Elections SK

A REPORT ON THE
TWENTY-EIGHTH GENERAL ELECTION

VOLUME IV

CHIEF ELECTORAL OFFICER'S RECOMMENDATIONS FOR LEGISLATIVE REFORM

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VOLUME IV - CHIEF ELECTORAL OFFICER'S
RECOMMENDATIONS FOR LEGISLATIVE REFORM
(v1.0)

April 2, 2018

The Honourable Mark Docherty
Speaker of the Legislative Assembly
Room 129, Legislative Building
2405 Legislative Drive
Regina, SK S4S 0B3

Mr. Speaker:

In the spirit of Section 286 of *The Election Act, 1996* I am honoured to submit Volume IV in *A Report on the Twenty-Eighth General Election*.

This volume offers the Chief Electoral Officer's recommendations on how legislation can be changed to more effectively serve voters, registered political parties, and other key stakeholders throughout Saskatchewan.

Respectfully submitted,

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E-334
The Election Act, 1996
As amended
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Officer
Candidates
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The Election Act, 1996
As amended
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Official Seal
Deputy Returning Officer
Signature
Poll Clerk
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Representatives of Candidates
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CHAPTER ONE

REPORTING ON THE GENERAL ELECTION: FOUR VOLUMES

The period leading to Saskatchewan's 28th General Election, held on April 4, 2016, was one of transition for both the statutory Office of the Chief Electoral Officer and Elections Saskatchewan, the provincial election management body that supports this office. Both continued a process of reassessment and renewal that had begun in 2009. Both continued to carefully consider what it means to administer free and fair elections in the context of Saskatchewan.

In 2009, the Saskatchewan Legislative Assembly had commissioned a review[1] of the organizational structure and operational environment of the Office of the Chief Electoral Officer, leading to the appointment of Dr. Michael Boda as the province's Chief Electoral Officer and head of Elections Saskatchewan on June 1, 2012.

In the months following this appointment, Dr. Boda consulted with key stakeholders within the province, a process that led to describing a "path for renewal"[2] – the approach by which the Office of the Chief Electoral Officer would alter its management methods, restructure its staff, and evolve the institution's operation to be consistent with electoral best practice in Canada and in leading democratic jurisdictions around the world. This path would include three key tenets for organizational renewal:

- Professionalizing Saskatchewan's election management body;
- Improving the delivery of provincial electoral events; and
- Placing greater focus on democratic stewardship in the province.

[1] David M. Hamilton, *The Recount: Report of the Review of the Operational Environment and Accountabilities of the Office of the Chief Electoral Officer for Saskatchewan* (The Hamilton Report) (Regina: March 2009).

[2] Michael D. Boda, *Election Administration in Saskatchewan: 'A Path for Renewal'* (Estimates for Fiscal Year 2013-2014) (Regina: Elections Saskatchewan, 2013).

Once the team that would lead Elections Saskatchewan into the 28th General Election was established, the organization undertook strategic planning for the years 2014-2016[3] to determine how the three key tenets could be transformed into a set of goals and strategic objectives that would lead to a successful general election and a much-strengthened election management body.

Elections Saskatchewan's leadership team reflected on the values found in election management bodies across the country and throughout the world. Six core values were identified and their adoption helped guide the organization through the province's 28th electoral cycle and general election:

- Independence;
- Impartiality;
- Professionalism;
- Accountability;
- Innovation; and
- Service Orientation

The story of Saskatchewan's 28th General Election, held on April 4, 2016, will be told over the course of four volumes, each providing different kinds of insight into the overall success and challenges involved in planning for, organizing and implementing the province's largest ever event. Together, these will constitute ***A Report on the Twenty-Eighth General Election***.

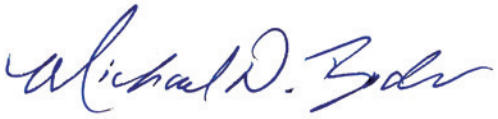
- ***Volume I – Statement of Votes*** (published in January 2017) was designed to provide data surrounding the public's participation in the 2016 electoral event. It collated information with the intent of providing a richer understanding of voting trends in the province. Information on candidates, registered political parties, and historical data was also included;

- ***Volume II – Administrative Review*** (published November 2017) offered a firmer grasp of the manner by which the 2016 general election was conducted. The volume looked at two sides of the electoral event. On the one hand, it focused on how the electoral event was conducted based on an assessment of election administrator colleagues from across the country who were in Saskatchewan during the election period to evaluate the process. On the other, the volume looked at stakeholder perceptions of the implementation of the general election, drawing conclusions from surveys, focus groups, interviews and other sources of data;

- ***Volume III – Statement of Expenditures*** (published November 2017) addressed another important component of the 2016 electoral event, one of capturing the overall costs related to the 2016 electoral event. While not often understood, such costs continue to be accumulated well after election day and the final results of the election are reported. This volume provided insight on spending in two key areas, including spending related to reimbursements given to Saskatchewan's eligible registered political parties and eligible candidates, all of which is outlined within *The Election Act, 1996*. In addition, it provided figures related to the cost of administering the 2016 general election in 61 constituencies across the province; and, finally;

- ***Volume IV – Chief Electoral Officer's Recommendations for Legislative Reform*** (the current volume) takes into account what has been learned over the course of the 28th electoral cycle in order to position the province — its voters, political parties and candidates and its provincial election management body — to conduct the 29th General Election. It has been published following a thorough review and assessment of how the 28th General Election was conducted in light of electoral best practice and changes being observed across the country. This volume offers the Chief Electoral Officer's recommendation on how the Election Act should be changed to more effectively serve electoral stakeholders across the province.

While the publication of this report in four volumes will fulfil the Chief Electoral Officer's statutory duty outlined in Section 286 of *The Election Act 1996*, its intent goes well beyond this. Saskatchewan has demonstrated a competence in governance since its founding in 1905. Around the globe, the province and its partners in Confederation are categorized among the world's most successful democracies. The hope is that the information offered in this report will lead to a heightened awareness of the state of democracy in Saskatchewan by placing a microscope on one facet of it — a general election. The report aims specifically at providing a variety of tools that can encourage the residents of Saskatchewan to reflect on how the democratic traditions they cherish can be fine-tuned and improved for the future.



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Chief Electoral Officer
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[3] Elections Saskatchewan. *A Strategic Plan for Saskatchewan's Election Management Body, 2014-16* (Regina: Elections Saskatchewan, January 2014).

764,264

Saskatchewan residents registered to vote
in the 28th General Election

2

CHAPTER TWO

OVERVIEW OF PROPOSED LEGISLATIVE REFORMS

Due to public expectations for convenience and efficiency in the context of voting, election management bodies across Canada are under growing pressure to modernize an approach to voting that has been in use since the country was founded. That traditional model of administering voting has always required a remarkably large workforce of temporary election officials and, with each passing electoral event, the challenge of recruiting people to staff the polls has become more and more challenging.

Fewer and fewer people are willing to work the long hours required of them to record detailed voting information while using only paper forms and clerical procedures originally designed in the nineteenth century. At present, less than half of this temporary workforce are returning to assist in a second election. Voters, temporary election officers, candidate's agents and political party representatives are increasingly questioning why modern tools of information technology — evidenced in every other work environment in which they participate — cannot be applied to support voting and ballot counting.

The answer is quite simple: highly prescriptive election legislation prevents technology from being used in voting administration. This is true in Saskatchewan and, until recently, was the case in all other provinces and territories, and federally. However, most Canadian jurisdictions are now undertaking modernization efforts which will result in technology being used at their voting locations for voter registration, ballot access controls and vote counting.[4]

[4] Appendix A describes recent voting process modernization initiatives underway federally and in the provinces of British Columbia, Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Prince Edward Island.

At the outset, it should be noted that this report contains only the Chief Electoral Officer's specific legislative amendments recommended for implementation in advance of the 29th provincial General Election, legislatively scheduled to occur on November 2, 2020.[5] These recommendations are limited to modernizing advance voting procedures, permitting pilot projects to allow the testing of electoral administration innovations, and performing 'housekeeping' amendments to make current election legislation more workable and relevant to modern expectations.

At the same time, these short-term recommendations are being made within a strategic context of 'setting the stage' for a more encompassing set of suggested electoral reforms. These short-term recommendations constitute the first phase of what is envisioned to be three distinct phases of electoral process modernization for Saskatchewan.

Phase One is recommended as an important foundational step in the gradual replacement of an outdated model of voting services. Each phase of modernization will achieve significantly improved arrangements for administering modern provincial elections and Phase One's modifications are critical to providing efficient and effective service to the steadily growing number of voters who choose to vote during the five-day advance voting period.

The full modernization process will require three electoral cycles to complete. Each of the next two four-year cycles between general elections will require further legislative amendments to be identified and implemented in a successive modernization phase.

It is recommended that Phase One of modernization apply to the 29th General Election (2020); that Phase Two be implemented for the 30th provincial vote (2024); and that further process improvements incorporated in Phase Three be applied to the 31st General Election (2028).

Election process modernization in Saskatchewan can be safely and affordably implemented over the next decade. However, because each phase requires a substantive change to provincial electoral laws, the pace of modernization will depend significantly on the level of cooperation and engagement of elected legislators and their support in making the legal amendments necessary to modernize voting services.

The Vision — Saskatchewan Provincial Elections by 2028

Elections Saskatchewan has developed a vision of what future provincial elections could look like after the three proposed phases of modernization have taken place.

The following features provide a descriptive overview of this vision after three full phases of modernization. The descriptions assume that this document's suggested phases of progressive legislative reforms have preceded the 29th, 30th and 31st General Elections, and that inter-jurisdictional partnership arrangements have successfully led to widely standardized voting processes and shared technology investments.

- **Increased opportunities to vote**: Over the course of three electoral cycles of 'modernization', voting opportunities in provincial elections will continue a trend already in evidence before the 29th provincial General Election — that of expansion, improvement and increased opportunity for electors to gain ballot access well beyond a single day traditionally known as Election Day. The modernized approach will increase the number of days and hours that voting is available to busy citizens, most of whom wish to participate in elections but need to fit voting into their schedules.

[5] Please refer to Appendices B, C and D at the end of this report for a description of the specific amendments to *The Election Act, 1996*, and Regulations pertaining to that Act, that are recommended for implementing Phase One of the election modernization program in Saskatchewan.

- **Opportunity to 'Vote Anywhere'**: Voters will be able to 'vote anywhere' in the province, as their voter registration details are quickly accessed on a computing device at any voting location in the province and a paper ballot for any voter's constituency can be made available. While registered voters will still be notified by mail of the voting location in their constituency that is closest to their residence, they will be permitted to cast a ballot at any poll location that might be more convenient to where they work, shop or obtain services. Voters living in the more lightly populated rural and remote areas of the province will be automatically provided a postal voting package that allows them to vote by mail or drop off their sealed ballot at a collection centre and thereby avoid the need to travel to a voting location during polling hours.

- **Improved system integrity**: Because portable information and communication technology is available at all voting places, as soon as voters 'check-in' and are issued a ballot, they will be prevented from obtaining another ballot at that, or any other voting location, during the election. Furthermore, the voters list number for each voter who will have been issued a ballot will be shared with candidates and political parties in real-time. Voting integrity will be ensured with the real-time recording of when and where each voter shows up to vote, and exactly how many ballots and valid votes are associated with each ballot box. Statistical information about deviations from expected voter traffic volumes at voting places will be used to quickly augment or reduce the number of election official staff when staffing support levels indicate a required change.

- **Greater workforce efficiency**: Election officials will work in shifts to ensure high levels of service to all participating voters and to prevent procedural errors that result from exhaustion. Long line-ups and waiting for voting will be minimized and most voters will find they can very easily cast a ballot and be on their way within five minutes of arriving at a voting place.

- **Improvements to the paper-based system of balloting**: Paper ballots will continue to be the predominant method by which citizens make their voting choice, but at most voting locations they will be counted-when-processed by ballot scanning vote tabulator machines that are affixed to the ballot boxes used across the province, and at collection centres used for postal votes. Secure online voting will be available, but limited for use by disabled voters, out-of-province voters and eligible Canadian Forces voters stationed overseas. Paper ballots will be centrally printed for each online vote cast, and these will also be electronically counted-when-processed using the same types of ballot scanning tabulators and ballot boxes located at voting locations and postal vote collection centres.

- **Increased speed and accuracy in reporting voting results**: As paper ballots proceed through a ballot scanner and drop into the ballot box, the voting results will be recorded in a secure, computerized vote tabulator that is attached to the ballot scanner. At the end of the voting period, the poll supervisor at each voting location (as well as the manager of each postal vote collection centre and the coordinator of the online vote printing location) will 'unlock' the tabulator, print out the voting results for that location, provide each candidate representatives present a copy of the printout, and then electronically communicate the voting results to the Returning Officer. At the smaller voting locations in rural and remote parts of the province, streamlined manual procedures will ensure the vote count is processed quickly and accurately. The preliminary voting results for each constituency will be tabulated in a central reporting database and the progressive calculation tallies will be 'pushed' to a public website and to registered media outlets, at brief and regular intervals, until the results from all ballot boxes have been reported on Election Night. Preliminary results will be published within two hours of the close of voting.

- **Reduced costs, lower dependence of people**: Most of the costs of introducing technology into the administrative process at the majority of voting places will be offset by significant reductions (30 percent) in the total number of temporary election official staff that are required at each election. Cost-savings have also been facilitated by Saskatchewan legislators who have encouraged standardized legal language for modernized election procedures shared between jurisdictions. The cost of process modernization has been further reduced via agreements established between election management bodies that allow for sharing of equipment and costs of required hardware, software and the procedural engineering associated with the standard features of the new Canadian technology-assisted voting services model. Collaborative efforts on the part of election management bodies have helped reduced the cost of elections across Canada.[6]

This description is of a modernized, efficient system of administering provincial elections that provides greater convenience and better access to voting processes for the citizens of Saskatchewan. The approach described would improve the overall integrity and transparency of the system while enhancing the speed and accuracy of the voting and vote counting processes. It would dramatically improve the work environment for temporary election officers, while providing timely voter participation information to candidate campaigns. Its streamlined procedures would replace a highly-clerical and paper-intensive processing approach that has been prescribed in law for provincial elections since the establishment of the province in 1905 and has been a feature of election legislation across Canada.

That original model, first implemented in the United Kingdom during the early nineteenth century, has defined Canadian elections since the time of Confederation. It has been a successful and enduring approach, but its time to move into retirement has arrived.

"This description is of a modernized, efficient system of administering provincial elections that provides greater convenience and better access to voting processes for the citizens of Saskatchewan."

Modernizing in Phases — Over Three Electoral Cycles

This vision of modernized provincial elections in Saskatchewan will be most reliably and safely achieved if it is broken into three distinct phases of development and implementation. Each of these phases should be undertaken during a specific four-year 'electoral cycle' that occurs between the conclusion of one general election and the start of the next.

[6] Late in 2016 and early in 2017 Elections Ontario and Elections Canada worked to standardize their technical requirements for electronic poll book equipment and software, and established formal procurement provisions to permit any of their acquired technology to be used by other provinces and territories. During the summer of 2017, the Conference of Canadian Election Officials (CCEO) agreed on the terms of reference for establishing a 'Secretariat for Electoral Coordination' that will facilitate the ability of Canada's election management bodies to more efficiently collaborate and share administrative tools and methods.

The following table summarizes the content and timing of each phase:

Phase	Proposed Timing	Features
Phase One	• CEO recommendations published in early 2018 • Legislative changes to Election Act made in early 2019 • New and amended provisions apply at the 29th General Election in November, 2020	• Technology support to streamline advance voting, and efficiently count advance votes • Ability for Chief Electoral Officer to 'pilot' modernized voting procedures • Administrative inefficiencies and problematic requirements of current election rules addressed with 'housekeeping' amendments
Phase Two	• CEO recommendations published in 2021 • New election legislation enacted in 2022 • New provisions apply at the 30th General Election in November, 2024	• New Election Act for Saskatchewan provincial elections • Modernized, technology-assisted voting services available at all Advance Voting and most Election Day Voting locations • Polling division maximum population size increased • Postal voting packages 'automatically' issued to registered voters living in lightly populated remote and rural areas of the province • Standard hours, voting service approach for both Advance Voting and Election Day Voting
Phase Three	• CEO recommendations published in 2025 • Amendments to election legislation enacted in 2026 • New provisions apply at the 31st General Election in November, 2028	• Ability for voters to vote at any voting location in the province – 'Vote Anywhere' • Introduction of seven consecutive days of voting – 'Voting Week' • Provisions to allow electronic collection of voting results from vote tabulators across the province • Online voting (with central printing of paper ballots) made available for disabled voters, out-of-province voters, and Canadian Forces voters posted overseas

Considerations for Legislative Change

It is strongly recommended that **Phase One** of modernization occur during the present 2016 – 2020 electoral cycle in time for the 29th General Election (2020), and that specific legislative changes associated with Phase One (detailed in Appendices B, C and D of this report) are committed to in legislation that is drafted and made available to the Chief Electoral Officer for collaborative review, before the end of the 2018 calendar year. That legislation should be passed into law during the Legislature's spring session of 2019.

This timing will allow for an orderly introduction of a new voting services model to be applied to advance voting for the 29th General Election. The new model will result in the improved processing, counting and reporting of advance votes facilitated by technology at every advance poll across the province. The increasing popularity of voting within this five-day period must be addressed with a modernized approach that accommodates this demand. In addition to this new model, the ability for the Chief Electoral Officer to propose and conduct pilot projects needs to be introduced. Such an ability is crucial to allow field testing of future procedural innovations, to leverage available efficiencies and to minimize the risks associated with electoral process changes. Finally, certain 'housekeeping' amendments are also needed to address numerous problematic aspects of the current legislation and regulations.

All components of Phase One modernization are explained in greater detail in Chapter Three of this report.

Phase Two of voting process modernization in Saskatchewan is likely to require a rewritten Election Act, as it will involve a changed and standardized set of voting service arrangements for over 95 percent of the voters in the province. This reworked legislation will need to be in place early in the electoral cycle that leads to the 30th General Election (2024),

as a new voting services model will need to be implemented for all Election Day voting locations, in addition to those voting locations that are used during the five days of advance voting. Most Election Day voting locations will use a technology-enabled voting services model; smaller voting centres in rural and remote parts of the province will use a re-engineered manual process that applies efficiency principles used in the technology-supported model. In addition, voters who are assigned to voting locations which are not equipped with electronic poll book and ballot scanning tabulator technology will be automatically provided with a postal voting package to use as a convenient voting option. Together, these changes will increase the opportunities and convenience of voting for citizens across the province.

Phase Three of provincial election process modernization will require a further series of legislative amendments to the relatively new *Election Act*. Provisions will need to be enacted that introduce the concepts of a seven-day 'voting week' as well as permitting voters to 'vote anywhere' in the province. Together, these features will increase provincial voting opportunities to unprecedented levels. The legislation will also need to authorize the interactive reporting of electronic vote tabulations from all voting locations and postal vote collection centres on Election Night. Finally, the legislation should also provide for limited implementation of secure online voting services (resulting in printed paper ballots) for those specialized sub-groups of voters who face the largest challenges in exercising their franchise rights. These Phase Three legislative changes will need to be enacted approximately two years in advance of the general election for which they will apply.

The envisioned content of the changes and legislative adjustments associated with Phases Two and Three of voting process modernization in Saskatchewan are further described in Chapter Four.

Proactively Managing Risks and Costs

While the size of its workforce soars to more than 12,000 personnel during an election period,[7] there are only 17 full-time staff allocated to work at Elections Saskatchewan on a continuous basis. The capacity of this core team is supplemented with temporary and contracted assistance leading to a general election but, at the end of the day, any changes to the voting arrangements used in the province must be carefully coordinated, controlled and delivered by this small staff nucleus.

Undertaking all the changes associated with an introduction of the full range of modernization components envisioned in this report would introduce extremely high levels of risk if they were to be achieved within a single electoral cycle. Dividing the innovations into three phases, with a second and third phase being delivered during future electoral cycles, makes the overall modernization process far more manageable while significantly reducing the risk involved with modernizing Saskatchewan's approach to voting administration.

Additionally, Elections Saskatchewan is very aware that the province is currently in a period of fiscal constraint which requires the investment of tax dollars to be made carefully, with strategic long-term benefits. For this reason, the modernization envisioned in Phase One is expected to provide a solid foundation for building voting process improvements and cost containment in subsequent phases.

If the standardization of voting process modernization and related technology initiatives already underway between some Canadian election management bodies should be accompanied with standardized legislative provisions across jurisdictions, the administrative cost of future elections will be even more effectively managed. Election costs under the currently legislated voting services model are rising much faster than the rate of inflation across Canada. Adopting a modernized voting approach that facilitates the use of common legislation, methods and tools holds considerable promise for reversing this trend.

Despite the prospect of incurring additional administrative costs, some provinces are currently investing wholesale in election process modernization to mitigate the significant risk they face of not being able to hire sufficient temporary election workers to conduct an election under the current model. This risk is also being experienced in Saskatchewan, but not yet to the same extent as in British Columbia, Ontario and New Brunswick where significant technology-assisted voting process changes have been, or are currently in the process of being implemented.

Elections Saskatchewan expects to be able to reduce the size of its temporary election workforce by approximately 30 percent once all aspects of the three-phase modernization program are put into place. While the hourly costs of temporary labour are expected to rise, the costs of technology implementation are expected to continue to drop during the foreseeable future.

[7] At the 28th provincial General Election, held on April 4, 2016, there were 12,628 temporary election workers on the Elections Saskatchewan payroll. The great majority of these personnel worked exactly one day — Election Day.

The three-phase approach to the modernization of the provincial voting services model, as proposed in this report, is designed to balance risk management with a conscious constraint on the expenditures associated with each phase of voting process improvements. A short-term investment in Phase One implementation will set the stage for long-term voting access enhancements, along with a considerable reduction in the size of the temporary workforce that must be recruited at each election.

CEO Assessment Reports Regarding Other Legislative Considerations

During deliberations that led to the legislative change recommendations that appear in this volume, the Chief Electoral Officer became aware of three other components of provincial electoral law that merit the attention of Members of the Legislative Assembly before the next General Election in 2020.

These are:

- The rules regarding the periodic review and adjustment of provincial constituency boundaries;
- The legal framework supporting the conduct of referendums and plebiscites in Saskatchewan; and
- The policy objectives and administrative arrangements for regulating and reporting political finances in the province.

Each of these topic areas will be the subject of separate CEO Assessment Series Reports. Further information about the intended content and publication schedule for these three assessments can be found in Chapter Five of this report.

Contents of this Report

This report provides details on the specific legislative changes that are recommended to introduce the first phase of modernization of the provincial voting services model, as well as further detail on where the second and third phases of modernization will lead.

Chapter 3 describes the recommendations for improvements to advance voting services that should be implemented prior to the 29th provincial General Election (2020). It also outlines a recommendation that would allow the Chief Electoral Officer to conduct 'pilot projects' to test administrative process innovations and technology application in future by-elections and general elections. Finally, it provides a description of the kinds of changes that urgently need to be made as 'housekeeping' amendments to keep the current Election Act relevant and workable.

Chapter 4 sets out the vision of where voting process modernization would evolve during Phase Two and Phase Three reforms. While it does not make recommendations for any specific legislative changes, it provides context for understanding how Phase One modernization provides the foundation for further improvements to voting opportunities in advance of the 30th and 31st provincial General Elections scheduled to be held in 2024 and 2028.

Chapter 5 provides concluding remarks on the modernization process as well as the urgency associated with making Phase One legislative changes in time to be cost-effectively implemented for the next general election. As well, it describes three other areas of electoral legislation that will be the topics of assessment reports that will be published later in the year.

> "Dividing the innovations into three phases, with a second and third phase being delivered during future electoral cycles, makes the overall modernization process far more manageable while significantly reducing the risk involved with modernizing Saskatchewan's approach to voting administration."

Appendix A consists of an 'environmental scan' of the voting process modernization activities that are currently, or have recently, been underway across Canada. **Appendix B** describes the amendments that will be required to implement the recommended Phase One modernization of advance voting arrangements. **Appendix C** presents draft language that could be used to amend *The Election Act, 1996* in a manner that would provide an ability for the Chief Electoral Officer to conduct pilot projects. Finally, **Appendix D** lists several categories of 'housekeeping' amendments that are required to address problems in the current Act and its regulations.

25.5%

Percentage of all votes cast in advance during the 28th General Election

3

CHAPTER THREE

MODERNIZING VOTING SERVICES FOR THE 29TH GENERAL ELECTION

The current legislated model prescribing how provincial voting services are to be administered needs to be modernized before a crisis occurs. This traditional model, which has not changed since Saskatchewan joined Confederation in 1905, has become increasingly inefficient and depends heavily on the recruitment of a large, temporary labour force to work in conditions which are inconsistent with twenty-first century expectations.

Further, any new set of processes needs to address the reality that voters want to have flexibility and convenience regarding when and where they vote. The new model of voting services also needs to be sustainable and efficient, and present a cost-effective alternative to the traditional approach.

In this document, the Chief Electoral Officer describes a path forward that will see legislative changes associated with updating the voting services model made in a thoughtful, methodical manner over a period of ten years. Three phases of modernization are proposed, each involving a significant modification to provincial election laws ahead of the 29th (2020), 30th (2024) and 31st (2028) General Elections.

This chapter describes the changes that are recommended for Phase One of voting process modernization in Saskatchewan. It proposes specific legislative changes to be enacted and implemented in advance of the 29th provincial General Election scheduled for November 2, 2020. These initial changes are envisioned as forming the foundational building blocks on which further improvements can be built during Phases Two and Three of voting process modernization.

While no firm recommendations are currently being made for the legislative changes that will be associated with Phase Two or Three, the following chapter (Chapter 4) provides context for where the modernization efforts started in Phase One will logically lead. Formal Chief Electoral Officer recommendations for the legislative changes associated with each of these phases will follow, respectively, the 29th and 30th General Elections and will be further informed by discussions with and feedback from electoral stakeholders.

Modernizing Advance Voting Services for the 29th General Election

Phase One of introducing a modernized approach to voting in Saskatchewan provincial elections begins with revamping the way services are provided during advance voting — a component of elections in which there has been rapid change in recent years and one that most requires immediate attention for the coming general election.

For the 29th General Election, recommendations for modernization to Saskatchewan's voting services focus on three key areas:

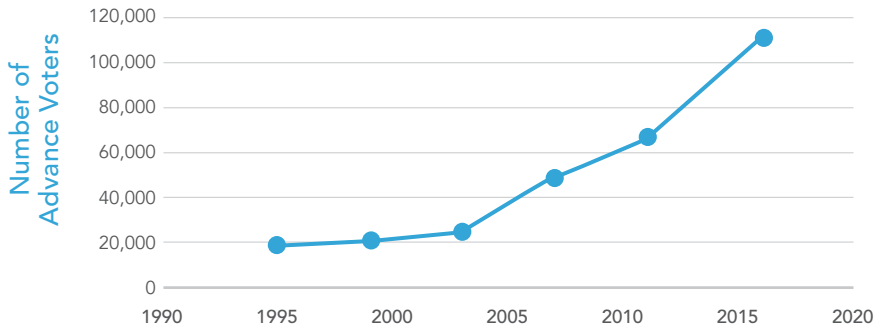
- Streamlining the advance voting process, rapidly growing in popularity[8] by introducing electronic poll book and ballot tabulator technology;
- Enabling Elections Saskatchewan to undertake pilot projects to test planned electoral process innovations in a limited implementation environment; and
- Addressing errors, omissions, contradictions and administrative challenges that exist in the current Election Act and its regulations.

During Phase One, required legislative changes centre on enabling Elections Saskatchewan to successfully accommodate a rapid and continued growth in the numbers of voters who wish to cast their ballot during the advance voting period. As shown in the graph below, the growth of advance voting participation in Saskatchewan's provincial general elections has been significant and shows no signs of abatement.

Defining a New Advance Voting Services Model

Phase One of voting process modernization, recommended for implementation in time for the 29th General Election, redefines the voting services approach for the five days of advance voting that are made available in every constituency across the province.[9] The voting process at advance voting locations across the province would be supported, wherever it was technically and logistically feasible, with electronic poll book and ballot scanning tabulator technology.

Figure 1: Growth of Advance Voting



[8] During the 2016 provincial General Election 25.5 percent of all votes were cast during the advance poll period. This was a 66.8 percent increase in the number of advance voters compared to the 2011 General Election. The 2011 provincial election had witnessed a 33.9 percent increase in advance voting over the 2007 event; the 2007 advance vote had seen an 89.4 percent increase over the 2003 general election. Since 2003, the average increase of advance voters per election has been 63.3 percent. If this rate of growth continues, as it has in jurisdictions across Canada, it is quite possible that within the next two election cycles more than half of the voters who participate in Saskatchewan general elections will do so at advance voting locations.

[9] The specific legislative changes required to introduce the recommended advance voting service model are described in Appendix B of this document.

To the average observer, the changes to the voting services model used for advance voting will appear to be modest enhancements to the way in which advance voting has been traditionally administered. From an experienced advance voter's perspective, the most noticeable change will be an increased overall efficiency of the advance voting processes, featuring less waiting time and speedier processing after receiving a ballot.

Some voters may remark on the use of laptop computers and bar code scanners for their 'check-in' process, or be reminded of their most recent municipal election voting experience where they were permitted to insert their ballot into a vote tabulating machine after voting. Most other changes will likely escape notice by voters due to the relative infrequency of provincial elections.

"To the average observer, the changes to the voting services model used for advance voting will appear to be modest enhancements to the way in which advance voting has been traditionally administered."

Many processes will remain exactly as they were during the 28th provincial election held in 2016. Registered voters will be able to vote at any advance voting location within the provincial constituency in which they live. Unregistered voters will be able to register when they go to vote at an advance poll in their constituency. Every voter will still be required to provide identification documents to prove their identity and address of ordinary residence before being issued a ballot, or 'vouched' for by someone who is in possession of such documentation.

As is the case now, some advance voting locations will have as many as twenty election officer positions supporting voting operations while others could have as few as four — this is entirely dependent on the number of voters residing in the geographic area being served. However, the use of technology will allow the number of assigned election officers per advance voting location to provide higher quality and significantly more efficient voting services to a substantially larger number of voters.

In addition to the presence of computing technology, another meaningful difference will be the changed and improved roles of the election officers administering voting services at advance voting locations.

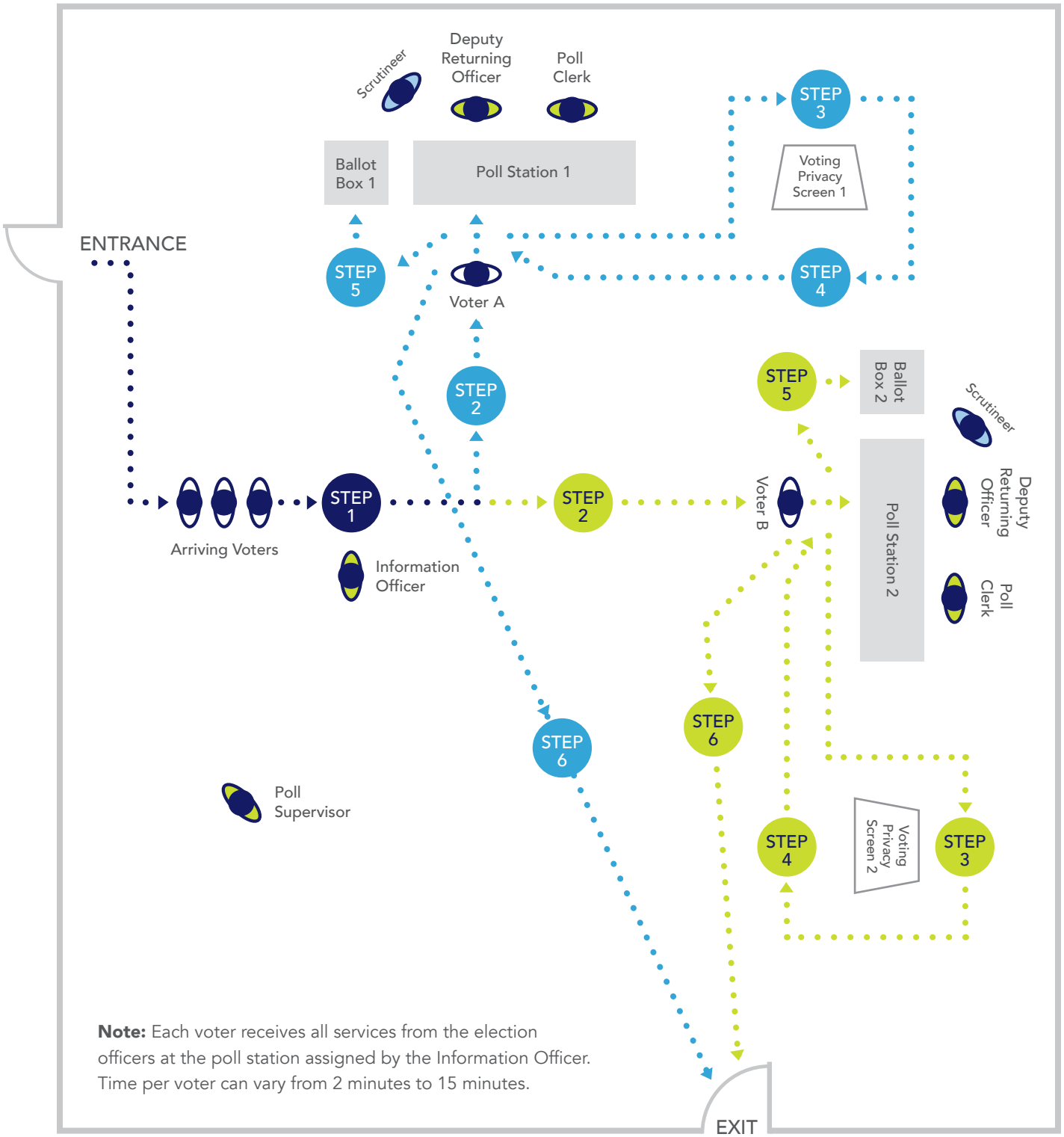
Challenges with the Current Advance Voting Process

Under the current advance voting services model, as prescribed by *The Election Act, 1996*, each advance voting location must have at least one two-person team of officials — a deputy returning officer and a poll clerk — who have legal responsibilities to administer the voting process.

Depending on the number of voters who are anticipated to vote at a particular advance voting location, additional pairs of officials are added to create additional polling stations at the voting location to deal with expected attendance volumes. They are supplemented by an information officer, who greets voters at the entrance and directs them to an available polling station team, and a poll supervisor who provides overall coordination, resolves problems, ensures adequate supplies at each polling station, and acts as the liaison between the returning office and the advance voting location. Given an increased volume of voters, the current model for advance voting has become less and less efficient, with two characteristics of the approach contributing to the problem.

Two-person instead of 'location-team' approach: A first characteristic relates to two-person teams, constituted of a deputy returning officer and a poll clerk, being responsible to complete every aspect of the process under the outdated assumption that this is the only way control can be maintained over the ballot papers and voters list at a given station. In maintaining the current approach, the two team members cannot be truly efficient in their work as they need to make time-consuming handwritten poll book entries for each voting transaction they administer, can only serve one voter at a time, and cannot start another voter's process until the first has cast their ballot in the ballot box specifically issued for that station. For historical reasons, the two officers at the poll table bear full legal responsibility for ensuring complete voting integrity for the ballots they are issued and are required to work together continuously while voting is open.

Figure 2: Advance Voting Location
Current Legislated Process



Note: Each voter receives all services from the election officers at the poll station assigned by the Information Officer. Time per voter can vary from 2 minutes to 15 minutes.

The second characteristic is that on Election Night this same pair of officials per advance polling station must reconcile all the ballots that they have been issued (including those that were unmarked or spoiled) and then count and record the voting results for the ballots marked by voters that went into the specific ballot box (or boxes) they managed during the five days of advance voting.

> "Given an increased volume of voters, the current model for advance voting has become less and less efficient..."

During the 28th General Election, this aspect of the current approach required most advance poll teams to reconcile and count many hundreds of ballots on Election Night. Without legislative authority to open their advance poll ballot box before 8 p.m. on Election Night, many of the advance polling station teams ultimately worked for hours — more than three in some cases — to count and reconcile all the ballots for which they were responsible.

Under the current legislated model, these two-person polling station teams must work together for the full five days of advance voting, along with whatever time is required to count ballots on Election Night. If either team member, for any reason, needs to take a break, all voting (or vote counting) at their station comes to an immediate stop until both officials are together again. Constituency returning officers do not have the authority to allow shift work or to introduce temporary replacement workers while poll station teams take meal or refreshment breaks. This means that all meals during voting hours[10] must be consumed at the polling station table, and this can be done only if or when advance voting activity abates. These legislated working conditions are considered both stressful and unrewarding by election officers, and dominate the list of reasons why most will only work one electoral event and refuse to return for another.

A need to increase efficiency in processing voters: Another characteristic that is leading to the growing inefficiency of advance voting arrangements relates to current legislative requirements for processing voters. Voters who require greater processing time — whether they have problems with their identity documents, require changes to their registration information, need disability assistance, or have uncertainty regarding their eligibility to vote — must each present themselves at a polling station along with voters who do not require additional assistance. Alongside the rising popularity of advance voting, this requirement can quickly cause line-ups as these voters can require considerable additional time to be processed. This results in frustration on the part of voters who expect a high level of voting efficiency because they have taken care to ensure their voter registration is up-to-date and they already have their required identity documents and Voter Information Card (VIC) in hand.

During the 28th General Election, held in April 2016, numerous complaints about lengthy advance poll line-ups, and waits of an hour or more before being able to vote, were both received by Elections Saskatchewan and reported in the media.[11] In fact, this was the single greatest area of criticism regarding the administration of the event.

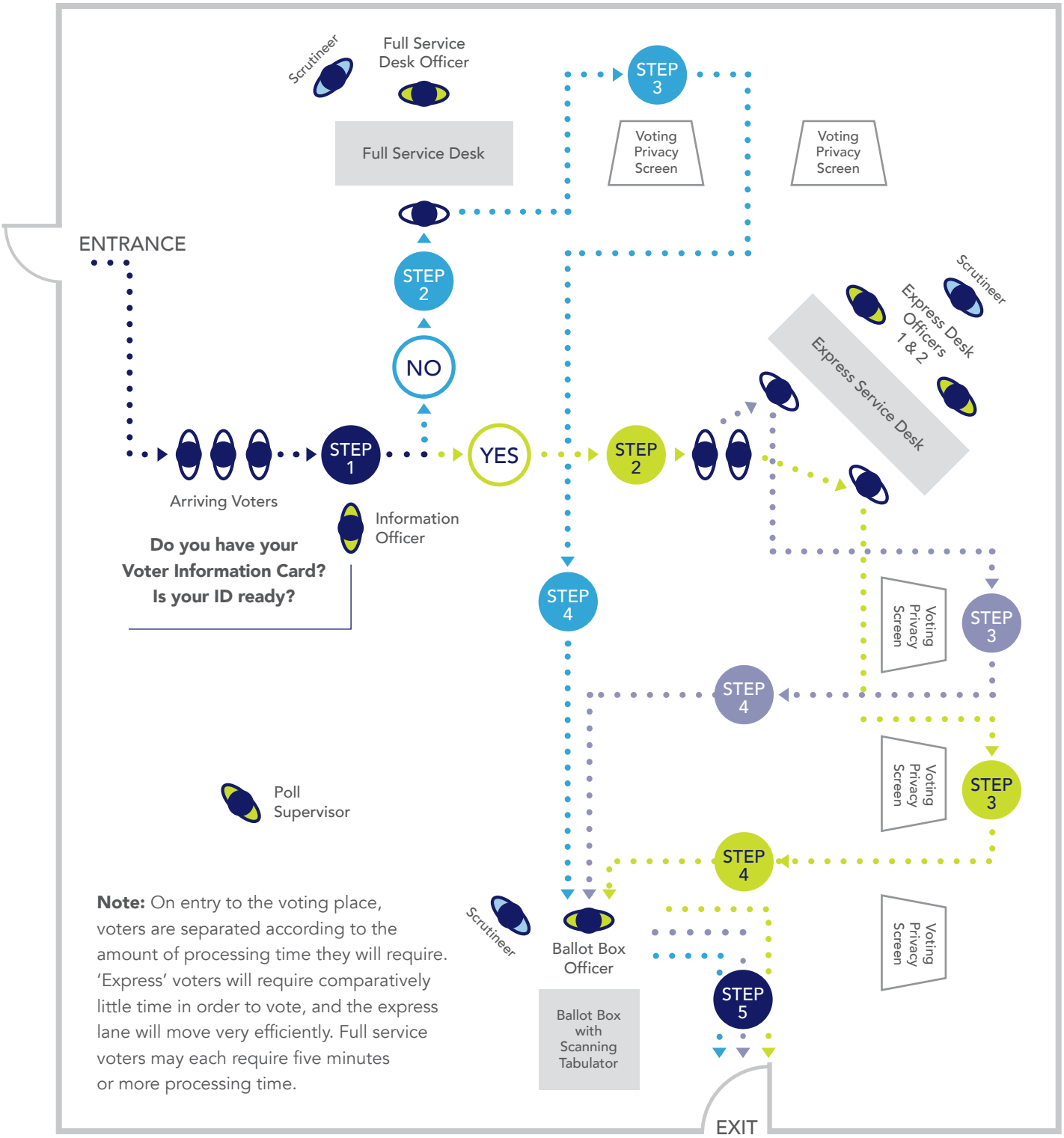
The Proposed Advance Voting Process

If the proposed advance voting services model is implemented for the 29th General Election, arrangements at advance voting locations will differ in several important ways. At the outset, the information officer stationed near the entrance will determine for each voter whether they need to go to a 'full-service' line or can proceed to an 'express' line — approximately 85 percent of voters will be directed to the express line.

[10] Section 131 of *The Election Act, 1996* requires that advance voting be held from 3 p.m. to 10 p.m. Monday to Friday and from noon to 7 p.m. on a Saturday or Sunday.

[11] For example, the Saskatoon StarPhoenix ran a lead story on March 30, 2016 with the following headline: "Elections Sask deploys more workers in Saskatoon, Regina to deal with lineups at advance polls"

Figure 3: Advance Voting Location
Modernized Process - Phase One



Note: On entry to the voting place, voters are separated according to the amount of processing time they will require. 'Express' voters will require comparatively little time in order to vote, and the express lane will move very efficiently. Full service voters may each require five minutes or more processing time.

The Express Line: Voters who go through the express line must have their VIC in hand, and their identity documents ready to be presented. Upon reaching the front of the line, they proceed to the next available ballot issuing officer who scans the barcode on their VIC and brings their voter registration record up on a computer screen. The officer examines the voter's identity documents to verify a match to the registration details, and then issues the voter with a ballot in an opaque sleeve. The issuing officer provides the voter with instructions on marking their ballot behind a voting privacy screen, and to then deliver their marked ballot (in the opaque sleeve) to the ballot box officer stationed by the single large ballot box located near the voting place exit.

The Full-Service Line: Voters who are directed to the 'full-service' line will include those who do not have a VIC card; are unsure of their registration status, or need to update their registration details; do not have the required identity documents and therefore need to have someone vouch for their address location and eligibility; have a disability or any other type of incapacity that requires special service attention; or are unsure of their eligibility to vote either in the provincial election or within the constituency. These voters will each be dealt with by more experienced and extensively trained full-service election officers who can efficiently accommodate the diverse administrative 'exception' processes that are legislatively prescribed to be used when addressing these voters' requirements. At the end of their more complex 'check-in' process, each eligible voter proceeding through the full-service line will be issued a ballot in an opaque secrecy sleeve and instructed to proceed with marking their vote behind a voting privacy screen and then take their ballot to the ballot box officer, accompanying the ballot box, stationed near the voting location exit.

The Voter's Experience at a Modernized Advance Poll

From a voter's perspective, the lineups at advance voting locations will move more quickly following Phase One modernization, especially for voters that are in the 'express' lane. This is because the 'check-in' process is largely automated and the need for voting officers to handwrite each voter's name and address into a poll book has been eliminated.

Voters in the 'full-service' lane will also receive more efficient service than is the case under the existing advance voting services model, as the election officers they deal with are well-trained to deal with every kind of exception process and are equipped with technology that allows for more efficient voter registration transactions and poll book recordings.

Once the voter is checked-in and is issued a blank voting ballot in a 'secrecy sleeve', they proceed to one of several available voting privacy screens to mark their ballot choice (using a pen provided), place their marked paper ballot back into the secrecy sleeve, and then proceed to the ballot box officer.

"From a voter's perspective, the lineups at advance voting locations will move more quickly following Phase One modernization, especially for voters that are in the 'express' lane."

The ballot box officer stationed at a single large ballot box, featuring a scanning/tabulator fixed on top of it, will advise each voter that they can insert their ballot into the tabulating machine themselves or have this done for them. The ballot is pulled from the secrecy sleeve via the exposed rollers of the scanner/tabulator (the secrecy sleeve prevents exposure of the voting choice made by the voter), and then deposited into the sealed ballot box sitting below the tabulator machine.

The ballot box officer retains the empty ballot secrecy sleeve for reuse later in the day; the voter then leaves the advance voting location using the nearby exit.

The Candidate Representative's Experience at a Modernized Advance Poll

It is a feature of nearly all electoral democracies that 'scrutineers' (referred to as 'candidate representatives' in Saskatchewan), each representing a candidate or political party, are given the opportunity to observe voting during electoral events.

In doing so, candidate representatives can make formal objections if any legislated election process is not being properly followed. Because of the importance of 'getting out the vote', these agents also collect or record information about which voters have shown up to vote, and communicate this information back to their candidate's campaign office. (Supporters who have not yet voted may then be contacted by the campaign office, and offered transportation to the voting place if they require it.)

At the 29th General Election, assuming the modernization recommendations contained in this volume are implemented, a limited number of candidate and political party scrutineers will still be present at advance polling locations to monitor the conduct of voting. However, because of the communication features built into the electronic poll book technology that will be used to record information about advance poll voters as they check in, scrutineers will no longer need to manually collect or record details about which voters have cast a ballot. This information will be transmitted to a secure web portal, which each candidate's campaign office will be given access to, facilitating greatly simplified (and automated) comparisons to listed voters who have indicated support for their candidate.

Another traditional role for candidate representatives is to attend the counting of votes on Election Night, partially to ensure a proper count of the ballots, but also to be among the very first persons to know the actual voting results, which they then immediately communicate to their campaign office.

> "...scrutineers will no longer need to manually collect or record details about which voters have cast a ballot."

If the recommendations of this volume are enacted, the 29th general election will feature ballot scanning vote tabulation machines at advance voting locations province-wide,[12] and will feature dramatic changes in advance voting counts and results reporting. Ballot tabulators have been repeatedly proven to count paper ballots more accurately and with greater reliability than even highly trained voting clerks. The tabulators' ability to securely and correctly count advance votes as they are individually cast, and then quickly produce detailed voting results immediately after voting closes, directly addresses the current problems related to the amount of time that is required to finalize advance voting results on Election Night under the current model.

[12] During the 28th General Election, Returning Officers in 61 constituencies established a total of 173 advance voting locations across the province. Voting locations are not contractually established until a few months before the election, so the exact number and locations where advance voting will occur at the 29th General Election will not likely be known until late in the summer of 2020. While it would be ideal to have electronic poll book and ballot scanning tabulator technology in all advance voting locations, inadequate internet/cellular network coverage or logistical/economic considerations at some location may not allow that to be possible.

At 8 p.m. on Election Night, the poll supervisor of each technology-enabled advance poll will 'unlock' the vote tabulation machine used at their advance voting location and explain, to the candidates' agents present, how the vote count was being recorded by the tabulator as advance voting ballots were scanned before they dropped into the ballot box. The advance poll supervisor will have the tabulator print out the voting results for the advance voting location, providing one copy to each candidate's representative.

Candidate's agents will be permitted to communicate the voting results to their campaign office, while the supervisor provides those same results to the Returning Officer for entry into the official results reporting system. That system, operated in each returning office across the province, is used to record the vote count per ballot box, continuously updating the result tallies until all ballot boxes are accounted for. It also electronically shares these progressively accumulating results with media organizations and simultaneously posts them to Elections Saskatchewan's website.

> "Ballot tabulators have been repeatedly proven to count paper ballots more accurately and with greater reliability than even highly trained voting clerks."

The Election Officer's Experience at a Modernized Advance Poll

The modernized approach to advance voting will increase the flexibility available to Returning Officers for making appropriate administrative arrangements for conducting advance voting in each constituency.

Returning Officers will need to take special care to hire and train advance poll supervisors and 'full-service' election officers, using recruitment and training materials that Elections Saskatchewan will provide. However, selection and training of 'express' ballot issuing officers, information officers and ballot box officers will be greatly simplified due to the limited scope of activities they will each need to perform.

Additionally, all election officers working at an advance voting location (except, perhaps, the poll supervisor) will have scheduled meal breaks, work in shifts and be permitted to take refreshment breaks without stopping all voter processing at their assigned station. Election officers assigned to an advance voting location will be trained to work as a team (under the leadership of their poll supervisor) and take shared responsibility for ensuring the integrity of voting process and the active prevention of fraud. For election officers who administer advance voting, there will be no need to return on Election Night to manually count ballots for several hours. Together, these factors will considerably improve working conditions and job satisfaction for advance poll election officers, and substantially improve the likelihood that these temporary officials will return to work at a subsequent election.

From the Returning Officer's perspective, the use of electronic poll book technology will remove the requirement that all advance voters are manually 'struck off' the election voters list to prevent them from voting again on Election Day. It will also eliminate the administrative challenge of compiling and providing, in a timely manner, candidates' agents with a list of all the voters who already voted following the five days of advance voting — a candidate-accessible web portal will receive, in real time, the numeric code for each registered voter who is issued a ballot at each advance voting location.

Finally, the Returning Officer, Election Clerk and advance voting elections officers' increased levels of stress associated with having candidates, media representatives and Elections Saskatchewan's head office personnel all questioning reasons for delays in reporting advance poll ballot counts will be eliminated. Each advance poll should be able to easily complete, and report, their preliminary vote count on Election Night within an hour of the 8 p.m. close of voting.

> "The modernized approach to advance voting will increase the flexibility available to Returning Officers for making appropriate administrative arrangements for conducting advance voting in each constituency."

The Cost of Modernizing Advance Voting Services

The introduction of technology at advance voting locations for the 29th General Election, and the associated costs of making changes to the advance voting service model, will cost an estimated $490,000 more than using the traditional model of advance voting services. Without modernization, costs for advance voting will continue to increase in direct proportion to the anticipated increase in the number of voters who choose to vote during advance voting days.[13] Modernized advance voting will allow a set number of advance voting election worker hours to provide more efficient voting services to as many as one third more voters, thereby helping offset a significant portion of the increased costs associated with the further growth expected of advance voting.

Under the currently legislated advance voting model, the only options available to address an increase of advance voters involves continually increasing the overall number of advance voting locations and deploying more polling station teams to those advance voting locations that are expected to have the greatest usage increase. However, this will not address the inherent inefficiency of the model, nor improve working conditions, and will only continue to result in significant delays in the determination of preliminary voting results on Election Night. Advance voting administration needs to be improved as it is obviously becoming the preferred voting option for a sizeable and growing proportion of the province's voting population. The introduction of a modernized voting services model will make advance voting more efficient and can subsequently be applied to help similarly streamline Election Day voting procedures.

The estimated $490,000 in increased costs that is projected to accompany the implementation of province-wide modernized voting services during advance voting at the 29th general election will amount to approximately a two percent increase in the total costs associated with delivering the next provincial general election.[14] Most of the anticipated additional costs are related to the rental[15] or procurement of required technology equipment and its associated installation, support and transport, but development costs must also be allocated for process development, new training, system testing and user support programs, plus address the need to add polling place rental time to allow technology installation and verification tests in advance of voting.

While it is recognized that the increased costs associated with introducing Phase One modernization of voting services at advance polls across Saskatchewan will cost more than only increasing the number of advance voting locations, as well as increasing the number of advance polling stations within them,[16] the investment in establishing

[13] Assuming there will be approximately 780,000 provincially registered voters at the provincial election in 2020, and that approximately 450,000 citizens (58 percent) will vote during the 29th General Election, it can be expected that a minimum of 150,000 (33 percent) of those voters will cast their ballot during the five days of advance voting. This is a conservative projection compared to the average 63 percent advance voting growth rate experienced over the past three elections. With a 63 percent growth rate under the above assumptions, over 190,000 votes (42 percent) will be cast at advance polls during the 2020 Saskatchewan general election.

[14] As explained in the 'Statement of Expenditures', Volume III of *A Report on the Twenty-Eight General Election*, the total cost of the most recent provincial election in Saskatchewan was $23.26M. Of this total cost, $490K represents 2.1 percent.

[15] Cost estimates for Phase One implementation were based, in part, on cost recovery rental rates Elections Ontario quoted for the use of their ballot scanning tabulator machines. If these machines had not been made available by Elections Ontario, commercial rental cost quotes would have been considerably higher.

[16] The costs of administering advance voting at the 29th General Election is projected to increase by roughly $500K, compared to the 28th General Election, regardless of Phase One modernization being approved.

a new model for provincial voting services is reasonable given the longer-term benefits that will be derived from Phase Two and Phase Three modernization components.

Risks of Not Modernizing Advance Voting Services

The investment in modernizing advance voting services is also appropriate in terms of proactively managing risks. Among the risks involved, the following might be highlighted:

A first risk is the obvious growing pressure being placed on the existing advance voting model which was never designed for high-volume voting. There is a rapid and sustained growth in the number of voters who wish to vote at an advance poll, taking advantage of the opportunity to vote when they find it convenient to do so within a five-day opening period. An improved approach to voting administration for advance polls must be implemented to deal with sharply increased demand.

A second risk relates to the unsustainable current model for Election Day voting. The combination of staffing levels being tied to polling division units, generally declining voter turnout and the increasing popularity of advance voting is making the presently legislated Election Day voting services model tremendously expensive to maintain while the process is serving fewer and fewer voters per polling station at each successive election. (More details on this evolution are described in Chapter Four of this volume.)

A third risk focuses on the temporary election staffing model. Apart from the fact that recruiting, hiring and training more than 12,000 people for a provincial election is extremely challenging, the nature and content of temporary election work must be qualitatively improved so that election officers are willing to work more than at just one election. It is no longer realistic to expect a modern workforce, even a very temporary one, to work 12 or more hours in a day (without meal or refreshment breaks) at a relatively low wage scale, using complex, paper-based clerical procedures that are entirely unlike those used in any other modern daily transaction. Many election officers hired at one election now refuse to ever work at another.

Modernizing the election process in Saskatchewan is necessary if these risks are to be effectively addressed. Developing a new voting services model in Phase One, to be applied only to advance voting at the next provincial general election, allows all election stakeholders to evaluate whether that new approach can realistically provide a procedural basis for Election Day voting in provincial elections that follow. Retaining a paper ballot, but using technology to control ballot access and accurately count the voting choices that are made on validly marked ballots, ensures the integrity of vote results and allows a manual recount if it is deemed necessary. Increasing the general convenience of ballot access ensures that modern citizens are not administratively disenfranchised simply because they are busy.

If modernization of voting services is delayed, or the need for modernization is simply disregarded, continuation of the 'traditional' approach for voting services runs an increasing risk of catastrophic failure in a future provincial election. Such a failure is most likely to occur when, in some or many locations, it becomes impossible to recruit sufficient temporary election officers to administer voting according to the current legislated requirements. This would invariably result in a loss of public confidence in the election's results, potentially devalue the legitimacy of an elected government, and likely lead to judicial challenges that would involve courts being petitioned to declare the results of affected constituency elections "void and set aside" under the provisions of *The Controverted Elections Act*.[17]

> "...Voters want to have flexibility and convenience regarding when and where they vote."

[17] Per section 22(2) of *The Controverted Elections Act*, Chapter C-32 of The Revised Statutes of Saskatchewan, 1978.

Providing Administrative Discretion to Enable Innovation via Pilot Projects

While the modernization requirements to improve the model for advance voting have been well-defined[18] and are fully described in the preceding pages, there is a fundamental need for further research and testing of the additional methods that will be needed to modernize Election Day voting and move towards providing the ability for eligible voters to cast their ballot at any voting location that is convenient for them during an election. Different types of detailed changes to voting services may be required for different voting options, or within different parts of the province, to support three primary objectives: high levels of voting access and convenience, assurance of voting integrity, and containment of the costs associated with election administration.

There is a well-established legal protocol that exists in many electoral jurisdictions around the world, as well as in other Canadian jurisdictions, permitting election management bodies to conduct 'pilot projects' during by-elections, within a limited number of constituencies during general elections or for specific jurisdiction-wide processes during general elections. These pilot efforts permit the 'real world' testing of alternative procedures\arrangements and allow accurate assessments of the effects of introducing technology into voting administration.

While such pilot projects are formally documented and communicated to electoral stakeholders by the election management body, they have the benefit of not requiring all the details of election legislation to be amended before permitting the modified approach to be used with legal authority during an actual electoral event. However, legal modifications are still required before a piloted approach can be adopted as a new process or method to be used in subsequent elections.

To 'get things right' it is envisioned that pilot projects would be used on a regular basis throughout each of the three phases of the voting services modernization program. For example, ahead of the next general election in 2020 the changed workflow and responsibilities of election officers under the new advance voting services model would be piloted during one or more by-elections, should they occur.[19] During the next provincial election, various modernization features, which will need to be formally recommended for the next modernization phase, might usefully be piloted in one or several constituencies.

Pilot projects will need to be defined and implemented during each successive by-election and general election until all the modernization initiatives contemplated have been tested and formally recommended for implementation. The Chief Electoral Officer envisions engaging legislators and registered political parties in the process of each pilot project's definition, implementation and subsequent detailed analysis.

Discussions that led to the recommendations contained in this report explored the desirability of conducting various pilot projects within each of the three phases of modernization, as follows:

In Preparation for Phase One of Modernization

- Electronic registration and electronic poll books at advance voting places;
- Changed workflows and shift work responsibilities for advance voting election officers;
- Notification to political parties and candidates of the numeric codes of 'checked-in' advance voters via a web portal; and
- Ballot scanning vote tabulation machines for recording and counting ballots, and printing and electronically communicating advance voting results.

In Preparation for Phase Two of Modernization

- Modernized advance voting procedures applied to Election Day voting, during one or more urban constituency by-elections;
- Re-engineered manual voting procedures applied to Election Day voting during one or more rural or remote constituency by-elections;
- Enlarged polling division populations (e.g. 750 voters);
- Special postal vote distribution and collection processes in rural and remote communities;

[18] While this report was being prepared, Elections Saskatchewan undertook 'parallel' processing of poll book entries during several by-elections to prove the feasibility of introducing electronic poll books into the voting process. When reviewed, the e-poll book approach was overwhelmingly endorsed by voters, candidates, political party representatives, and election officers that witnessed its use.

[19] While a by-election would be an ideal environment to 'field test' new procedures, they would not be essential for the effective implementation of modernization elements at advance voting at the 29th general election. Should by-elections not occur, testing could take place in other ways.

- Special voting locations — such as airports, post-secondary campuses, large shopping malls and major sporting venues — where voters from any constituency can be issued a ballot and permitted to vote during a general election;
- Assistive voting technologies provided to voters with disabilities, allowing them to vote independently and privately at a returning office; and
- Mobile advance polls used at long-term care facilities.

In Preparation for Phase Three of Modernization

- 'Super Polls' serving all constituencies for 'vote anywhere' voting convenience and improved administrative efficiencies;
- Use of 'mobile polls' to provide convenient in-person voting services to the more remote and sparsely populated areas of the province;
- Secure electronic voting for specialized groups of voters (e.g. disabled, Canadian Forces electors overseas, out-of-province absentee voters); and
- Expanded opportunities to voting provisions – seven consecutive days of in-person voting at any open voting location.

Each pilot project is to be formally documented and submitted in advance of implementation to a multi-party committee of the Legislative Assembly, as well as a committee of representatives of registered political parties. During any by-election or general election at which pilot procedures were tested, all affected candidates would be fully informed about the pilot project's change to procedures or methods.

Introducing the ability for Elections Saskatchewan to undertake pilot projects can start a process of administrative innovations being regularly field-tested to allow electoral procedures to change within a structured framework. This is necessary to keep pace with public expectations, address changing stakeholder requirements and appropriately leverage technology advancements to improve election administration over time.

Further details regarding the specific legislative changes required to introduce the authority for the Chief Electoral Officer to conduct pilot projects during provincial by-elections and general elections are provided in Appendix C of this document.

Addressing Issues with Current Election Act and Regulations

While they are indirectly related to modernization initiatives, there are many contradictions, omissions and administrative problems created within the current requirements of *The Election Act, 1996* and its supporting regulations.

These issues need to be addressed with 'housekeeping' amendments that will establish a solid legal foundation from which to generally improve voting administration. Addressing existing shortcomings of election legislation will usefully supplement the introduction of modernized advance voting services in Saskatchewan's provincial elections.

The general changes recommended in this regard are described in Appendix D of this report, where they are discussed under the following headings:

- Incomplete drafting and conflicting references;
- Provisions that add cost, but little or no value;
- Provisions that demand the collection of unnecessary information;
- Provisions that are no longer required;
- Gaps in legislative provisions;
- Changes to keep pace with voting trends;
- Changes to keep pace with modifications to electoral administration.

To supplement Appendix D, Elections Saskatchewan has developed a detailed section-by-section description of the specific errors, omissions, contradictions and issues that need to be resolved with legal language changes.[20] These section-specific references also include all the Phase One details for modernization of advance voting services as described in Appendix B, and the recommended 'pilot project' legal provisions that are referenced in Appendix C.

The Chief Electoral Officer and appropriate Elections Saskatchewan staff will be available to work with assigned legislative counsel to support the process of developing the precise statutory and regulatory changes required to efficiently implement the Phase One recommendations contained in this report.

[20] This technical document is titled "Supplementary Information on Recommendations for Legislative and Regulatory Changes Re: *The Election Act, 1996*". It will be provided to the Ministry of Justice and published on the Elections Saskatchewan website after this Volume IV of *A Report on the Twenty-Eighth General Election* has been tabled in the Legislative Assembly.

300

Current legislated maximum number of voters per polling division

4

CHAPTER FOUR

MODERNIZATION REFORMS FOR THE 30TH AND 31ST GENERAL ELECTIONS

From the outset, it is important to make clear that this chapter does not include any formal recommendations for legislative changes to Saskatchewan provincial election law, but is instead designed to offer context for legislators to understand the overall direction that is envisioned for the two phases of further modernization of provincial voting services following Phase One.

Just as other parts of this volume contain formal recommendations for the legislative changes required to implement Phase One of voting services modernization, it is expected that a corresponding volume in the Chief Electoral Officer's report on the 29th General Election will make specific legal amendment recommendations for implementing Phase Two reform. In turn, further recommendations will need to be offered in the Chief Electoral Officer's report following the 30th General Election for Phase Three reform.

The modernization elements described in this chapter provide a general vision of where further voting process improvements in Saskatchewan will logically lead. Additional research, pilot projects and extensive discussion with legislators, political party representatives, candidates, election workers and voters will be necessary before detailed legislative change recommendations can be formally prepared regarding Phase Two and Phase Three implementation requirements.

Modernization Reforms in Phases Two and Three: An Overview

The suggested approach of an incremental process of modernizing provincial election voting services in Saskatchewan, through three separate phases, is based on the belief that risks and costs can be most effectively managed with a process that builds on the preceding changes while staying focused on achieving the vision of providing greatly improved voting services to electors and candidates, and a better working environment for election officers.

With each subsequent phase, the intention is to build upon and expand features introduced during the previous phase, thereby steadily evolving Saskatchewan's voting modernization efforts. The overarching goals are to deliver improved voter access to the electoral process, enhance the integrity of election processes, and ensure the voting services model selected is one the will remain cost effective into the foreseeable future. The voting process modernization during Phases Two and Three should result in a system offering maximized opportunities for voters to cast their ballot at a time and location that is most convenient for them, and not according to legislative restrictions that no longer meet public expectations.

Phase Two modernization extends the Phase One approach and extensively synchronizes Election Day voting processes for the 30th General Election (2024) with those initially introduced for advance voting during the 29th General Election (2020). Features include:

- Staffing arrangements at Election Day voting centres will be flexible, based on shifts, and feature the ability for additional staff to be added quickly if attendance volumes require it;
- The maximum population size of each polling division will be increased to permit optimized staffing levels;
- Voting hours will be standardized for both advance voting and Election Day voting;
- Advance voting procedures and Election Day voting procedures will become identical for all Election Day voting locations established for urban and semi-urban communities;
- Re-engineered manual voting procedures will provide streamlined voting services at Election Day voting locations serving rural and remote communities, using a combined poll book and voters list and better use of staff resources;
- To increase voting convenience for those registered voters living in the more lightly populated areas of the province, 'postal voting'[21] packages will be automatically issued to all voters not served by technology-assisted Election Day voting locations; meaning
- Voters living in rural and remote areas will be provided a choice of voting by mail, voting at an advance poll or voting at an assigned location on Election Day. For reasons of convenience alone, it can be expected that most of these voters will use the postal voting option.

Phase Three of modernization extends the services provided at all voting places across the province and allows voters to cast their ballot at any voting location they enter. Additional features include:

- Super Polls being established at airports and sports stadiums to allow voters from any constituency to cast their ballot while there;
- Saskatchewan citizens who are members of the Canadian Armed Forces stationed overseas being able to cast a ballot electronically, with the opportunity to remotely watch their ballot choice being printed on a paper ballot and deposited into a ballot box. The same type of arrangements could be made available to voters who are disabled, or out-of-province, provided they are registered for the service with their constituency Returning Officer;
- An additional day of voting will be added to fill in the temporal space between the five days of advance voting and Election Day — the same voting locations will be used for the entire seven-day period, and every location will be open for the same hours on each of those days. Rather than having approximately half of voters cast ballots during advance voting, and the other half vote on Election Day, the voting process will be more evenly spread out over the seven days polls are open; and
- With the use of communication technology in all voting locations, including those in remote and lightly populated rural areas of the province, voting results per constituency will be tallied quickly following the close of voting at 8:00 p.m. on the last of the seven days that polls are open.

[21] During Phase Two preparations, decisions will need to be made regarding whether the streamlined 'postal voting' process would be a modified version of absentee voting (which currently includes the possibility of voting by mail) or a new feature standing on its own. The American states of Oregon, Washington and Colorado have all moved to postal voting exclusively, and there are undoubtedly lessons to be learned from election administrators in those states.

After the three phases of voting process modernization are delivered, Saskatchewan citizens are likely to characterize their ability to participate in provincial elections as selecting from a series of 'voting opportunities' that unfold during the writ period. The currently available options for voting, including 'homebound voting,' 'absentee voting', 'hospital voting', 'advance voting', and 'election day voting' would all continue, but they would be supplemented by the 'postal voting' option introduced during Phase Two and the 'vote anywhere' opportunities included with Phase Three implementation.

> "The voting process modernization during Phases Two and Three should result in a system offering maximized opportunities for voters to cast their ballot at a time and location that is most convenient for them, and not according to legislative restrictions that no longer meet public expectations."

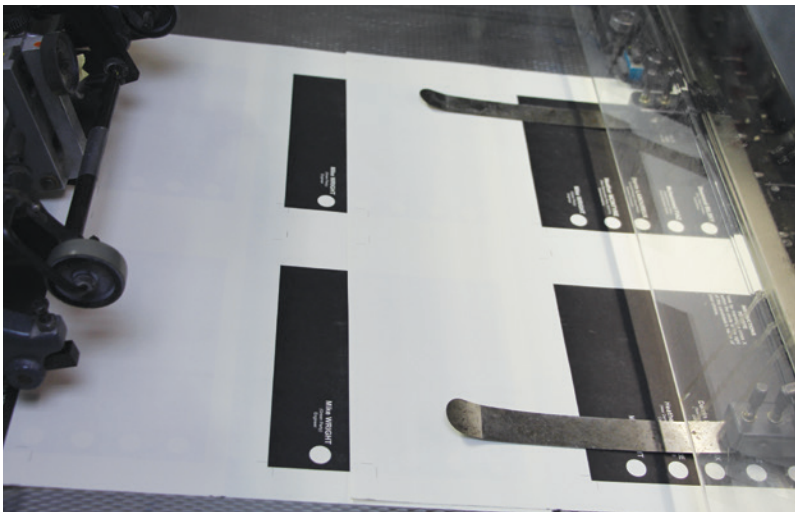
Together, the new voting arrangements will translate into a public understanding that, while many provincial voting opportunities exist, they are integrated to provide a high level of convenience and voting access for voters. Furthermore, the modernization of voting services that produced this integration has not introduced compromises to electoral integrity nor has it resulted in unsustainable public costs.

Phase Two Modernization Reforms

The primary focus of the envisioned Phase Two of modernization involves extending the new voting services model, introduced at advance voting locations during the 29th Provincial Election in 2020, to most Election Day voting locations in the 30th General Election in 2024.

The central idea behind Phase Two is that the improved voting service arrangements introduced for advance voting during Phase One would now be used on Election Day by approximately two-thirds of the voters in the province who live in urban or semi-urban communities. In the more lightly populated parts of the province the voting services model will also have been streamlined, but cost considerations cannot support the installation and support of technology for electronic poll book processing and ballot tabulation. A re-engineered manual approach will be utilized at Election Day voting locations in these parts of the province because a business case will not currently support automation being installed in voting locations that can be expected to be used by fewer than 250 voters.

The improved manual voting services approach will utilize many of the efficiency principles of the technology-enabled voting services model to be applied at advance voting locations at the 29th General Election, while utilizing streamlined procedures to efficiently check-in voters, accurately count ballots and report voting results after voting closes. The use of ballot secrecy sleeves and machine-readable ballots will be common to all advance and Election Day voting places, including those that need to make use of the new manual procedures, as this will allow ballot recounts to utilize ballot scanning tabulators if recounts are required.



Saskatchewan's current ballot design will need to be updated to allow for votes to be counted by tabulators.

Based on the results of pilot projects, a numeric code for each voter who has checked-in at a manual process voting location will be securely communicated via a smartphone or other communication device, feeding the same system that electronic poll books will communicate with in technology-enabled voting locations. This will prevent voters from duplicate voting, and creates an audit trail of information about individuals who attempt to vote more than once.

> "The central idea behind Phase Two is that the improved voting service arrangements introduced for advance voting during Phase One would now be used on Election Day by approximately two-thirds of the voters in the province who live in urban or semi-urban communities."

To understand the rationale of why these fundamental procedural changes are required for all Election Day voting locations, it is first necessary to understand the present voting arrangements legislatively prescribed for Election Day, as well as the problems and inefficiencies that have evolved over time with using that approach.

Overview of current Election Day voting arrangements

Electoral geography determines voting administration: Currently, where individual citizens are permitted to vote on Election Day depends specifically on where they live within their constituency. Unless they vote under what the legislation frames as an 'exception' process (absentee, hospital, etc.), each Election Day voter is required to vote at the single location that is assigned to provide voting services for the citizens living within the boundaries of geographic 'polling division'[22]. A voting location may have one or several 'polling stations', which consist of a table with a ballot box, voters list, voting screen and two election officials. However, only the voters who reside within a specific polling division can vote at the corresponding polling station that is required to be established for that division.

Each polling division is a demarcated geographic unit within a constituency[23] and, as specified in s. 19(6) of *The Election Act, 1996*, each division can include a maximum number of 300 voters. This number was originally defined as the number of persons who could be efficiently served during available hours of voting by a pair of poll officials. However, these parameters were established many decades ago at a time when nearly 90 percent of eligible voters would vote on Election Day, and almost no voters met the legal criteria required to be eligible to cast a ballot at an advance voting location.

One Polling Station per Polling Division: Establishing Election Day voting locations which only cater to the voters who reside within the boundaries of a single polling division is relatively straightforward: the number of eligible voters is capped to a benchmark maximum number of 300, and the staffing consists of a deputy returning officer (DRO) and a poll clerk (PC), plus an information officer to greet voters and provide needed assistance. The voting location is established at a convenient site within that polling division's boundaries.

[22] The entire geography of each provincial constituency must be subdivided into separate polling divisions in accordance with section 19 of *The Election Act, 1996*. Elections Saskatchewan currently manages the production of electoral maps depicting the boundaries of 3,009 polling divisions that are contained within 61 constituencies.

[23] Polling division boundaries must be periodically reviewed and updated to maintain their maximum populations, reflect demographic shifts and accommodate new housing developments. Polling division boundaries undergo extensive modification following each decennial constituency boundary redistribution.

This single-poll arrangement is typically found in rural areas, albeit often with only about half of the maximum number of voters permitted being assigned to the single poll.[24] Establishing a separate voting location for each polling division was the norm in the nineteenth century when the current voting services model was adopted across Canada, and often these polls would be located within people's homes.

The situation becomes somewhat more complex when there are multiple polling stations co-located at a voting location. This is the standard arrangement in the more densely populated urban areas where most the province's voters now live. In a 'central polling place', there must be one DRO and one PC at each polling station that can only serve the voters who live in a corresponding polling division. A supervising DRO is appointed to provide coordination where there are three or more polling stations at a single voting location. Additional staff in the largest polling places may include multiple information officers and voter registration officers, as well as personnel assigned to direct traffic and provide building security.

Problems and inefficiencies of the current Election Day voting arrangements

Recruiting temporary election officials to work under antiquated conditions: The underlying assumption of provincial election law is that the voting process will be administered "by the people, for the people" and that the Returning Officer in each constituency will be able to easily recruit and train enough election officers from the community surrounding each of the Election Day voting locations they establish throughout the constituency. However, with each election, the recruitment process is proving to be increasingly difficult. For some voting places election officers need to be brought in from distant communities because no local residents are willing to become election workers. The long hours, the low compensation levels, the inability to take breaks, the challenge of serving voters with inefficient clerical procedures, plus the complexity of ballot reconciliation and the stress of partisan-scrutinized vote counting after 11 hours of administering the voting process, are the combined reasons that more than half of the workers hired at each provincial election will now refuse to work at any subsequent election.

Election Day voting is held for 11 continuous hours during which the same DRO and PC are legally expected to remain at their location without a meal or refreshment break. In the event one of them needs to take any kind of break, all voting at that station must stop until the Official returns. Meals and refreshments are not provided and election officers are expected to bring their own food and drink so they can eat their meals and take their refreshments at their assigned polling station.

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Hours that most election officers are currently required to work without a meal or refreshment break on Election Day

Systemic overstaffing of voting locations on Election Day: The number of voters who are currently included in a polling division in rural Saskatchewan is often far less than the maximum number of 300, due to legislative guidelines and policies that require the Chief Electoral Officer to keep access to the voting process reasonably convenient for all voters across the province. Many Election Day voting locations in rural Saskatchewan have only one or two polling stations assigned to them (while covering a large geographic 'catchment' area) with fewer than 150 potential voters per station. In the more remote parts of the province, voting locations sometimes need to be established for a population of 50 or fewer voters which significantly increases the administrative cost per vote. In urban settings voting often occurs at a 'central polling place' which can encompass six or more polling divisions, which would theoretically generate greater efficiencies and lower administrative costs per voter. However, attendance per Election Day polling station has moved to being far less than the legislated benchmark figure of 300 voters in both rural and urban constituencies.

[24] The current policy of Elections Saskatchewan is that no voter should be required to drive for more than 30 minutes to attend their assigned polling station on Election Day. This requirement results in many rural polling divisions being physically limited in their maximum geographic size and not ever approaching their maximum eligible voter population size. In the more remote parts of the province the population size for a polling division is sometimes less than 50 persons.

For the 28th General Election, the province-wide average number of voters attending a regular Election Day polling station was 109. The largest average in a constituency was 167, while the smallest average had only 66. Two factors underlie these relatively low Election Day attendance numbers: generally low voter turnout[25] and steadily increasing participation in advance voting.[26]

> "...with each election, the recruitment process is proving to be increasingly difficult."

Manually generated duplicate voter registrations: When a voter's name is not on the voters list, he or she is required to register, usually at a separate registration desk, and must produce evidence of their identity and address during the registration process. Once registration is completed, the voter needs to rejoin the line and then proceed to the polling station to which he or she is assigned (based on which specific polling division the voter's residential address is located) to receive a ballot paper.

After the election, the voter registrations that are taken at the time of voting are data entered to be included in the Provincial Register of Voters. Register staff find that approximately 90 percent of the voter registrations that are collected at voting places are for citizens who are already registered, usually at a former address of residence.

Inefficient 'Get Out the Vote' support: Periodically, assigned candidates' agents will attend each Election Day voting place and request a copy of tracking sheets (often referred to as voting 'bingo sheets') that indicate circles marked around the voters list sequence numbers of those voters who have attended their assigned polling station and have been issued ballots. These time-period log sheets must be completed by the PC, and the release of copies to individual candidate agents is controlled by the DRO. The sheets are then taken (or otherwise communicated) to campaign offices where efforts are made to cross-reference against the voters list numbers of indicated supporters. Supporters who have not voted are contacted and asked if they still intend to vote, and frequently are offered a ride to the voting place if they require one. Candidates are finding it increasingly difficult to find sufficient volunteers to act as candidate representatives and undertake this kind of clerical collection and compilation activity throughout the eleven hours of voting on Election Day.

No parallel processing — one voter at a time: Prior to being issued a ballot on Election Day (also the case during advance voting), a voter is required to offer proof of his or her identity and address. Once the DRO is satisfied that a voter has properly identified, that voter's name is manually marked off the voters list (using a ruler and a pen for the 'strike-off' process) and then the voter's name and address must be hand written in the poll book by the PC.[27] The DRO initials the back of the ballot paper and hands it to the voter who is then required to proceed to a private voting screen, mark their ballot, and bring it back to the same DRO for inspection.

[25] At the 28th General Election in 2016, 56.8 percent of registered voters cast ballots. By comparison, at the provincial election of 1982 the turnout was 83.9 percent of registered voters. Insight into the voting participation rates is available in an article authored by the Chief Electoral Officer, available at: http://www.elections.sk.ca/media/news-releases/op-ed-dr-michael-boda-on-voter-turnout/.

[26] At the 2016 Saskatchewan provincial election, 25.5 percent of all valid votes were cast at advance polls. By comparison, the 1982 general election saw only 3.8 percent of valid votes cast at advance voting locations.

[27] Voters frequently question why their name and address needs to be handwritten in a poll book when it already appears on a printed voters list that was referenced and crossed off only seconds before. Section 66 of *The Election Act, 1996* prescribes this requirement, which considerably slows down the voting process.

The voter, having marked their ballot behind a voting privacy screen, must then return with the ballot to the table where it was issued, ensuring it is folded as they were instructed to maintain the secrecy of their voting choice, and they must present it the DRO who issued it. The DRO checks for his or her own initials,[28] removes the ballot counterfoil, and returns the ballot to the voter who then places it the ballot box for that polling division. The PC then manually records in the poll book that the voter has voted, and the voter leaves the voting location. Only then is the next voter waiting in line permitted to come forward to be served.

> "The number of voters who are currently included in a polling division in rural Saskatchewan is often far less than the maximum number of 300..."

Line-ups despite available staff at other Polling Stations: By design and legislated prescription within the current voting model, each voter is dealt with one at a time, and service to the next voter cannot start until the previous voter's ballot is deposited into the ballot box.

Additionally, each voter can only be provided voting services at their one assigned polling station within their assigned voting place, even though their polling station may be the only one with a line-up, while other polling stations in the same location have no voters seeking to cast a ballot.

Line-ups can quickly occur when voters are waiting to be served in sequence, especially when one or more voters need to correct information appearing on the voters list, or are not registered to vote, or are not in possession of identity documents that verify their address information as it is shown on the voters list,[29] or need additional assistance for any other reason. Line-ups also occur at peak times of the day when multiple voters who live within the same polling division arrive at their assigned voting location within the same timeframe — often at lunch time, or immediately after the regular working day ends.

These arrangements can considerably vary the amount of time a voter must spend at their assigned polling place, simply because non-predictable circumstances can occur at their polling station either before or upon their arrival. Under current arrangements, voting could take five minutes, or it might take twenty-five minutes.

Manual ballot count required at the end of a long day: After voting closes, the DRO and PC are responsible for reconciling and counting all the ballots they were issued, and for determining and recording on paper forms the exact number of votes per candidate cast in the ballot box at their polling station. This process can only start after all voting has concluded at the voting location and the access doors have been closed. By the time the vote count is completed, most election officers will have worked between 12 and 13 hours without a scheduled meal or refreshment break.

[28] This is a fraud prevention security check to ensure that only ballots issued at the voter's assigned polling station are permitted to be deposited into the ballot box for the corresponding polling division.

[29] The voters list must show where a voter resides; i.e. their physical address as compared to their mailing address. However, many driver license cards issued in Saskatchewan only show a PO Box # as an address. Voters do not live in their post office boxes, of course, but many rural voters have considerable difficulty providing an identification document that clearly indicates their physical, or civic geographic, address of residence when they present themselves at a voting place.

Phase Two legislative changes envisioned

The voting services model for Election Day must soon be changed, as it is becoming cost prohibitive to staff voting stations at prescribed levels per voting location because of a steadily decreasing number of voters casting ballots on the final day of voting at each provincial election. At either the next provincial election or the one that follows, a majority of voters will vote at an advance poll. Election Day voting locations, under the current voting services model, will continue to serve fewer and fewer voters as the proportion of eligible voters who vote at advance polls continues to steadily increase.

> "Under current arrangements, voting could take five minutes, or it might take twenty-five minutes."

Enlarge size of polling divisions: The first obvious step is to enlarge the permitted voter population size of each polling division. A realistic size, which would still allow personnel at Election Day voting locations to process the number of anticipated voters per location (approximately 30 percent of the eligible voters in the 'catchment' area, on average), might be a population limit of 750 voters per polling division.[30]

Because polling division boundaries will need to be redrawn following the report of the Constituency Boundaries Commission, legislatively scheduled to conduct its work during the second half of the 2022 calendar year, it is appropriate that the enlarged boundaries of polling divisions be developed during 2023, and be ready for use in the 30th general election scheduled for November 2024. This will form a key structural component of Phase Two voting services modernization, and will help significantly reduce the number of staff required to administer voting at Election Day voting locations.

Introduce more opportunities to participate through postal voting: Because voting locations must serve the population of geographically large areas in remote and lightly populated rural areas of the province, it is suggested that voters in these areas be able to vote with newly defined 'postal voting' provisions, making use of a postal voting package that would be automatically sent to every registered voter in the province that lives in a community with a low-population density.

Integrity controls can be developed to allow voters to 'authenticate' their voting package using a web-enabled interface, or by submitting some documented form of identity substantiation when returning their mail-in ballot package. The ballots that these voters would receive would have the same security features and appearance as ballots used in advance voting and Election Day voting places. They would need to be inserted and sealed in a (provided) envelope addressed to the office of the Returning Officer for the constituency, and once received they would be processed through a scanning tabulator to allow postal vote counts to be quickly calculated and communicated on Election Night, immediately after voting is officially closed.

Numerous procedural and operational details would need to be researched, pilot tested and decided on, and efficient measures would need to be introduced to prevent voting fraud, as all voters automatically receiving a postal vote package would also be eligible to vote at an advance poll, at their assigned Election Day poll, or via some other arrangement — homebound voting, absentee voting or hospital voting, as examples. Similarly, voters living in urban and semi-urban communities should be permitted to apply (online or by phone) for and receive a postal voting package as this will make the voting process significantly more convenient for some individuals.

[30] On the assumption that 57 percent of the eligible voters will vote, and that 50 percent of those who do vote will cast their ballot at an advance poll, a polling division population of 750 would only see 225 voters from that sub-division of the constituency attend their assigned Election Day voting place.

Modernize the Election Day voting services model: As described earlier in this chapter, a key feature of Phase Two of modernizing voting services in Saskatchewan will be adopting the streamlined technology-assisted methods applied to advance voting during Phase One and applying them to Election Day voting to the maximum extent possible. Where use of the technology is not practical or cost-effective, a more streamlined manual process would be used to provide voting services.

Because the voting services framework will need to be changed to synchronize Election Day and advance voting procedures, legislative changes associated with Phase Two modernization of voting services will require an overhaul of both the historical and structural foundations of the current Election Act. For these reasons, it will likely be more efficient to simply develop a new, plain language statute to establish a modern, and more easily understood provincial electoral law.

The new Act would update all the underlying legal assumptions regarding the roles of the various election officials, and their ability to be assigned to work in shifts; the use of technology-supported voter check-in and ballot counting as well as re-engineered manual vote processing being used at voting locations on Election Day; the size and population content per polling division; the geographic assignment of ballot access opportunities; the methods by which the integrity of the voting process is protected; the controls used in both technology-enabled and manually operated voting locations for ensuring procedural accountability; the availability of integrated voter registration and voting participation information for candidate campaigns and political parties; and the methods by which voting results, both preliminary and final, are communicated, tallied and published.

The structure and proposed content of such a new Election Act should be the subject of legislative change recommendations made by the Chief Electoral Officer following the 29th General Election, scheduled to be held in November 2020.

Phase Three Modernization Reforms

During the third recommended phase of electoral modernization, to be introduced in time for the 31st provincial election (2028), the focus turns to introducing the 'vote anywhere' concept and establishing an entire 'voting week' during which all voting locations are open, with standardized hours, for seven days in a row. The distinction between advance voting days and Election Day would then disappear, as would the concept of only being able to vote an assigned voting location. Almost no citizen of Saskatchewan could legitimately claim that they were administratively disenfranchised — the opportunities to vote would be sufficiently enlarged that reasons for not voting would no longer be related to being prevented from doing so because of excessive access and timing restrictions.[31]

2022

Legislatively scheduled date of the next provincial Constituency Boundaries Commission

[31] Numerous studies on the reasons Canadian citizens give for not having voted in elections include a large number of responses from non-voters indicating they were "too busy" or that the voting process and timing was "not convenient". However, nearly two-thirds of non-voters indicate the reasons they do not vote is because they "don't follow politics", or "don't like any of the candidates" or "don't think their vote would make a difference".

Vote Anywhere: Administrative features and integrity controls, at a general election featuring Phase Three modernization, would make it possible for any voter to cast their ballot at any voting location in the province.[32] In most voting locations, a ballot for the voter's constituency would be printed on demand at the voting place attended (unless, of course, a person were voting within their own constituency boundaries), and their ballot choice would be scanned and tabulated at the voting location. At the close of balloting, each vote choice would be communicated to a secure voting results database and added into the tallies for the appropriate constituency. Integrity controls would ensure that as each voter was issued a ballot they would be electronically 'struck-off' the voters list, no matter where they were voting, thereby preventing opportunities for duplicate voting. Portable communication technology, such as a smartphone issued to a poll supervisor, would be used to ensure this strike-off status was utilized even in those voting locations that used manual procedures for voter check-in and ballot counting.

Voting Week: Rather than having a period of five days of advance voting in one week, followed by an Election Day on the Monday of the following week, it is envisioned that, as a result of Phase Three modernization, there would simply be seven voting days available for all interested and eligible voters in the province to attend a polling location. It is proposed that voting hours would be the same each day, and that voting would start on the Tuesday of one week and end on the Monday of the following week.[33] The period could logically be referenced as 'voting week' — preliminary voting results would be released in the hours immediately following the close of polls on the seventh and final day of voting.

Online Voting – with limited availability: In addition, depending on the results of pilot projects that would be conducted well in advance of the provincial election featuring Phase Three modernization, the ability for disabled voters, Canadian Forces voters deployed out-of-country, and out-of-province voters to vote in a secure electronic manner (still utilizing a printed paper ballot) would be a feature introduced for that election. While the province-wide application of internet voting would present significant security risks, deployment to relatively small sub-groups with unique voting opportunity challenges provides comparatively low levels of voting integrity risk while greatly improving ballot access for affected voters.

"Administrative features and integrity controls, at a general election featuring Phase Three modernization, would make it possible for any voter to cast their ballot at any voting location in the province."

[32] Such an ability has already existed in the province of British Columbia since the 1920s, and the 'vote anywhere' process for Saskatchewan would utilize many of the modernization updates Elections BC has recently made in their related operations.

[33] Having a full week of voting available, for the same hours each day, would make it considerably easier for voters to understand the period of voting opportunity. In addition, it would allow the volume of voting activity to be more evenly spread out, permit voting places to be set up just once for a full week's use, provide the ability to schedule consistent shift work for the required election polling staff and provide a high level of convenience to the voting public. Because there would be fewer voting locations established overall, it is important that voters living considerable distance from a voting location can vote using a postal voting package.

A number of questions still to be considered: There are a variety of questions that arise when considering the concept of seven consecutive days of voting, made available at any voting location, compared with the current legislated assumption that the overwhelming majority of persons who wish to vote only need access to one poll, and that it only needs to be open for one day. These include whether there will remain a need for administrative polling divisions, what the optimal number and size is of the voting locations that are to be open for seven consecutive days, and what the practicalities are of staffing voting locations to provide consistently high levels of service to the voting public.

Further, the question of whether extensive use of 'mobile polls' should be introduced to provide in-person voting services to the more remote and sparsely populated areas of the province, or whether postal voting should be introduced as the default arrangement for all voters living in geographic areas with a population density under an agreed figure, all need to be seriously considered.

Together, the answers to these questions must strike a meaningful balance between an appropriate provision of ballot access and voting convenience to citizens, the need to ensure voting integrity fraud controls, and the requirements to contain the costs of voting administration.

These questions are all deserving of careful analysis and thoughtful responses. Each have a range of potential answers that could be assessed in well-designed pilot projects used to help define the Chief Electoral Officer's final recommendations for Phase Three modernization elements. Those recommendation will need to be developed following the 30th General Election, scheduled for November 2024.

Phase Three legislative changes envisioned

If the Election Act is rewritten during Phase Two modernization, as is suggested, it should be structured in such a way that the amendments expected to be necessary to implement additional changes described for Phase Three can be efficiently accommodated within the new framework. If properly anticipated during the legislative drafting process, required amendments to introduce Phase Three elements into the new Election Act will be relatively minor in comparison to the more substantive legal framework changes associated with Phases One and Two.

While the legislative changes required to implement voting modernization themes described in this chapter will not be required for several more years, Phase One statutory amendments are considerably more urgent. Unless a new voting services model is introduced for advance voting, the improvement of voting administration in Saskatchewan cannot proceed along the careful, risk-aware and cost-conscious path that has been outlined in this report.

The legal amendment process that will need to accompany the start of the voting modernization process is the topic of the next chapter. As well, other areas of electoral law that will be assessed in future reports are described.

> "Together, the new voting arrangements will translate into a public understanding that, while many provincial voting opportunities exist, they are integrated to provide a high level of convenience and voting access..."

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Advance voting locations during the 28th General Election

5

CHAPTER FIVE

CONCLUSION

The recommendation to modify the legal framework and proceed with the first of three phases of modernization to provincial voting services, if accepted, has far-reaching implications for changes to current electoral legislation and regulations. As well, implementation will require a fundamental re-engineering of the approach that Elections Saskatchewan will employ for providing advance voting services during the 29th General Election in 2020.

Utilizing technology that had not yet been invented when the current legal constructs for Saskatchewan's provincial elections were developed, the modernized advance voting approach recommended holds promise for introducing significant efficiencies and improved service for voters, candidates and political parties. It will set out the first important steps in a modernization process that will see a purposeful evolution of voting access improvement and convenience for Saskatchewan voters.

Elections Saskatchewan is cognizant of the fact that many of the fine details contained within *The Election Act, 1996* will need to be carefully worked through if agreement with the recommendation to proceed with Phase One of the voting modernization program is accepted by legislators. With that in mind, it is recommended that legislative drafting work begin as soon as possible after the Legislative Assembly signals its broad support for the Phase One modernization changes recommended.

While ultimately far-reaching in terms of establishing a new model for voting services, the changes associated with Phase One of electoral modernization are non-controversial and are urgently required to provide administrative mechanisms that address the increasing popularity and growth of advance voting. In the short term, the simultaneous removal of issues created by the current language of *The Election Act, 1996* will also greatly benefit all stakeholders whose activities are governed or guided by the Act. The need for these 'housekeeping' amendments is

described in Appendix D of this report — they are needed to keep the Election Act relevant and workable for the next provincial election and are similarly non-controversial and overdue for legislative attention.

Like fundamental changes to any important process, subsequent Phase Two and Three improvements to the provincial voting services model will need to be implemented with extreme care and meticulous attention to detail. The experience of election administrators across the globe suggests it is often best to look for 'real-world' opportunities, such as a by-election, to thoroughly test new initiatives on a limited scale to learn about the range of implications and effect of new processes before implementing changes on a jurisdiction-wide basis. For this reason, enabling the legal ability for the Chief Electoral Officer to define and conduct pilot projects is strongly recommended.

> "While ultimately far-reaching in terms of establishing a new model for voting services, the changes associated with Phase One of electoral modernization are non-controversial and are urgently required to provide administrative mechanisms that address the increasing popularity and growth of advance voting."

A comprehensive section-by-section list of Phase One electoral modernization legislative change recommendations made in this report has been developed by Elections Saskatchewan to allow an efficient analysis of the legal drafting work that will be needed to amend *The Election Act, 1996*. Those changes are described in Appendices B, C and D of this report.

The changes being suggested for Phase One voting services modernization are consistent with the broader electoral modernization initiatives being pursued in other provinces, which include British Columbia, Alberta, Manitoba, Ontario, Nova Scotia and Prince Edward Island, as well as the Canadian federal jurisdiction. As such, an early indication of support from legislators will provide opportunities for close collaboration with the election management bodies in these provinces, and with Elections Canada. This will enhance Elections Saskatchewan's ability to learn from these other jurisdictions' experience, and the acquired knowledge will help to reduce risks, avoid problems and minimize implementation costs. This is particularly the case with respect to the use of supporting technology and finding ways of equitably sharing costs between all jurisdictions who are undertaking modernization of their voting services.

Other Electoral Matters Requiring Legislative Consideration

While developing the recommendations that are made in this volume, it became clear that other areas of electoral administration and related public policy are worthy of a detailed legislative review, and that further reforms may be required to bring the full scope of electoral practice in Saskatchewan up-to-date.

Chapter Two of this report described the Chief Electoral Officer's intention to undertake further analysis and make recommendations for legislative reform in relation to the drawing of constituency boundaries, the conduct of referenda and plebiscites, and the rules related to political financing. In each of these important aspects of electoral governance, many years have passed since any comprehensive review was conducted.

The intended discussion content and schedule for the publication of each of these assessments is as follows:

Drawing the Province's Constituency Boundaries

The most recent commissioned review of provincial constituency boundaries, completed in the April to October 2012 period, resulted in some significant challenges for the Members of the Constituencies Boundaries Commission that was created and mandated to conduct that review. The Chair of the Commission identified specific areas that should be examined, including the scheduling of the next boundaries review and the implications it holds for a Commission that is expected by statute to be convened in 2022.

The matters referred by the Commission Chair, and broader issues of the electoral boundary-setting process and design, will be reviewed in the Chief Electoral Officer's report and recommendations on this topic. It is intended that this Assessment will be published during the summer of 2018.

The Referendum and Plebiscite Act and Associated Regulations

Saskatchewan's legislative framework governing the conduct of referenda and plebiscites, *The Referendum and Plebiscite Act* and its associated regulations, needs to be significantly re-aligned to be consistent with the current *Election Act*. Good electoral practice points to the need for tight coupling of the legislation governing both the conduct of elections and referenda simply because the processes to conduct both types of voting events is often identical. Moreover, the province currently has no cost-effective means of conducting a referendum or plebiscite between general elections.

Changes to election legislation over the past two decades have not been applied to referendum and plebiscite legislation, and the amendments necessary to bring the legislation back into alignment need to be clearly identified. This required alignment, and the identification of an effective mechanism for conducting a public consultation vote between general elections, will be the primary topics of this second CEO Assessment Report scheduled to be published during the fall of 2018.

Saskatchewan's Political Finance Regime

Saskatchewan began regulating political finance in the 1970s.[34] While the regulatory regime has changed very little since that time, the societal context in which political finance rules operate has undergone a significant amount of change.

These developments suggest that there is merit in examining whether Saskatchewan's political finance laws have kept pace with public expectations. Comparisons with other provinces may shed light on opportunities for enhancing the political finance regulatory system used in Saskatchewan. Many Canadian jurisdictions have, in recent years, acted to change their political finance regulatory framework, including: placing limits on the amounts and allowable sources of political contributions; modifying public disclosure provisions regarding political contributions and their timing; introducing candidate and political party expense limits; and providing various forms of annual or periodic public financing to parties and candidates.

> "The changes being suggested for Phase One voting services modernization are consistent with the broader electoral modernization initiatives being pursued in other provinces,...as well as the Canadian federal jurisdiction."

It is not within the Chief Electoral Officer's mandate to make recommendations about which public policy choices should be taken within the regulatory scheme that organizes traffic at the intersection of politics and money.[35] The CEO's Assessment Report on this topic will provide comparison information on how different Canadian jurisdictions have structured their political finance rules, as well as make suggestions about how the administration and enforcement of the current rules could be made more effective.

It is intended that this third CEO Assessment Report be published during the winter of 2018-19.

[34] Elections Canada, Electoral Insight (magazine), May 2002, Vol. 4, No. 1, *Electoral Insight - Reform of Election Financing: Canada, Great Britain and the United States*, p. 3. Saskatchewan was an early adopter of election financing legislation, which was introduced in 1974, following Quebec (1963) and Nova Scotia (1969).

[35] Similarly, it would not be appropriate for the Chief Electoral Officer to make recommendations regarding the adoption of a new electoral system for the province — i.e. suggesting a fundamental change to the current 'Single Member Plurality System' which spells out the legislated arrangement that determines how citizens' votes are translated into seats in the Legislative Assembly. These types of recommendations move considerably beyond the scope of suggesting a more effective approach for the electoral administration rules and arrangements within an established governance framework.

APPENDIX A

RECENT VOTING PROCESS MODERNIZATION INITIATIVES IN CANADA

The need to modernize traditional voting processes has been recognized by election management bodies within Canada for several decades and important initiatives are now underway in the majority of the 14 jurisdictions. These have come about principally through the introduction of explicit provisions within election laws that permit chief electoral officers to conduct pilot studies involving new technologies, and because of new and amended legislation recommended by chief electoral officers.

While the topic of voting modernization will often evoke images of computerized voting, many important adaptations to better meet present day needs involve simple changes to the rules and processes for managing elections while maintaining the integrity features associated with using paper ballots.

New Brunswick

It is difficult to pinpoint exactly when or where the voting process modernization movement began in Canada, but the earliest and most dramatic changes occurred in 2008 in New Brunswick.[36] Elections New Brunswick had carefully analysed all the steps involved in election day registration and voting and then organized them around specialized task-based jobs for election officials. Simplified duties assigned to officials helped streamline the voting process — making it more efficient and easier for voters to understand. The process improvements increased the speed of voting and reduced the number of staff by making use of technology to scan voter information cards, register voters, record voter transactions using electronic poll books, and count ballots with vote tabulators. The costs of introducing technology were offset by the savings gained from requiring less staff.

British Columbia

Through its modernization initiative entitled 'Vision 2017,' major changes were made to British Columbia's voting processes in its 2017 general election[37] as a result of legislative amendments made to its *Elections Act* in 2015.[38] Unlike most other provinces and territories and in federal elections where voters must cast their ballot at an assigned location, BC has offered a "vote anywhere"[39] option to its voters for many decades. Originally this was offered only during the period of advance voting. This has since been expanded to include the ability to vote anywhere throughout the election period, whether by mail, at any District Electoral Office in the province, or at any open voting place up to and including Election Day. All voting stations are equipped to handle regular voters assigned to the voting area, as well as a dedicated absentee voting station to handle voters from other voting areas (polling divisions) or electoral divisions (constituencies) within the Province.

To deal with some of the complexities and the high rate of error inherent in offering a manual based province-wide absentee voting system, Elections BC sought to streamline and automate the absentee voting processes in 2017. After piloting[40] a technology-enabled voting process in two by-elections in 2016,[41] Elections BC deployed laptops, portable scanners and printers to all advance voting locations and general voting day (Election Day) locations in their 2017 general election. The barcode scanners were used for voter look up and laptops were used for updating voter registration information and locating voters within the proper voting area or electoral district. Special software used for absentee voters required all the necessary information be entered into the system correctly

[36] The New Brunswick voting model is described in the 2013 *Compliance Review: Final Report and Recommendations* which was commissioned by Elections Canada. A link to the Annex describing this approach can be found at: http://www.elections.ca/content.aspx?section=res&dir=cons/comp/crfr&document=d&lang=e#a.

[37] Elections Canada, Research Note (April 2017) 2017 *British Columbia Provincial General Election - Key Administrative Features.* Also described in an Elections BC presentation available at: http://www.elections.bc.ca/docs/eac/EAC-2014-Voting-Modernization.pdf

[38] *Election Amendment Act 2015*, BC 2015, c. 16 http://www.bclaws.ca/civix/document/id/bills/billsprevious/4th40th:gov20-3

[39] The term "vote anywhere" refers to an option offered to electors whereby they can vote at any voting location located within the province rather than being required to vote at an assigned poll or specific location based on the voter's residential address.

[40] Numerous Canadian jurisdictions, including Canada, Ontario, Quebec, British Columbia, Alberta, Manitoba, New Brunswick and Nova Scotia, permit their Chief Electoral Officers to conduct pilot projects.

[41] Elections BC (February 2016) Report of the Chief Electoral Officer on the 2016 Vancouver-Mount Pleasant and Coquitlam-Burke Mountain By-elections found at: http://elections.bc.ca/docs/rpt/2016-CEO-CQB-VMP-By-election-report.pdf .

before a ballot was issued, thus reducing the possibility of mistakes. Electronic voters lists were updated with new and updated registrations and voters could be struck off the list electronically as having voted. During the 2017 general election, the technology did not benefit from having internet connectivity and, therefore, did not allow real-time updating of voters lists across the Province.

BC also established two extra days of advance voting - bringing their total to six days - and introduced the flexibility to change the venues of advance polls in some communities and to have advance locations open for a fewer number of days depending on the size of the community. Historical demand was used to determine the number of voting stations that were located within each advance voting location. BC's Chief Electoral Officer also authorized assigning up to 700 voters to urban voting areas, 600 in suburban voting areas, and preserved the limit of 400 in rural voting areas to maintain reasonable travel distances to the polls. These changes were introduced to reduce the number of voting stations and election workers on Election Day without impacting the speed of processing voters.

These changes to voting processes were incremental steps toward Elections BC's longer-term vision, which proposes a larger scale re-design of the voting place model in time for the 2021 general election. The proposals will include an expansion of advance voting opportunities, a first come, first serve voting process flow like the New Brunswick 'bank teller' approach, limited e-voting for out-of-province and disabled voters, real-time strike-off of voters, regular updates to voter lists during voting days, intelligent design of processes, on-demand printing of ballots, and timelier final results reporting.

Ontario

Elections Ontario was mandated by the Legislative Assembly in 2010 to review and report on alternate voting technologies and was given the authority to deploy an alternative voting method in a future general election following public consultations, on the condition that it be first tested in a by-election with satisfactory results in terms of security and integrity. The Chief Electoral Officer's report[42] was tabled in the House in 2013. The report concluded that, at the time, there was no viable method of 'network voting' that protected the integrity of the electoral process but stated that Elections Ontario would continue its work on innovating electoral services, including the applied use of technology. The innovation testing had started in 2011 with the use of vote tabulators in Ontario provincial returning offices. However, their modernization program began in earnest with research during the 2014 general election to determine the types of services that electors arriving at a voting location required, and which locations might potentially become "superpolls."[43]

Further changes occurred in a subsequent by-election in 2016 to deal with what Elections Ontario described as an "unsustainable" staffing model. They conducted a pilot study of a "technology-enabled staffing model" in the Whitby-Oshawa by-election. In this by-election Elections Ontario tested the use of e-poll books, vote tabulators and assistive voting technology for disabled voters. This enabled them to merge the roles of poll officials (deputy returning officers and poll clerks) and allowed the voter to be served by any available official. The report[44] published following this pilot study cited success in reducing the number of poll staff required, while improving voter experiences and making the work easier for poll staff. Following the pilot study, the Chief Electoral Officer recommended that a technology-enabled staffing model, similar to the one used in the Whitby-Oshawa by-election, be implemented in most voting locations across Ontario on Election Day and in advance polls at the next general election scheduled to occur in June 2018. He also recommended expanded use of vote tabulators for general elections and that the Chief Electoral Officer be given the discretion to introduce technology solutions into the electoral process when it can provide efficiencies, improve accessibility and elector experiences, while still protecting the integrity of the process.

The recommendations of Ontario's Chief Electoral Officer were accepted and passed into law by the Ontario Legislative Assembly, and the June 2018 Ontario general election will make use of e-poll book and ballot tabulator technology at polls across the province.

[42] A link to *"Alternative Voting Technologies Report: Chief Electoral Officer's Submission to the Legislative Assembly"* can be found at: https://www.elections.on.ca/content/dam/NGW/sitecontent/2014/reports/Alternative%20Voting%20Technologies%20Report%20(2012).pdf .

[43] Superpolls merged all of the polling stations that were located in a single voting location into one poll with one voters list and one ballot box.

[44] See *Proposal for a Technology – Enabled Staffing Model for Ontario Provincial Elections: Post-Event Report: Whitby - Oshawa By-Election* (Elections Ontario, 2016) found at: https://www.elections.on.ca/content/dam/NGW/sitecontent/2016/2016-whitby-oshawa-by-election-report/Post%20Event%20Report%20-%20Proposal%20for%20a%20technology-enabled%20staffing%20model%20for%20Ontario%20Provincial%20Elections.pdf.

Canada

Elections Canada has been supporting research into voting technologies for many years.[45] Following the last federal election in October 2015, Elections Canada submitted a report to Parliament entitled *"An Electoral Framework for the 21st Century"*[46] containing recommendations from the Chief Electoral Officer for sweeping reforms to the *Canada Elections Act* for improved operational efficiency of elections. This report has been considered by the Standing Committee on Procedure and House Affairs, which has expressed support for a large majority of the Chief Electoral Officer's proposals.[47] Most prominent of the proposed changes are a set of recommendations for modernizing Canada's electoral process. Citing strain within the current legislative framework for administering elections, the rapidly shifting technological context, and the need to keep pace with a constantly evolving society, the report proposes numerous changes to modernize the century old way federal elections are run through reduced prescriptiveness, simplification of processes and permitting greater use of technology. The upshot of these proposals is greater flexibility for the administration of future elections so that voting systems and processes can be more nimble, responsive and more easily adapted to changing conditions.

More specifically, the report recommends a new voting services model like the approach pioneered in New Brunswick whereby services are delivered centrally and with greater use of technology, worker duties are specialized, and voters are served by the "next available" set of officials rather than being required to wait in a specific queue based upon their residential address and served by an exclusively allocated pair of officials. This approach is consistent with recommendations from an external audit conducted during the election.[48]

The report also recommends several other changes to simplify and modernize the federal electoral process,[49] including:

- increased flexibility to conduct pilot studies to test technology in the voting process to benefit electors with disabilities;
- expanded hours for advance voting and hours consistent with Election Day voting;
- streamlining controls on advance voting through bar code scanning, removing the requirement for voter signatures and allowing mobile advance polls within the advance voting period;
- simplification of special (absentee) voting rules and processes, including the ability to download and complete an electronic copy of the ballot;
- holding elections on a weekend day for voter convenience and increased staffing and venue availability;
- hiring younger election workers (16 and 17-year-olds) and workers from outside the electoral district, more flexible assignment of duties to allow for regular breaks, and limiting the number of consecutive hours in a shift for any one election officer;
- simplifying the nomination paper filing process and creating an electronic portal to allow candidates to file nomination papers online; and
- increased collection rights and access to data sharing for purposes of maintaining the National Register of Electors, particularly regarding 16 and 17-year-olds.

[45] See links to Elections Canada, Research Note (September 2013) *Establishing a Legal Framework for E-Voting in Canada*, found at: http://www.elections.ca/content.aspx?section=res&dir=rec/tech/elfec&document=index&lang=e, *Elections Canada (May 2012) Technologies in the Voting Process: An Overview of Emerging Trends and Initiatives*, found at: http://www.elections.ca/content.aspx?section=res&dir=rec/tech/note&document=index&lang=e, Elections Canada (June 1998) *Technologies and the Voting Process*, found at: http://www.elections.ca/content.aspx?section=res&dir=rec/tech/tec&document=index&lang=e, Elections Canada (July 2014) *Attitudes of Canadians towards Online Registration (2004-2011)*, found at: http://www.elections.ca/content.aspx?section=res&dir=rec/tech/att&document=index&lang=e, *Elections Canada (November 2013) Consultation and Evaluation Practices in the Implementation of Internet Voting in Canada and Europe*, found at: http://www.elections.ca/content.aspx?section=res&dir=rec/tech/consult&document=index&lang=e,

[46] A link to this report can be found at: http://www.elections.ca/content.aspx?section=res&dir=rep/off/rec_2016&document=index&lang=e

[47] Links to the three House of Commons Committee's reports can be found at: https://www.ourcommons.ca/Content/Committee/421/PROC/Reports/RP8794571/procrp23/procrp23-e.pdf , http://publications.gc.ca/collections/collection_2017/parl/xc59-1/XC59-1-1-421-27-eng.pdf, https://www.ourcommons.ca/Content/Committee/421/PROC/Reports/RP9061363/procrp35/procrp35-e.pdf .

[48] A link to the external audit report conducted by PricewaterhouseCoopers entitled *Elections Canada: Independent Audit Report on the Performance of the Duties and Functions of Election Officials – 42nd General Election (2016)* can be found at: http://www.elections.ca/content.aspx?section=res&dir=rec/eval/pes2015/ege&document=app2-index&lang=e. Also see *Proposal for a Technology – Enabled Staffing Model for Ontario Provincial Elections: Post-Event Report: Whitby - Oshawa By-Election* (Elections Ontario, 2016) found at: https://www.elections.on.ca/content/dam/NGW/sitecontent/2016/2016-whitby-oshawa-by-election-report/Post%20Event%20Report%20-%20Proposal%20for%20a%20technology-enabled%20staffing%20model%20for%20Ontario%20Provincial%20Elections.pdf .

[49] Further information about Elections Canada's modernization program can be found in: Elections Canada, *Dialogue: Special Summer Edition (Summer 2017), Electoral Services Modernization*.

These Committee-reviewed recommendations for modernization have been submitted for development into federal legislative proposals, but no schedule for their introduction has yet been made public by the federal government.

At the end of February 2018, the Acting Chief Electoral Officer for Canada announced:

> For the next general election, electronic poll books will be deployed in some 225 electoral districts for advance polls only, which can be done under the current legislation. Deployment of this technology in advance polls will address the most critical challenges experienced in the last election in terms of wait times in urban and semi-urban districts. The use of electronic poll books at ordinary polls will be considered only after the next general election, if changes are made to the legislation.[50]

Manitoba

Manitoba was the second jurisdiction to implement a 'vote anywhere' option during advance voting and with it came the establishment of high traffic advance voting locations in places such as malls, airport and universities. The legislation to enable these voting process changes was passed in 2006 and the modernization improvements were used for the first time during the 2007 general election.

In November 2017, the Manitoba government passed amendments to *The Elections Act*,[51] based largely on recommendations from Elections Manitoba, which set out a framework for increased modernization and improvement of many administrative processes to increase efficiency. Among the numerous changes introduced, the Chief Electoral Officer, in consultation with an advisory committee, will be able to direct that voting processes be modified for purposes of efficiency, improvement and integrity. This will, for example, permit Elections Manitoba to use technology at the polls on election day and provide returning officers with the discretion and flexibility to reduce the number of voting officers at the polls.

Voting officers will no longer need to be eligible voters or reside in the constituency – youth and permanent residents are now permitted to perform these roles. Voting areas are being increased to 500 voters in urban areas from 350, and to 350 voters from 250 in rural areas to reflect the increased take-up of advance voting and to allow for more efficient use of staff. The hours of operation for advance voting will be more flexible and some of the advance votes can be counted two hours before the polls close on election day to speed up the overall count process. Fixed date elections will be held on an in-service/professional development day at all public schools for reasons of voter convenience and student safety.

Finally, Manitoba is replacing its door-to-door enumeration process with a permanent voter register that is continuously maintained. Manitoba is the last province in Canada to adopt a register methodology for voter registration.

Nova Scotia

In December 2017 Elections Nova Scotia published a report[52] containing 23 recommendations for legislative change, which deal largely with modernizing its voting processes. The great majority of these recommendations have already received unanimous support from the Province's multi-party Election Commission.

Nova Scotia already has "anywhere voting" at all early voting opportunities (advance polls, returning offices and community polls). Voters from any district in the Province can register and vote in advance of election day at any of these polls where Elections Nova Scotia's election management information system is used as an electronic voters list for voter strike off and as a type of e-poll book to record transactions at the poll.[53] One of the new proposals is to introduce supervised electronic voting at these polls whereby the voter can cast their ballot electronically, after which a marked paper ballot is printed and deposited in a ballot box for the purpose of auditing results if the need arises. This will allow the current roles of two presiding officers to be combined for reduced staffing.

[50] *Remarks of the Acting Chief Electoral Officer on Elections Canada Interim Estimates 2018-19 before the Standing Committee on Procedure and House Affairs*, February 27, 2018. Available at: http://www.elections.ca/content.aspx?section=med&document=feb2718&dir=spe&lang=e#top

[51] A link to Manitoba's Bill 27, *The Elections Amendment Act* can be found at: http://web2.gov.mb.ca/bills/41-2/b027e.php

[52] See Elections Nova Scotia (December 2017) *Recommendations for Legislative Change* and Elections Nova Scotia (December 2017) *Report on the Conduct of the May 30, 2017 Provincial General Election and Recommendations for Legislative Change Volume II*. See links https://www.electionsnovascotia.ca/sites/default/files/2017_RecommendationBooklet.pdf and https://www.electionsnovascotia.ca/sites/default/files/2017_Volume2ReportonConduct.pdf .

[53] For further discussion of the voting services and innovations offered in Nova Scotia's 40th General Election held on April 30, 2017, including those that used technology and offer opportunities to "vote anywhere" see Elections Canada, Research Note (May 2017) *Nova Scotia Provincial General Election – Administrative Features of Interest.*

Elections Nova Scotia is also proposing internet voting for members of the Canadian Forces who are absent from the Province during the election. They have proposed removing the cap of 450 voters per polling division, instead leaving it to the discretion of the Chief Electoral Officer and basing the polling division size on travel time to the Election Day poll. Travel times to the four closest polls during the period of early voting were also printed on the personalized voter information cards in the most recent general election.

Greater flexibility and discretion is being sought when the Chief Electoral Officer issues a directive to use alternate procedures, equipment or technology in place of what is currently prescribed in the *Election Act*. There are also several other rigidly defined processes and procedures in the Act for which the Chief Electoral Officer is seeking the authority and discretion to be able to prescribe alternate methods.

Alberta

In Alberta, advance and regular voting take place from 9 a.m. to 8 p.m. An amendment to the Elections Act in 2010 allowed the Chief Electoral Officer to conduct a pilot study during by-elections that involved opening polls at 7 a.m. and using vote counting equipment to assist with the counting of ballots. Another new provision permitted Elections Alberta to test new equipment and election procedures in by-elections that were different than what the Act required.

In a December 2017 by-election in Calgary, pilot tests were conducted of electronic poll books, vote tabulators and voter assist terminals, which allowed persons with physical disabilities to vote independently. A report analyzing the experience with this technology will be available in early 2018.[54] Early indications are that Elections Alberta will recommend a phased approach with technology being used only to support advance voting and vote counting at the next provincial election, scheduled for the Spring of 2019.

Prince Edward Island

In 2016, Prince Edward Island (PEI) held a plebiscite on democratic renewal[55] following a recommendation from the Legislative Assembly's Committee on Democratic Renewal. The Assembly authorized Elections PEI to use processes and technology in the plebiscite that had not ever been used in Provincial elections before. Among the many changes introduced were electronic voting (via both internet and telephone), along with the traditional in-person paper ballot voting, combined with registration and voting by 16 and 17-year-old residents. Voters could choose to vote in person at any voting location in the Province, where election officials scanned voter information cards and electronically registered voters using internet-connected laptops to add and update voter registrations. Additionally, every voting location shared a 'live' voters list which was used to electronically strike voters from the list once they were issued a ballot.

Elections PEI is proposing to use the same technology-enabled pre-election and voting day registration processes that were used in the plebiscite for future provincial elections. Between elections, their permanent list of electors will be updated using new records and change information from driver license and health care databases. Electronic voting, however, will not be a feature of provincial elections on Prince Edward Island.

[54] A link to a CBC news article describing the new voting technologies piloted in this by-election can be found at: http://www.cbc.ca/news/canada/calgary/provincial-byelection-calgary-voting-machines-1.4429652. Further media reports are available at: https://globalnews.ca/news/3892947/new-voting-technology-to-be-used-in-upcoming-calgary-by-election/ and https://globalnews.ca/news/3920763/peter-watts-new-voting-technology-tested-in-calgary-lougheed-byelection-wont-be-perfect-on-the-first-try/ Also see: and *Report of the Chief Electoral Officer on the May 5, 2015 Provincial General Election, "Section 4: Recommendations"* (Elections Alberta, 2016) available at: http://www.elections.ab.ca/wp-content/uploads/Section-4.pdf .

[55] See Elections PEI, *2016 Annual Report of the Chief Electoral Officer*, Sections 2 and 3, available at http://www.gov.pe.ca/photos/original/EPEI_CEO_2016.pdf.

APPENDIX B

AMENDMENTS TO *THE ELECTION ACT, 1996* – INTRODUCING PHASE ONE OF MODERNIZED VOTING SERVICES FOR THE 29TH SASKATCHEWAN GENERAL ELECTION (2020)

Modernizing Services to Voters, Candidates and Political Parties

The overall modernization of voting services will need to be phased in over three election cycles to minimize risk, effectively manage change and ensure implementation costs are contained.

For the 29th general election, scheduled for November 2, 2020, the major legislative modernization changes recommended are in relation to advance voting rules. Modernization of advance voting services is urgently needed to cope with the growing popularity of advance polls. At the 28th general election held in 2016, 25.5 percent of all ballots cast during the Saskatchewan general election were at advance polls. If the growth rate experienced over the past three elections continues, it can be expected that more than 40 percent of voters will attend advance polls at the 2020 general election.

The modernized approach recommended for advance voting at the 29th general election centres on the use of electronic poll books for voter check-in and verification prior to voting, and for the use of scanning tabulators for processing and counting the paper ballots of advance voters. The increasing proportion of voters who attend advance polls will receive more efficient service, candidates and political parties will be advised electronically about which voters have obtained a ballot at an advance voting location, and results reporting on election night will include the results of advance voting in a timelier manner.

To the extent that has been possible without legislative change, a modernized approach using electronic poll books has been successfully 'parallel tested' in three by-elections during 2017 and 2018. These tests were conducted alongside the manual processes prescribed in the Act as no pilot project authority exists within the current *Election Act*. Additionally, the approach of using ballot-scanning tabulators has been studied closely by Elections Saskatchewan who have witnessed their use in Ontario, New Brunswick and Prince Edward Island, as well as at numerous municipal elections within the province.

The Phase One approach to modernization of advance voting services will impact the following provisions of the current *Election Act*.

General – Section 131 requires that advance polls be conducted in the same manner as voting at regular polls on Election Day. The Act will need to allow modifications and exceptions to the way advance polls are conducted to permit modernization of the voting process.

Poll Officials –The restrictions on who may be present at the poll outlined in s. 63(1) will need to be amended to permit the returning officer to authorize other persons performing new roles to be present at advance polling stations to assist with the voting process.

Several sections of the Act that describe who is entitled to be in the polling place (s. 63), the traditional roles of the deputy returning officer and poll clerk (various sections in Division D -Voting), as well as the information that voters must provide upon entering a polling place (s. 65) will need to be amended for advance voting to describe the new roles and responsibilities of election officers at the advance polls. Also, the whole concept of having all voting services delivered by a dedicated pair of election officials will need to give way to greater flexibility to permit election officials to be replaced, work in shifts, and take breaks without stopping the voting process.

Electronic Poll Books – There is currently no authority (but also no explicit restriction) on the use of computers or other such electronic devices at polling places by election officers. The Act currently assumes that a manual record of all voter transactions be kept in a paper-based poll book. The use of electronic poll books involves procedures that are essentially the same as those currently carried out, but are performed using a laptop or tablet computer rather than manually recording transactions in a paper booklet. The Act will need to acknowledge that the method of record keeping at the advance polls can be electronic.

Information Supplied to Candidates and Candidate's Representatives – Currently information regarding which registered voters have voted at advance polls is supplied to candidates or their representatives the day after advance voting closes. With the use of electronic poll books and printers, this type of information could be supplied electronically to candidates and candidate's representatives in real time during each of the five days that advance polls operate. Amending s. 135(1) to (3) could authorize this practice.

Ballot Papers – The form and content of the ballot paper is currently described in the Act and prescribed in *The Election Act Regulations*. The use of vote tabulation machines would require a modified form of ballot that would be machine-readable. Section 35 of the Act, describing the content of the ballot and the particulars of ballot paper printing (as well as Form A of the Regulations), will need to be amended to describe the machine-readable ballot papers and ballot secrecy sleeve to be used at advance polls. The type of device used to mark the ballot is specified in s. 57(3) of the Act to be a black lead pencil. This may need to be amended depending on the type of ballot scanning technology used, as some scanners require a darker ballot marking than is provided by a pencil. The procedure for marking the ballot specified in s. 74(2) would not need to change.

Vote Tabulation Machines – There is currently no authority (nor restriction) on the use of vote tabulation machines. With the use of vote tabulation machines, the vote counting procedures described in ss. 141 and 142 would be largely redundant. New, simplified procedures will need to be developed and described in legislation to allow ballot scanning vote tabulation machines to be used at the advance polls.

Ballot Boxes – The type or form of the ballot box is currently not defined within the Act. It may be necessary to distinguish between the ballot storage compartment that is attached as the base of the ballot scanning vote tabulation machine used at the advance polls versus the traditional ballot box.

There are several sections of the Act that permit examination and require the locking and sealing of the ballot box. These activities would all be possible with a 'ballot box' storage compartment, which forms the base of a ballot scanning and vote tabulation machine. However, section 59(1)(c) would need to be amended for the purpose of advance voting since it currently requires the ballot box to be placed on top of a desk, counter or table.

Section 84(2) stipulates that a voter who has deposited his or her ballot in the ballot box is deemed to have voted. This section will need to be amended for advance voting since vote scanning tabulation machines can return improperly marked and unreadable ballots and give a voter the opportunity to mark them properly.

Section 135(7) requires that materials, such as the advance poll book and unused advance poll ballots be placed in an empty ballot box. Another type of storage container, such as a tear-resistant security envelope, would need to be prescribed.

Section 143(1) requires the deputy returning officer to deliver the ballot box to the returning officer within two days after Election Day. Except where logistically impossible, the ballot scanner and vote tabulation machine, along with the ballot box and its contained ballots, should be delivered to the constituency Returning Officer immediately following the close of the advance polls. The vote count from advance voting should commence at the returning office immediately following the close of the voting on Election Day.

APPENDIX C

AMENDMENTS TO *THE ELECTION ACT, 1996* – PROVIDING ADMINISTRATIVE DISCRETION TO ENABLE INNOVATION

Authority to Implement Pilot Projects During an Election or By-election

For the purpose of introducing orderly change and a modernized approach to some of the highly detailed processes and procedures prescribed by *The Election Act, 1996*, it would be prudent to conduct a pilot study before committing to the full-scale implementation of new methods.

A pilot project is a small-scale, preliminary 'real world' test conducted under controlled conditions to assess feasibility, cost, benefits and any unintended impacts of a new approach that differs from what is prescribed in law or regulation. Pilot projects allow practitioners to assess the merits of the changes and improve upon their design prior to subsequent broader testing, or their permanent adoption. In the context of election administration, the conditions of implementation are controlled by introducing change to specific processes or to a particular type of voting or on a limited scale, such as in a by-election, or within selected constituencies during a general election.

Except for the ability to perform duplicate 'parallel' processes, there is currently no authority for the Chief Electoral Officer of Saskatchewan to conduct any kind of pilot projects for testing new technologies, voting processes or procedures that depart from the existing rules and requirements of the Act and its regulations. Numerous Canadian jurisdictions, including Canada, Ontario, Quebec, British Columbia, Alberta, Manitoba, New Brunswick and Nova Scotia, permit their Chief Electoral Officer (CEO) to conduct pilot projects.

An important component of moving toward modernized voting services involves providing the legislative authority for the CEO to conduct pilot projects during a by-election or general election to test the implementation of alternative election procedures and processes, as well as introduce new equipment and technology. The CEO's authority to administer pilot projects would need to supersede the prescribed requirements of the Act under circumscribed conditions and during certain times or events, all to be documented and published in advance of the electoral event to which they will pertain.

The legislative amendment referred to above should require the CEO to:

- give a clear description of the pilot project, and the changes in method or process that will be introduced at a particular election;
- cite the various provisions of the Act that would be varied or would not be complied with during the pilot project;
- describe the intended impacts of the pilot project in terms of costs, efficiency, effectiveness, savings and the anticipated impacts and outcomes on voters, political parties and candidates;
- provide documentation on the intended pilot project to a bi-partisan committee of Members of the Legislative Assembly at least six weeks prior to its planned implementation at a pending scheduled or unscheduled election;
- communicate the changes to voters, parties and candidates on the Elections Saskatchewan website at least four weeks prior to the intended pilot project's planned implementation at a pending election; and
- report on the pilot project following its implementation and report to the Legislative Assembly as to future adoption of the changes in the form of recommended legislative or regulatory amendments.

In the case of pilot projects that propose the introduction of new voting services, such as the use of electronic poll books, ballot scanning and vote tabulation machines, the Chief Electoral Officer would describe the new technologies and how they will be used during the pilot project. This description would need to provide a complete picture of the scope of proposed changes, an understanding of the impact of using such technology, and assurance that voting integrity is either being maintained or enhanced.

Below is proposed draft language for the type of amendment to *The Election Act, 1996* that would provide the CEO with the necessary authority to conduct pilot implementation projects:

(1) Notwithstanding any other provision of this Act or the regulations, the Chief Electoral Officer may direct the use of a process, procedure, equipment or technology that is different from that required by this Act.

(2) A directive of the Chief Electoral Officer under subsection (1) must describe in detail the process, procedure, equipment or technology to be used and must refer to any provisions of this Act that will be varied, or that will not apply or be complied with, in the by-election or general election.

(3) An election must not be held in accordance with a directive under this section unless the Chief Electoral Officer has:

- *(a) advised [an assigned legislative committee] of the intention to proceed with the proposed use of a different process, procedure, equipment or technology during a by-election or general election, and provided the Committee with a copy of the intended directive;*
- *(b) provided a copy of the directive to each registered political party; and*
- *(c) published a copy of the directive on the Elections Saskatchewan website, at least four weeks before the writ is issued for a by-election or general election in which the directive will pertain.*

(4) To the extent of any conflict between a directive under this section and this Act or a regulation, the directive prevails and has the force of law.

(5) Within six months after election day, the Chief Electoral Officer shall:

- *(a) make a report to the Speaker of the Assembly on the process, procedure, equipment or technology used at the election; and*
- *(b) make recommendations to the Speaker with respect to amending the Act so as to adopt the process, procedure, equipment or technology on a permanent basis.*

(6) A by-election or general election is not invalidated by a failure to comply with this Act if the non-compliance is authorized by the Chief Electoral Officer's directive.

APPENDIX D

AMENDMENTS TO *THE ELECTION ACT, 1996* – ADDRESSING ISSUES IN THE ACT AND THE REGULATIONS FOR THE 29TH SASKATCHEWAN GENERAL ELECTION (2020)

As with many pieces of legislation that have been in place over several decades and amended from time to time, there are numerous administrative policy issues which have developed, as well as errors, omissions, incorrect references and inconsistencies in *The Election Act, 1996* and its regulations. While some of these issues may be considered minor housekeeping issues, others have more significant consequences for those who are charged with administering the law, as well as those who are subject to it.

Below are seven broad categories of types of problems with *The Election Act, 1996* and its regulations, and a few examples of the kinds of issues that need to be addressed in order to establish a proper foundation for modernization. This is not a comprehensive listing of all the required, or potential, changes to the Act. An additional document, entitled "Supplementary Information on Recommendations for Legislative and Regulatory Changes Re: *The Election Act, 1996*," will be provided to the provincial Ministry of Justice and published on Elections Saskatchewan's website after the release of this report.

Incomplete drafting and conflicting references

A first category to be addressed focuses on drafting that is incomplete and references that conflict with other sections of the Act.

For example, when new voter identification requirements were introduced in Saskatchewan prior to the 2011 general election, the intent of these amendments was to require all voters, regardless of whether or not they were on the voters list, to provide proof of identity and ordinary residence before being permitted to vote, as per ss. 72(1) and 72.1. In the course of drafting these changes, the distinction between voters who are on the list and those who are not was maintained in several places throughout the Act. As a result, the Act now places less onerous identification requirements on voters who are not on the voters list than those who are on the list. These legislative provisions should be amended to eliminate the distinction between voters who are on the voters list and those who are not, and make it clear that voters who are not on the voters list must satisfy the same ID requirements as other voters, and that they must provide ID when they register at the time of voting.

Another example concerns the financial filing deadlines for candidates. In amendments which came into force in March 2006, reference to the deadline for the filing of candidate election expenses returns in subsection 261(1) was changed from "within three months after the day fixed for return of the writ" to "within three months after polling day." There remain several conflicting time lines for filing information or making claims against a candidate. It appears to have been an oversight not to change the reference in s. 256(1). *The Election Act* should be amended to change the reference in subsection 256(1) from "within 60 days of the day fixed for the return to the writ" to "within 60 days after polling day."

Further examples regarding time periods can be found in ss. 261(5) and 267(4). Section 261(5) requires candidates to file a solemn oath or declaration with respect to the election expenses incurred by the candidate within three months after the candidate returned has been declared elected. Section 267(4) requires candidates or their business managers to file proof or payment of auditing expenses within three months after the candidate returned has been declared elected. These time periods should similarly be changed to "within three months after polling day."

Homebound voting was introduced in the last general election. Section 89.3(8) requires homebound ballots to be counted in the same way (at the same time) as absentee ballots. Absentee ballots are counted at the final count. However, there is no reason that homebound ballots cannot be counted after the polls close on election night. The Act should be amended to stipulate that homebound ballots are counted on election night by the Deputy Returning Officer and Poll Clerk. Furthermore, s. 89.3(11) deems a homebound voter to have voted once the Returning Officer has determined the applicant qualifies as a homebound voter. There are circumstances where the homebound applicant is no longer in his or her home when election

officials arrive to take their vote (e.g. admitted to a hospital) and would, therefore, not be permitted to vote if they were deemed to have already voted. This section should be amended to clarify that a homebound voter is deemed to have voted once he or she has cast a ballot as a homebound voter.

When it comes to political contributions, the Act appears to prohibit contributions from non-Canadians. However, s. 242 only says that contributions cannot be accepted from a contributor who resides outside Canada, unless the contributor is a Canadian citizen. Effectively this means, however, that a non-Canadian living in Canada can still make contributions to a candidate or party. It might be assumed from s. 227(1)(c), where the Act refers to the deregistration of a party if it accepts contributions from non-Canadians, that the intent of s. 242 is to prohibit contributions from all non-Canadians. Section 242 should be amended to state that candidates and parties are prohibited from accepting contributions from all non-Canadians, whether they reside within or outside of Canada.

The election expenses that are not reimbursable for either a political party or candidate are specified in s. 266. Included in this list is any expense that is not supported by a supplier document that states the particulars of the expense and a receipt or cancelled cheque as proof of payment. However, s. 255 conflicts with this provision by stating that a proof of payment receipt or cancelled cheque is only required from a business manager for expenses over $25.00. The legislative intention was not to exclude all election campaign expenses under $25.00 from being reimbursable, but the current wording of these sections produces that result.

Provisions that add cost, but little or no value

There are several provisions in the Act that require expensive or unnecessary announcements, public postings, advertising and official Gazetting to be conducted by the Returning Officer (RO) or Chief Electoral Officer (CEO) which could be fulfilled in more economic and timely ways.

For example, s. 51(2) & (3) requires every RO to publish the following information in a newspaper within the constituency at the close of nominations:

(a) the names, political affiliations, if any, addresses and occupations of the candidates nominated;
(b) the names and addresses of the business managers of the candidates; and
(c) the polling day and the hours during which voting will take place.

Section 261(8) requires the RO to publish in a newspaper a summary of the candidate's election expenses return within 30 days of filing the return. It has not been practical for several elections for the RO to publish this summary, nor for the summary to be published in the newspaper. The RO does not occupy the returning office 30 days after the candidate's election expenses returns are due to be filed (i.e. 3 months after polling day) and many of the ROs are no longer employed by Elections Saskatchewan by this time.

This type of advertising can be more effectively and inexpensively handled by publishing this information on the Elections Saskatchewan website. These sections should be amended to permit the CEO to publish this information by any means that he or she considers advisable to adequately inform voters.

Section 26(1)(a)(ii) requires the RO to provide a copy of the voters list to the CEO. Since the CEO has access to all voters lists which are created through a computerized central register of voters, this requirement is unnecessary and should be repealed.

Another example of an unnecessary provision that can add cost to the taxpayer is the requirement for auditing zero dollar candidate election expenses returns. At every election there are many candidates who do not have any, or have very minimal election expenses. The requirement for these candidates to have their election expenses returns audited is unnecessary. In the past general election there were 67 candidates that had zero dollar returns. Twenty-eight thousand dollars was reimbursed to these candidates for their audit expenses. It should not be necessary for candidates without election expenses to have their expenses audited.

Section 277 restricts government advertising by government ministries at various times before and during general elections and by-elections. These provisions require private broadcasters and publishers to self-report any government advertising during these times by filing solemn declarations with the CEO. Most broadcasters and publishers are quite unaware of this provision and, in practice, there are usually no reports filed by private advertisers. These sections should be amended to eliminate the requirement for private broadcasters and publishers to file reports with the CEO. Violations of government advertising rules uncovered by the CEO should be reported to the Speaker and the report should be tabled immediately in the Legislature.

Furthermore, s. 279 is a requirement for every private broadcaster and publisher in the Province to file with the CEO a report, two months following the election, outlining political party and candidate advertising and announcements. This section also makes it an offence for a broadcaster or publisher to fail to make such a filing with the CEO. Most broadcasters and publishers are not aware of this provision and in practice, there are usually no reports filed by private advertisers.

Finally, there is a requirement in legislation for the business manager of a candidate to be a voter. Unless the individual is already on the voters list, it is time consuming and difficult to verify the voter registration status for business managers and it adds no value to the electoral process. This requirement should be eliminated.

Provisions that demand the collection of unnecessary information

Currently various sections of the Act require voters to provide, and election officials to collect, occupation information for purposes of the voters list and the register of voters. It is also a requirement for candidates to provide an occupation which is printed on the ballot [s. 44(6)]. Saskatchewan is the only jurisdiction in Canada that requires occupation data from voters and candidates. Occupation information has no value in describing, identifying or tracking voters and there is no standardized method of describing occupation information. There is no consistency in the way voters self-identify their occupations and no available methods to keep such information up-to-date in candidate or voter databases. Similarly, not all candidates have occupations and they are not permitted to state "MLA" as their occupation.

All provisions requiring voters to provide occupation information in order to register as voters, and the requirement for candidates to indicate their occupation on their nomination paper, and for occupations to appear on voters lists and on ballot should be repealed.

Provisions that are no longer required

The creation of a voter registry which is continuously updated has supplanted the need for a province-wide enumeration and an official period of revision. Enumerators have, in effect, become registration officers. Additions, deletions and corrections to information contained in the provincial register of voters, from which voter lists are produced, can occur at any time. A voter is either on the list when the writs of election are issued or he or she can register and be added to the list at the time of voting.

There are numerous references in the Act to "revision", "revision period", "revising officers", "revising agents" and "enumerators" that should be removed. These can be found principally in parts of the Act dealing with Enumeration and Revision (s. 19.1), the Preliminary Voters List [s. 25(6)(c), 26(1)(b), & 26(3)(a) & (c)], Revision and Targeted Enumeration (ss. 27 thru 29.3), and Revised Voters List [s. 29.4 and 50(1)].

Also, now that the voter registry has been created, transitional provisions requiring the register to be created through enumeration [s. 18.3(1) & (2)(a)] can also be repealed.

Another example of provisions that are no longer required concerns the current method of calculating expense limits for candidates and registered political parties, based on the number of voters there are on the voters list. Sections 243 and 252 require the Returning Officer to determine the number of names on the official voters list for a constituency and for a calculation to be performed to determine the amount that parties and candidates can spend in general elections and by-elections in that constituency. These provisions are very confusing to candidates and the multiplier for the calculation is known too late to be of any real value in guiding the spending of parties and candidates. It would be preferable to simply set an amount in legislation and adjust it annually by inflation.

Section 193 of the Act prohibits candidates and business managers from giving beverage alcohol at a meeting of voters and s. 198 prohibits any person from giving beverage alcohol to a voter before 8:00 p.m. on Election Day. These are unenforceable provisions. While there is no definition of the term "give" presumably it means giving free of charge and does not include the sale of alcohol. The way s. 198 is written, it restricts the "giving" of alcohol on any day before polling day, which could be interpreted as an outright ban on liquor sales in the Province. Also, there is no way to restrict the giving of alcohol in a private home. These sections should be repealed since s. 195 already places a sufficient restriction on bribing voters with alcohol to vote or refrain from voting at an election.

Gaps in legislative provisions

Certain voters have considerable difficulty providing identification. Voters in hospitals, personal care homes, and remand centre voters often do not have sufficient ID to meet legislated requirements. A similar situation is faced by prison inmates who must supply copies of their identification when applying for absentee voting. The Act should be amended to require voters in hospitals, personal care homes, remand centres and prisons to provide only one piece of identification with name and address and to make a voter's declaration as to their eligibility to vote.

Also, when the Act was amended to require identification from all voters, the drafters did not initially anticipate that some forms of voter ID, including the drivers license, may only contain a post office box number. The Election Act Regulations defines the term "address" to mean residential mailing address or legal land description of the voter and includes a post office box number. This puts the onus on election officials to try to determine if the post office box number is "consistent" with the voter's address, but there is often no compatibility between post office box numbers and where a person lives – they could be in entirely different constituencies. Where voter ID only provides a post office box number and election officials cannot determine the voter's residential address, the voter should be required to make a declaration as to their residential address.

As noted above, homebound voting was introduced prior to the last general election for voters who are not able to attend advance polls or on Election Day due to a disability. There is no requirement for homebound voters to provide satisfactory evidence of identity and ordinary residence, as is the case for absentee voters [see s. 88(1)]. Homebound voters should be subject to the same identification requirements as other voters.

The Act permits candidate campaigns to receive political contributions and there are many rules to follow for both the donor and the recipient. Business managers must keep accurate records of all contributions received and these must be reported on the candidate's election expenses return. Political contributions are also eligible for a tax credit. The Act, however, is silent on when candidates need to start tracking and reporting contributions. While individuals do not officially become candidates until they file nomination papers after the writ is issued, many individuals self-identify as candidates months or even years before an election is called. The Act should specify when candidates can begin to accept political contributions.

Changes required to keep pace with voting trends

An example of where the legislation is not keeping pace with voting trends involves the restrictions on advance polls. The order commencing an election in s. 31(3)(d) fixes any five days before polling day as the days in which the advance poll is to be held. The requirement for all advance polls to be open for a 5-day period restricts the use of this voting opportunity in smaller centres where the size of the voter population would not warrant an advance poll to be held for five full days. The requirement for all advance polls to be open for five full days should be amended to fix "up to 5 days" for voting at any advance poll. This would allow for the placement of more advance polls open for a shorter duration in rural centres. Alternatively, a provision to allow mobile advance polls to be used in a succession of rural and remote locations within constituencies could be introduced.

Advance polls are also required to be open on weekdays from 3:00 p.m. to 10:00 p.m. and on weekends from noon to 7:00 p.m. This causes confusion with some voters who show up hours in advance of the opening of the polls on weekends. Most other jurisdictions have between 10 and 12 hours of advance voting per day, and have made the hours consistent with Election Day hours. The hours of the five days of advance poll voting should be longer and they should be consistent each day. To minimize confusion, the hours of advance voting should be from 9:00 a.m. to 8:00 p.m. – the same hours as regular voting on Election Day.

Currently, most election officials are required to be eligible voters, which means they must be at least 18-years-old. Given the increasing difficulty in recruiting the required numbers of workers in many constituencies, the minimum age of some election officials, including poll clerks, should be reduced to 16 years of age. This should help with recruitment as well as revitalize the election workforce – it may also spur an interest in voting and elections amongst young people.

Changes required to keep pace with modifications to electoral administration

There are several types of "election officers" whose duties and eligibility are not identified in the Act. The Act should be amended to reference registration officers, information officers, supervisory returning officers and supervisory deputy returning officers within the definition of the term "election officers" and to make it clear that the persons occupying these positions are not employees of the Office of the CEO.

An example of where the Act has not been able to keep pace with wider societal changes concerns the use of cell phones. Section 190(6) prohibits anyone other than an election officer from using a cellular phone or other communication device in a voting place. The use of cell phones is ubiquitous and important for voters who may be trying to retrieve identity and address information from their phones at the polls. The use of cell phones is also important for candidate's representatives who may need to contact their campaign office or political party from the polls where they are observing. With the anticipated increase in the use of technology at the polls, the methods and modes of communication and information sharing with candidates, their representatives and political parties may soon require the use of cell phones or other communication devices by others at the polls.

This provision should be amended to remove the prohibition on cell phones and permit the CEO to develop a policy regarding the use of cell phones and other communication devices at polling places. A policy will be easier to keep current as the use of technology and the sharing of information at the polls evolves.

With the introduction and experience of using the register of voters in the last general election, there are several changes that are now required to the applicable sections in the Act. Section 18.2(4) lists the data elements that may be contained within the register of voters and s. 18.7(3) lists the information that may be contained on the voters list. These sections should be amended to include the voter's constituency and polling division. As well, there should be no requirement for the voters list to contain the voter's date of birth and, as noted above, their occupation. While the date of birth is collected during registration and is an important data element for preventing duplicate registrations, sharing birth date information on voters lists presents serious data privacy risks for individuals.

Section 25(3)(a) requires that the names on voters lists for rural polling divisions to be arranged alphabetically. Section 25(4) requires that the names of voters in a city, town or village be arranged geographically using street address numbers, sorted firstly by streets and secondly by address numbers. The vast majority of voters now live in cities, towns and villages. This makes it very difficult for election officials in urban polling divisions to find registered voters on the list. Both urban and rural voters lists should be arranged alphabetically by voter name for ease of look-up at the polls. Voters lists provided to candidates and parties in electronic format can be sorted any way they prefer.

A candidate's election expenses return must be filed by the business manager with the Returning Officer three months after election day. While the returning offices may have, in the distant past, received candidate returns, they are now closed by the time expense returns are due. There is no reason for returns to be filed with Returning Officers. The Act should be amended to remove reference to filing the candidate's election expenses return with the Returning Officer. Returns are, by necessity, filed with CEO. There are multiple other out-of-date references to Returning Officer responsibilities throughout the Act that should be amended as well.

Conclusion

The above is a representative sample of the numerous types of issues that require legislative amendment to address current problems with the Act and its regulations. While some are properly characterized as minor 'housekeeping' changes, others have serious financial and operational implications. A complete list of proposals to amend The Election Act and its regulations has been prepared in a documented list entitled 'Supplementary Information on Recommendations for Legislative and Regulatory Changes Re: *The Election Act, 1996*.' This list will be provided to the Ministry of Justice after Volume IV of the Chief Electoral Officer's Report on the 28th General Election has been tabled in the Legislative Assembly and will be published on Election Saskatchewan's website – www.elections.sk.ca.

ACKNOWLEDGEMENTS

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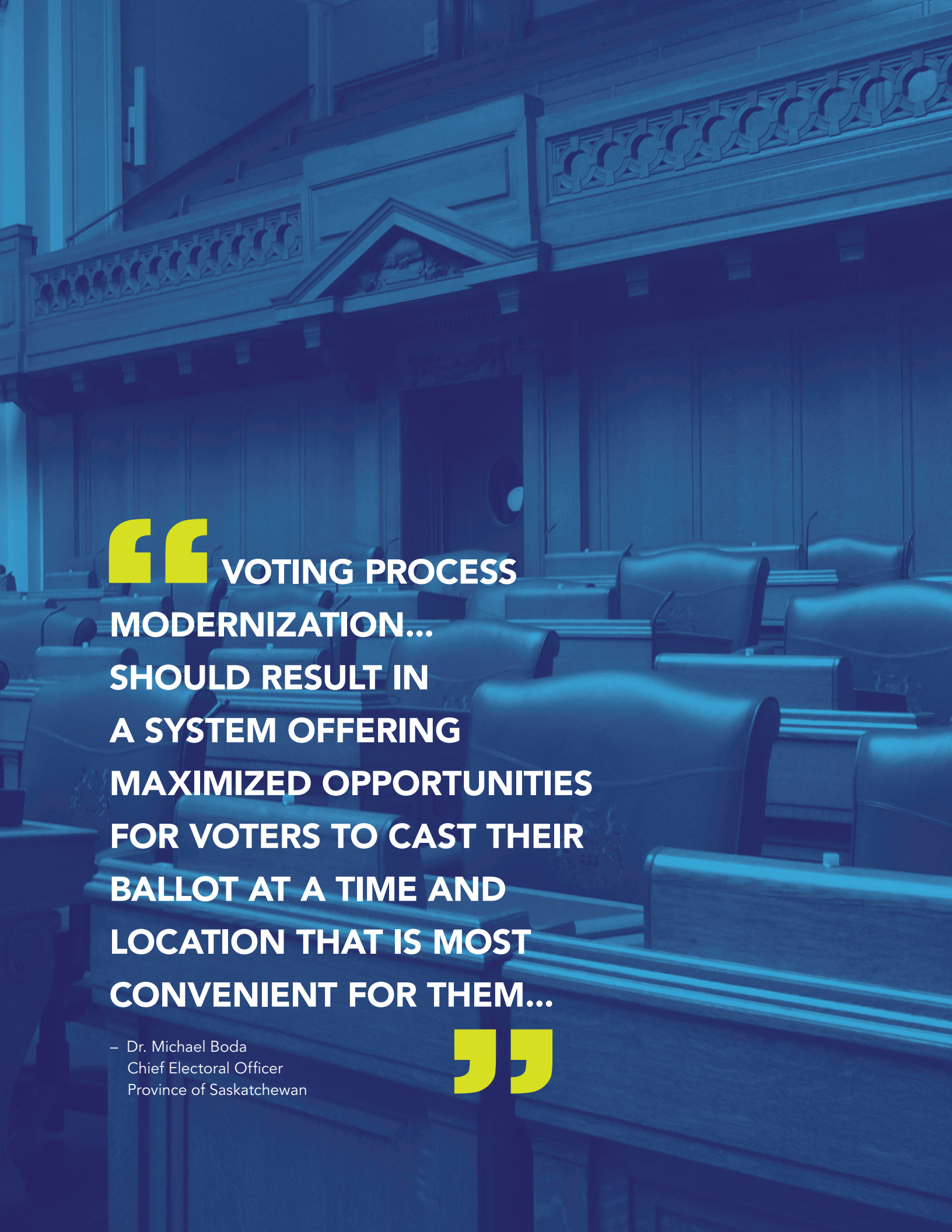
Early in the process, a "Committee on Recommendations for Legislative Reform" assisted the Chief Electoral Officer with framing the contents of these recommendations and determining an appropriate scope for the report. The members of this committee were:

- Dr. Michael Boda, Saskatchewan's Chief Electoral Officer (co-chair);
- Dr. Gordon Barnhart, former Lieutenant Governor of the Province of Saskatchewan (co-chair);
- Dr. Keith Archer, Chief Electoral Officer for the Province of British Columbia;
- Mr. Dale Eisler, Senior Policy Fellow, Johnson-Shoyama Graduate School of Public Policy; and
- Mr. Ed Killesteyn, former Electoral Commissioner of Australia.

Additional advice, research, and writing was provided to the Committee and Chief Electoral Officer by Elections Saskatchewan's senior staff, Dr. Leo Perra, Dr. Harold Jansen, Mr. Michael Maley, and Mr. Harry Neufeld. Mr. Lorne Gibson offered further assistance in framing the detailed recommended changes to legislation found in the Appendices of this report.

The final recommendations included this volume of *A Report on the Twenty-Eighth General Election* were greatly informed by the work that went into the completion of Volume II in that report, the *Administrative Review*. For more information on the surveys, interviews, and data collection methods which contributed to these recommendations, please see that report.



“VOTING PROCESS MODERNIZATION... SHOULD RESULT IN A SYSTEM OFFERING MAXIMIZED OPPORTUNITIES FOR VOTERS TO CAST THEIR BALLOT AT A TIME AND LOCATION THAT IS MOST CONVENIENT FOR THEM...”

– Dr. Michael Boda
Chief Electoral Officer
Province of Saskatchewan

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