum. The same holds true for whether “yes” and “no” groups should be publicly funded to ensure both sides of the referendum debate are communicated to the citizens being asked to make a deliberative and informed public policy decision.

The regulatory content in both templates should address the following areas:

- **Role of Government:** Regulations should specify the role of government with regards to the referendum process and result;
 - **Provision of information:** Regulations should make clear who will provide information to citizens about the referendum and the issues surrounding the referendum question and how this public education will be funded;
 - **Campaign regulations that level the playing field:** Regulations should establish level playing field campaign rules that ensure all referendum advertising sponsors and proponent and opponent groups involved in campaigning for a specific voting result are appropriately registered and are required to make disclosures about their identity as part of their advertising or campaigning messages;
 - **Spending and disclosure rules:** Regulations should apply appropriate spending limits, contribution rules and public financial disclosure requirements for proponent and opponent groups and advertisers campaigning for a specific voting result;
- **Integrity of voting and counting:** Regulations should ensure mechanisms exist that will assure integrity of the voting process and ballot counting for interested parties, including allowances for the presence of observers and agents during key processes;
 - **Reporting responsibilities of the Chief Electoral Officer:** Regulations should provide clarity regarding the Chief Electoral Officer’s reporting responsibilities following the completion of a ballot question vote, starting with the structure of voting results (province-wide vs. constituency), reporting on administrative costs and providing recommendations for statute or regulatory amendments in advance of future referendums.

CONCLUSION

5.0 Conclusion

A new legal framework, which defines a modern and flexible approach to address the ongoing possibility of a need to conduct a provincial referendum, is urgently required for Saskatchewan.

In summary, Saskatchewan’s current legislation and regulations setting out the legal framework of ballot question votes has five major shortcomings:

- The Act and its Regulations do not reflect current electoral procedures and lack overall coherence;
- Majority support for a referendum is inappropriately defined as 60 percent voting support;
- A minimum of 50 percent participation of all eligible voters is unrealistic;
- Rules that provide the ability for citizens to petition for a non-binding plebiscite vote are too onerous;
- Plebiscite votes in Saskatchewan have been legally defined as a very expensive alternative to a public opinion poll.

Furthermore, there are required features completely absent in the existing framework that need to be addressed in new arrangements, including:

- Defining a clear process for ensuring a neutral and straightforward ballot question;
- Specifying the role of government and the provision of information;
- Establishing level playing field campaign advertising regulations;
- Creating appropriate spending limits, contribution rules and public financial disclosure requirements;
- Ensuring mechanisms exist to assure the integrity of voting and ballot counting processes; and
- Providing clarity regarding the Chief Electoral Officer’s reporting responsibilities.

Following an evaluation of the 20 ballot question votes that have taken place in Canada since Saskatchewan’s legislative framework for holding a referendum was last used in 1991, four options were identified for the conduct of a referendum in the province, including:

Option 1	Referendum Held in Conjunction with General Election
Option 2	Referendum Between General Elections, Voting In-Person
Option 3	Referendum Using Postal Voting
Option 4	Referendum Using Internet/Telephone Voting

Based on this assessment, the Chief Electoral Officer recommends that Option 1 be used whenever the timing of a referendum can be linked to the timing of a provincial general election. Option 3 is recommended for any referendum that is required to be held during the four-year period between general elections.

Modifying the legislative framework to employ this combination of timing-dependent approaches will permit a provincial referendum to be conducted in a cost-effective, high integrity, and voter accessible manner no matter when the ballot question vote is required.

An appropriate legal foundation for addressing the current legal framework’s shortcomings and missing features, as well as formalizing the use of two different referendum methods that are dependent on the vote timing, can all be efficiently introduced using a three-step process:

Step 1	Repeal <i>The Referendum and Plebiscite Act</i> and <i>The Referendum and Plebiscite Regulations</i> .
Step 2	Introduce a new recommended “Referendum” section into <i>The Election Act, 1996</i>
Step 3	Develop and make public two template referendum regulations — one for a referendum held in conjunction with a general election, and another for a referendum vote held in the period between provincial elections

Each referendum should be expected to be unique and quite different from the one that precedes or follows it — many years or even decades may go by without any requirement to hold a referendum vote. The legal framework recommended in this assessment provides the flexibility to accommodate this reality while permitting Elections Saskatchewan to appropriately prepare for any potential referendum that may appear on the planning horizon.



APPENDICES



Appendix A – History of Provincial Referendum and Plebiscite Votes in Saskatchewan

For nearly three decades successive provincial governments in Saskatchewan have resisted making use of referendum or plebiscite mechanisms in deciding public policies. No provincial ballot question vote has occurred since a triple-question plebiscite vote was held at the time of the 1991 general election.

Since the creation of the province in 1905, provincial electors have been asked to vote directly on specific issues or legislative enactments a total of seven times. Referendum votes were generally considered binding; plebiscite votes were usually regarded as advisory. The following table shows, in reverse chronological order, the years in which they occurred and topics to which they pertained:

Year	Public Policy Topic
1991	Three plebiscite questions: 1. Should the Government of Saskatchewan be required to introduce balanced budget legislation? 2. Should the people of Saskatchewan approve, by referendum or plebiscite, any proposed changes to the Canadian Constitution? 3. Should the procedures for abortions legally performed in Saskatchewan hospitals be paid for by the Government of Saskatchewan?
1956	Plebiscite question on the choice of local time zones (CST, MST or DST)
1934	Plebiscite question on whether beer parlors should be permitted by law on a local option basis
1924	Plebiscite question on the establishment of public liquor and beer stores controlled by a liquor board
1920	Plebiscite question under the <i>Canada Temperance Act</i> asking whether the province should be permitted to formulate its own legislation regarding alcohol consumption
1916	Referendum question on whether hotels should be licenced to sell liquor and government liquor outlets should continue to exist
1913	Referendum question on whether the <i>Direct Legislation Act</i> should be adopted

Although province-wide in nature, the plebiscite in 1956 and the referendum in 1916 were both held in conjunction with municipal elections. The 1920 plebiscite was administered as part of the national election and was in response to Saskatchewan's Legislature having made a formal request that the federal government include the plebiscite question for provincial voters under the provisions of the *Canada Temperance Act*.



Appendix B – Legal Features of Ballot Question Votes in Canada

All Canadian jurisdictions — federal, provincial and territorial — have legislation that allows referendums or plebiscites to be held on a variety of issues.²¹ Together, these jurisdictions have held more than 60 ballot question votes since Confederation. Most have separate legislation for referendums or plebiscites, although these statutes invariably refer to the legislation governing the conduct of elections when describing voting administration. Some allow ballot questions to be introduced alongside candidate ballots at a general election, while others prohibit this (e.g., Canada, Quebec) on the basis that it distracts from either the election or the referendum/plebiscite. Some jurisdictions have held standalone ballot question votes that were conducted much like a general election (e.g., Canada, Quebec), while others have made use of postal voting (e.g., British Columbia) or a combination of internet, telephone and in-person voting (e.g., Prince Edward Island).

Numerous jurisdictions, including Newfoundland and Labrador, New Brunswick, Alberta, British Columbia and the Northwest Territories, have enacted provisions directly in their election legislation regarding the initiation and conduct of referendums or plebiscites. The Chief Electoral Officers of Canada and Quebec are required to set out referendum²² voting and administration rules in regulations they are responsible to create through the adaptation of their respective election legislation.

In each jurisdiction, the election management body (often referenced in statutes as the “Office of the Chief Electoral Officer”) is responsible to administer all ballot question votes held within that jurisdiction. In Nova Scotia, Elections Nova Scotia conducts plebiscites under the *Liquor Control Act* to authorize the sale of liquor in the plebiscite area on behalf of the Nova Scotia Liquor Corporation. In Nunavut, plebiscites related to liquor licensing or liquor prohibition are conducted under the *Liquor Act* by Elections Nunavut, through an administrative arrangement.

In most cases, referendums or plebiscites can be held on any issue deemed to be of public concern. However, several jurisdictions specify the precise subject matter for which a ballot question vote must or may be held. Federally, a referendum may be held only on constitutional issues,

including provincial secession questions, while citizens in Nova Scotia may vote directly only on the sale of liquor, and in Manitoba citizens are permitted direct votes only to authorize the government to privatize Manitoba Hydro or Manitoba Public Insurance. In Ontario, a referendum may need to be held to authorize new taxes or an increase in the rate of taxation under certain statutes. In all other jurisdictions, a referendum or plebiscite may be held on any issue.

In Saskatchewan, current laws state that a referendum or plebiscite may be held on any issue, and that a public vote may be held in specific geographic areas to determine the standard time to be used in that area (called a time option vote)²³. In Alberta and British Columbia, a plebiscite may be held on any matter of public concern, but a referendum must be held before the respective governments may proceed with an amendment to the Constitution of Canada. In Alberta, public approval via referendum is required to introduce a provincial sales tax scheme.²⁴ Similarly, the government of Yukon may only initiate an increase in the rate of income taxation after conducting a referendum, but it may hold a plebiscite on any issue. Yukon must also hold a referendum before introducing a new tax or increasing the fuel and oil tax.

Most referendums or plebiscites are proclaimed by the Lieutenant Governor in Council, Territorial Commissioner or a Commissioner in Executive Council, as the jurisdiction may require. However, in Nova Scotia, plebiscites are held when the Chief Electoral Officer is satisfied that the request for a vote has been made in accordance with the *Liquor Control Act*. In Nunavut, plebiscites may be initiated by any of six plebiscite authorities or a plebiscite may be requested through a public petition. Saskatchewan is the only other jurisdiction in which a plebiscite may be instigated by a petition, although the threshold requirement for obtaining signatures from 15 percent of the eligible electorate presents a formidable challenge. In Saskatchewan a plebiscite may be proclaimed by the Lieutenant Governor in Council, by the Legislative Assembly as a whole, or by the Minister of Justice should he or she receive a petition verified by the Chief Electoral Officer to have been signed by the requisite percentage of eligible voters in the province. A time option vote may also be initiated by a petition signed by one hundred persons residing in a time option area.²⁵

In most Canadian jurisdictions, the results of plebiscites are not binding and in five jurisdictions the results of referendums are not binding either. In other words, governments are not legally required to act on the results of most ballot question votes that are held in Canada. However, in Nova Scotia, the Nova Scotia Liquor Corporation must respect the outcome of a plebiscite, as must the governments of Ontario and Yukon for a referendum on an increase in the taxation rate. In New Brunswick, Alberta and British Columbia, only the results of a referendum are binding; the results of a plebiscite are not. In Nunavut, the results of a plebiscite are binding in certain circumstances. In most cases where a referendum or plebiscite is binding, the outcome must be endorsed by a simple majority of participating voters (50 percent + 1). However, a referendum is binding on the government of Saskatchewan only when more than 60 percent of electors vote in favour of a ballot option and only if more than 50 percent of all eligible electors (not only those who are registered) have cast ballots. Nevertheless, a Saskatchewan time option area vote is binding if endorsed by a simple majority of the voters who cast valid ballots.

Canada, New Brunswick, Ontario, Saskatchewan, Northwest Territories and Nunavut legally provide that the question presented in a referendum or a plebiscite must be clear and unambiguous. In Canada, New Brunswick, Quebec and Alberta, the ballot question is submitted to the legislative assembly for approval. In Manitoba and Yukon, the question is determined by the Lieutenant Governor in Council or the Commissioner in Executive Council. Ontario has the same provision, with the exception that the Chief Electoral Officer can make recommendations on the wording of the question. In Saskatchewan a binding referendum question is decided by the Lieutenant Governor in Council, but a non-binding plebiscite question must be approved by the legislative assembly.²⁶ In addition, for any provincial referendum concerning the secession of that province from Canada, the federal government must determine, under the *Clarity Act*, if the question presented in the referendum was clear and unambiguous before it can begin the process of secession negotiations with the province.

Referendum committees exist formally in legislation only in Quebec and at the federal level. In Quebec, members of the National Assembly must register their choice of option with the Chief Electoral Officer within five days of the adoption by the National Assembly of the question, thus forming the committees in favour of each option. If no members of the Assembly come forward, the Chief Electoral Officer may invite up to 20 electors to register to form

a committee. The Quebec National Assembly must give each referendum committee an equal subsidy for its referendum fund. All expenses related to the referendum must be paid out of this fund, and these expenses must not exceed one dollar per voter. Only individual contributions can be made to the fund, and no voter may contribute more than \$3,000.

Federally, there is no limit on the amount an individual or group may contribute to a referendum committee, and many committees may apply for registration with the Chief Electoral Officer. However, no committee is permitted to spend more than 30 cents times the number of names on the federal voters list in those areas where the committee has indicated it will be active. Individuals and groups may not spend an amount exceeding \$5,000 on referendum advertising. (The dollar figures indicated are inflation adjusted by a legislated formula.)

Nunavut legislation requires groups campaigning or advertising in favour of a plebiscite option to apply for registration with the Chief Electoral Officer if they wish to solicit or receive contributions. Contributions can be made only to a registered group, an up to a maximum of \$2,500; anonymous contributions over \$100 are not permitted.

British Columbia established special arrangements regarding the selection and public funding of official opponent and proponent groups in a referendum held in 2009, and the approach was repeated in BC's 2018 referendum on electoral reform. In accordance with the *Electoral Reform Referendum 2018 Act* and its regulations, the Chief Electoral Officer selected two groups — one to be the official proponent and another to be the official opponent group for the referendum. \$500K in public monies was distributed to each group to be used for their public information campaigns. Each group was also permitted to accept contributions from eligible individuals up to a value of \$1,200, but each official group was limited to a maximum of \$700K in overall referendum expenses. In addition, other referendum advertising sponsors were permitted to register, accept contributions from eligible individuals and conduct advertising promoting or opposing a referendum outcome within a spending limit of \$200K.

Ontario tax vote referendum legislation requires individuals and groups, that solicit votes or promote a referendum result, to register with the Chief Electoral Officer as campaign organizers. Contribution limits to all campaign organizers in favour of the same result is set at a maximum of \$7,500. Campaign organizers are not permitted to spend more than 60 cents per eligible voter in referendum campaigning activity.

²¹ See Appendix C of this document for a comparison table of legislated referendum and plebiscite features of the 14 jurisdictions that make up the Canadian federation. The contents of that table, as well as the comparative discussion in this Chapter, were valuably informed by Elections Canada's *Compendium of Election Administration in Canada: A Comparative Overview* publication of August 30, 2017. However, all statutes and regulations referenced have been carefully reviewed and the features described in this document reflect the updated content of legal frameworks as of August 2018.

²² Neither Canada nor Quebec make any statutory reference to “plebiscites” as a valid form of ballot question vote. As in the UK, referendums held by in Canada or Quebec are not defined as being legally binding.

²³ *The Time Act*, RSS 1978 Chapter T-14. Available online at: <http://publications.saskatchewan.ca/#/products/901>.

²⁴ *Alberta Taxpayer Protection Act*, Chapter A-36. Available online at: http://www.qp.alberta.ca/570.cfm?frm_isbn=0779700325&search_by=link.

²⁵ *The Time Act*, RSS 1978 Chapter T14, section 10.



²⁶ *The Referendum and Plebiscite Act*, section 3(2)(a) regarding a referendum question and section 6(2) regarding a plebiscite question.



Appendix C – Comparison Table — Ballot Question Votes in Canada

Jurisdiction	Legislation Applied or Adapted	Any Issue?	Specific Issue(s)?	Results Binding?	Question Requirements?	Spending / Contribution Restrictions?	Referendum Committees?
Canada	<i>Referendum Act; Clarity Act; Canada Elections Act</i>	No	Constitutional Question	No	Constitutional question to be answered yes or no — motion debated in the House of Commons and Senate must approve the question. Provincial secession referendum must be worded in a manner that avoids confusion as to objectives — question is studied in the House of Commons.	No limit on contributions by Canadian individuals and organizations. Spending limit for person/group = \$5K; for registered referendum committee = \$0.30 times number of names of registered voters. These limits adjusted by an inflation formula.	Referendum committees may apply for registration with Chief Electoral Officer; once registered may accept contributions and incur expenses. No limit on number of committees per side of referendum question.
Yukon	<i>Plebiscite Act; Elections Act; Taxpayer Protection Act; Liquor Act</i>	Yes	Increase in tax rate (referendum) Prohibition of liquor licences (plebiscite)	Referendum – Yes Plebiscite - No	Under <i>Taxpayer Protection Act</i> : Commissioner in Executive Council may determine the question or questions to be voted on in the referendum. Under <i>Liquor Act</i> : Commissioner in Executive Council may establish the question or questions to be voted on in the plebiscite.		
Northwest Territories	<i>Elections and Plebiscites Act</i>	Yes		No	Question or questions are set out in a plebiscite direction that must be recommended by the Legislative Assembly prior to being ordered by the Commissioner		
Nunavut	<i>Plebiscites Act, Nunavut Elections Act</i>	Yes		Yes – in specified circumstances	<i>Under Plebiscites Act</i> : Question must be clearly expressed in a way that is not misleading, equivocal or confusing to the voters. <i>Under Liquor Act</i> : Must reflect the content of the petition and may include other questions that the Minister considers desirable. Question must be reviewed and approved by the Chief Electoral Officer (CEO). If the CEO considers that a plebiscite question would contravene the clarity criteria, he or she shall advise the plebiscite authority on how the question could be revised. to comply with those criteria.	Contributions only by individuals, organizations and corporations from Nunavut. Contribution maximum - \$2,500. No anonymous contributions over \$100. Expenditures to be made by financial agent, or a person authorized in writing by a financial agent, of a registered group. No expense limits.	Registered groups may take contributions and make expenditures in a plebiscite campaign. Groups must be registered with the Chief Electoral Officer.



Appendix C – Comparison Table — Ballot Question Votes in Canada

Jurisdiction	Legislation Applied or Adapted	Any Issue?	Specific Issue(s)?	Results Binding?	Question Requirements?	Spending / Contribution Restrictions?	Referendum Committees?
British Columbia	<i>Referendum Act; Electoral Referendum 2018 Act; Electoral Referendum 2018 Regulation; Constitutional Amendment Approval Act; Election Act</i>	Yes	A referendum must be held regarding any proposed changes to Constitution of Canada	Referendum – Yes Plebiscite - No		<p>Under the <i>Electoral Referendum 2018 Act</i> official proponent and opponent groups are provided \$500K each for use in public information campaigns.</p> <p>Under the <i>Electoral Referendum 2018 Act</i> referendum advertising sponsors must limit spending to \$200K and limit contributions from any eligible individual to \$1,200.</p> <p>Official opponent and proponent groups may also accept contributions but are limited to \$700K in overall referendum expenses.</p>	<p>Under the <i>Electoral Referendum 2018 Act</i> official opponent and proponent groups (one of each) are selected and publicly funded.</p> <p>In addition, referendum advertising sponsors can become registered and conduct advertising that promotes or opposes a referendum outcome.</p>
Alberta	<i>Constitutional Referendum Act; Alberta Taxpayer Protection Act; Election Act</i>	Yes	A referendum must be held regarding any proposed changes to Constitution of Canada	Referendum – Yes Plebiscite - No	<p>Under <i>Constitutional Referendum Act</i> referendum question must be voted on by Legislative Assembly following motion from Executive Council.</p> <p>Under <i>Alberta Taxpayer Protection Act</i> referendum question (re: introduction of a provincial sales tax) must be voted on by Legislative Assembly following Executive Council motion.</p> <p>Under <i>Election Act</i> plebiscite question is specified by the Lieutenant Governor in Council.</p>	No limits, unless otherwise determined by the Lieutenant Governor in Council	
Saskatchewan	<i>Referendum and Plebiscite Act; The Referendum and Plebiscite Regulations; Time Act; The Election Act, 1996</i>	Yes	Plebiscite can result from a public petition, signed by 15% of eligible electors whose signatures are verified by the Chief Electoral Officer. Petition must include the question to be put to voters.	Referendum - Yes, if more than 60% of valid ballots vote the same way and at least 50% of eligible voters cast a ballot Plebiscite – No Time option vote - Yes (simple majority)	<p>Question presenting two options so to be worded that a voter may express an opinion on the question by a yes or no</p> <p>Question presenting more than two options must clearly state that the options are alternatives to each other</p> <p>Ballot questions for a “time option vote” are set out in the <i>Time Act</i></p>	Any referendum or plebiscite expenses are deemed to be election expenses if the referendum or plebiscite period overlaps with an election	



Appendix C – Comparison Table — Ballot Question Votes in Canada

Jurisdiction	Legislation Applied or Adapted	Any Issue?	Specific Issue(s)?	Results Binding?	Question Requirements?	Spending / Contribution Restrictions?	Referendum Committees?
Manitoba	<i>The Elections Act; The Manitoba Hydro Act; The Manitoba Public Insurance Corporation Act</i>	No	Privatization of Manitoba Hydro or Manitoba Public Insurance	Yes - if privatization is majority approved in a referendum	Question determined by order of the Lieutenant Governor in Council	No limits, unless otherwise determined by the Lieutenant Governor in Council via regulation	
Ontario	<i>Election Act; Election Finances Act; Taxpayer Protection Act, 1999</i>	No	Unannounced new taxes or increased tax rates in specified tax statutes	Tax vote referendum - Yes	Tax vote referendum question must be clear, concise and impartial in its wording. Question may refer to a new or proposed tax increase and must be answerable yes or no. Chief Electoral Officer shall review question. Question approved by Lieutenant Governor in Council	Under the <i>Taxpayer Protection Act, 1999</i> : Contributions limited to \$7,500 total per person or entity to registered campaign organizers favouring same result; campaign organizers' spending not to exceed \$0.60 (indexed) per eligible voter in constituency	Individuals and groups soliciting votes or promoting a referendum result must register with the Chief Electoral Officer.
Quebec	<i>Referendum Act</i>	Yes	A bill of the National Assembly	No	Question shall be debated in the National Assembly and adopted by a motion	Government pays subsidy (the same amount for each national committee) into an official agent referendum fund Official representative of a political party may give or loan no more than \$0.50 per elector to official agent referendum fund Individuals may contribute no more than \$3,000 to each national committee in a same referendum	National committees must be established and equally supported with public funding.
New Brunswick	<i>Referendum Act; Elections Act; Municipal Elections Act</i>	Yes		Referendum - Yes, if more than 50% of valid ballots vote the same way and at least 50% of eligible voters cast a ballot Plebiscite - No	Referendum question to be answered by a yes or no. Question laid before a committee of the Legislative Assembly, which consults and then prepares a report concerning the wording of the question, including suggested amendments to the wording. Question is then adopted by a motion in the Legislative Assembly.	Referendum advertiser may only accept advertising contributions from individual ordinary residents in the province, corporations, trade unions or societies having their head office or doing business in the province	



Appendix C – Comparison Table — Ballot Question Votes in Canada

Jurisdiction	Legislation Applied or Adapted	Any Issue?	Specific Issue(s)?	Results Binding?	Question Requirements?	Spending / Contribution Restrictions?	Referendum Committees?
Nova Scotia	<i>Liquor Control Act, Liquor Plebiscite Regulations; Elections Act</i>	No	Re operation of store for sale of liquor or the licensing of a premise. Required if Chief Electoral Officer receives a resolution of a municipal council or a petition signed by 20% of the electors within a licensing area	Yes	Legislation stipulates that liquor plebiscites have the following ballot wording: Are you in favour of the sale of liquor in your municipality in accordance with the <i>Liquor Control Act</i> ?		
Prince Edward Island	<i>Plebiscites Act; Election Act; Election Expenses Act</i>	Yes		No		As adapted from the <i>Election Expenses Act</i>	
Newfoundland & Labrador	<i>Elections Act, 1991</i>	Yes		No		Campaign finance rules apply to political parties, persons and groups of persons, as adapted from the <i>Elections Act, 1991</i> .	



Appendix D – Federal, Provincial and Territorial Ballot Question Votes
Held in Canada since 1990

Year	Jurisdiction – Public Policy Topic
2019	Prince Edward Island - Electoral System Referendum
2018	British Columbia – Referendum on Electoral Reform
2016	Prince Edward Island – Plebiscite on Democratic Renewal
2016	Nunavut – Municipal Lands Plebiscite
2011	British Columbia – Harmonized Sales Tax Referendum
2009	British Columbia – Referendum on Electoral Reform
2007	Ontario – Referendum on Electoral System Reform
2005	Prince Edward Island – Plebiscite on Electoral Reform
2005	British Columbia – Referendum on Electoral Reform
2004	Nova Scotia – Plebiscite on Sunday Shopping
2002	British Columbia – Treaty Negotiations Referendum
2001	New Brunswick – Plebiscite on Video Lottery Terminals
1997	Nunavut – Public Vote on Gender Parity in First Legislative Assembly
1997	Newfoundland & Labrador – Referendum on Education Reform



Year	Jurisdiction – Public Policy Topic
1995	Quebec – Referendum on Sovereignty
1995	Newfoundland & Labrador – Referendum on Term 17 (Denominational Schools)
1995	Nunavut – Municipal Lands Referendum
1992	Northwest Territories – Plebiscite on Proposed Boundary for Division of Nunavut
1992	Canada – National Referendum on the Charlottetown Accord
1991	British Columbia – Referendum on two topics: 1) whether voters should have the right to recall their legislators and 2) whether voters should have the right to propose legislative initiatives
1991	Saskatchewan – Plebiscite on Three Questions: 1) balanced budget requirement, 2) public votes on constitutional change, and 3) public monies supporting abortion procedures



Appendix E – Bibliography of Information Resources regarding Ballot Question Votes

ACE Project: The Electoral Knowledge Network. *Direct Democracy: Referendums*. Web encyclopedia entry at: <https://aceproject.org/ace-en/focus/direct-democracy/default>

ACE Project: The Electoral Knowledge Network. *Electoral Systems, Institutional Framework & Governance: Design and Political Issue of Referendums*. Web encyclopedia entry at: <https://aceproject.org/ace-en/topics/es/ese/ese08/ese08a/ese08a02>

Boyer, J. Patrick. *Direct Democracy in Canada: The History and Future of Referendums*. Dundrun Press Limited, 1992.

Dunsmuir, Mollie. *Referendums: The Canadian Experience in an International Context*, January 1992. Available online at: <http://publications.gc.ca/Collection-R/LoPBdP/BP/bp271-e.htm>

Herrera, Helios & Andrea Mattozzi. *Quorum and Turnout in Referenda*, Journal of the European Economic Association, Volume 8, Issue 4, June 1, 2010, Pages 838–871.

Issacharoff, Samuel. *Democracy and collective decision making*, International Journal of Constitutional Law, Volume 6, Issue 2, April 2008, Pages 231–266.

Marquis, Pierre. *Referendums in Canada: the effect of populist decision-making on representative democracy*, August 1993. Available online at: <http://publications.gc.ca/Collection-R/LoPBdP/BP/bp328-e.htm>

Qvortrup, Matt. *The Rise of Referendums: Demystifying Direct Democracy*. Journal of Democracy, No. 3 (2017): 141-52.

Qvortrup, Matt. *Voting on Independence and National Issues: A Historical and Comparative Study of Referendums on Self-Determination and Secession*, Revue Française de Civilisation Britannique (French Journal of British Studies), XX-2, 2015. Available online at: <https://journals.openedition.org/rfcb/366>.

Westminster Parliament, House of Lords. *Referendums in the United Kingdom: Report with Evidence*, published by the Select Committee on the Constitution, 2010. Available online at: <https://publications.parliament.uk/pa/ld200910/ldselect/ldconst/99/99.pdf>



SUSTAINING. LEADING. MODERNIZING.

ADVANCING ELECTORAL
EXCELLENCE IN SASKATCHEWAN

OFFICE OF THE CHIEF ELECTORAL OFFICER
(ELECTIONS SASKATCHEWAN)

#301 – 3303 HILLSDALE STREET, REGINA, SASKATCHEWAN
CANADA S4S 6W9

TELEPHONE: (306) 787-4000 / 1-877-958-8683

FAX: (306) 787-4052 / 1-866-678-4052

EMAIL: info@elections.sk.ca

WEBSITE: www.elections.sk.ca