

Standing Committee on  
Rules and Procedures



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# Report on the Chief Electoral Officer's Auxiliary Report: Issues Arising from the 2019 Territorial Election

19<sup>th</sup> Northwest Territories Legislative Assembly

Chair: Mr. Jackie Jacobson

**MEMBERS OF THE STANDING COMMITTEE ON  
RULES AND PROCEDURES**

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## **INTRODUCTION**

The *Elections and Plebiscites Act* requires the Chief Electoral Officer (CEO) to present a report on the administration of the election within six months of the election. The Speaker tabled the Chief Electoral Officer's Report on the Administration of the 2019 Territorial General Election on May 28, 2020. It was referred to this Committee for review.

Committee completed its review, and presented Committee Report #9-19(2) to the Assembly on February 23, 2021. In that report, Committee made 19 recommendations. All the recommendations were adopted by the Assembly on March 30, 2021. Three of those recommendations directed the CEO to conduct additional research and to report back to the Legislative Assembly within six months.

On March 29, 2022, the Speaker tabled the Auxiliary Report of the Chief Electoral Officer: Issues Arising from the 2019 General Election. This report responded to these additional research requests, and included one further recommendation following the Tu Nedhé-Willideh by-election.

The Standing Committee met on April 4, 2022 and September 22, 2022 to consider the report. Committee also considered other issues the CEO discovered during the implementation of Committee's earlier recommendations. The CEO raised these issues in a letter to the Speaker dated July 25, 2022. The letter is attached as Appendix 1. Committee thanks the CEO for meeting with Committee to discuss these additional issues.

## **CASTING A VOTE FROM ANYWHERE**

The CEO was directed to review how other Canadian jurisdictions allow residents to cast votes for their home electoral district from any polling station. This concern was raised in a submission to Committee's earlier review that if an elector in a multi-district community went to the wrong poll and was turned away or redirected to another poll, that elector may be discouraged from voting. Committee was concerned about what impact this change would have on the counting of ballots, and timeliness of results. If ballots needed to be sent to another polling district for counting, it could cause delayed reporting of results.

The CEO identified a few options but noted that a full vote anywhere model would require technology Elections NWT currently does not have. This includes the ability to print ballots at the polling station, and electronic tabulators to count and transmit those results. The CEO recommended that Elections NWT trial a vote anywhere model during advance voting in the Offices of the Returning Officers.

Under such a system, during the advance voting period, a voter who normally lives in another riding than where they are currently located could go to the Office of the Returning Officer where they can vote in their home riding.

For example, if Paul from Sachs Harbour was in Inuvik for school or medical during the election, he could go to the Office of the Returning Officers in Inuvik to vote during the advance voting period. The Returning Officers in Inuvik would confirm Paul is on the voters' list in the Nunakput riding and issue him a write-in ballot, and a list of the candidates for Nunakput. Paul would write in who he voted for and the ballot would be sealed. The sealed ballot would be sent to Elections NWT headquarters, the same way mail-in ballots are treated, then counted and reported by an election officer, and included in the totals for Nunakput.

Committee agrees with the Chief Electoral Officer's recommendation.

### **Recommendation 1**

The Standing Committee on Rules and Procedures recommends that Elections NWT trial a vote anywhere model during advance voting in the Offices of the Returning Officers. Committee recommends that any necessary legislative amendments that are required to allow such a model be made.

## **BEST PRACTICES IN ELECTION REPORTING**

The CEO was asked to conduct research on best practices on election reporting in other jurisdictions across Canada. Committee had previously noted changes in style and content in how election results had been reported during the last few elections. Some polls had been combined due to small numbers, and the introduction of online voting in 2019 was not differentiated from mail-in ballots, nor from other advance voting opportunities.

Committee noted that Elections NWT has moved from a table format to a more visual representation of official results since 2007. Section 265 of the *Elections and Plebiscites Act*, requires the CEO to provide to the Speaker, a report setting out by polling division, the following:

- The number of votes cast for each candidate;
- The number of declined ballots;
- The number of rejected ballots;
- The number of names on the list of electors; and
- Any other information the CEO considers should be included.

In their report, the CEO notes that due to small population sizes in some communities, some voting opportunities are not well attended, and could have only a handful of people using such an opportunity. Reporting such small numbers could ultimately compromise the secret ballot. As a result, in some cases, these polls cannot be reported separately.

The CEO recommends that the Legislative Assembly not be overly prescriptive in the reporting requirements under section 265 of the Act. The CEO notes that Elections NWT is committed to the principles of open data and will work to ensure future reports contain as much detail as possible, without compromising the secrecy of individual's votes.

Committee agrees with the CEO's recommendation, and at this time is not in favor of setting out more detailed reporting requirements in the Act, but encourages Elections NWT to adopt a consistent approach to reporting from election to election.

## **PUBLICLY DISCLOSING ADDRESSES**

The Assembly directed the CEO to conduct a review of the requirements to publicly disclose a candidate's residential address and return to the Legislative Assembly with the findings of that review and any potential amendments to the *Elections and Plebiscites Act*.

The CEO notes that in addition to the requirement to publish a candidate's address, the Act requires the publication of the address of official agents. The CEO also noted that, candidate's financial reports are required to include the addresses of contributors to their campaign, and this information has been included in summary reports on the Elections NWT web site. As a result, the CEO expanded their review to include these disclosures.

Across Canada, seven jurisdictions do not publish physical addresses of candidates, and two jurisdictions have noted that they will be stopping this practice in the immediate future.

The CEO notes that the NWT is one of only three jurisdictions to publish the address of agents, and one of four that publishes the addresses for donors.

It is important to note that the Act requires that a candidate, agent and contributor must be a resident of the Northwest Territories, but does not require they be resident in the electoral district they are running in. As a result, as long as the community they reside in is identified, and not their physical address, the goals of the Act would still be met.

The CEO concluded there is limited value in publishing a candidate's residential address. The loss of privacy for the candidate is not outweighed by the public of interest of disclosing the location of a candidate's home. There are other safeguards in the Act to ensure that a candidate is resident in the Northwest Territories, and none of these require the candidate's home address to be made public.

This also hold true for publishing an official agent's residential address as part of proclamation of a poll. The Act requires that any campaign material include a name and phone number, so that the public can ask questions of the campaign, without requiring the official agent's address.

In regards to contributors, any contributor to a campaign must disclose their residential address to the campaign so that the official agent can properly report all donations, financial or otherwise, in the required financial report. This information has been included in the summary report prepared by Elections NWT, but is not required. In response to complaints from the public, and advice from the Information and Privacy Commissioner, Elections NWT will no longer include addresses in the candidate financial report summaries posted on the Elections NWT website. Only their community of residence will be posted. Committee is satisfied with this step taken by Elections NWT.

### **Recommendation 2**

The Standing Committee on Rules and Procedures recommends that the *Elections and Plebiscites Act* be amended to remove the requirement to publish a candidate's or official agent's residential address under sections 96 and 97, and to substitute community of residence.

## **REGISTER OF FUTURE ELECTORS**

During the 2022 Tu-Nedhé-Wiilideh by-election, Elections NWT noted that only four people under the age of 21 cast ballots. All four were registered to vote during the by-election and were not on the voters list. It was noted that anyone who turned 18 after the 2019 general election was not included on the votes list.

The CEO notes that eight other jurisdictions in Canada, including the Yukon have the legislated authority to create a register of future electors. These registers allow youth aged 16 and 17 to register with an elections agency. Once registered, on their 18<sup>th</sup> birthday they are transferred to the general voter's list.

Elections NWT data reveals that as of July 1, 2021 there were 1,659 adults between the ages of 18 and 20 in the NWT, but only 73 people on the voters list are in the same age group. This means only four per cent of adults aged 18 to 20 are registered to vote on the voters list. The CEO notes that Elections NWT has limited methods to try and find these voters and register them. Creating a register of future electors would be one way of engaging youth before they come of age to vote.

### **Recommendation 3**

The Standing Committee on Rules and Procedures recommends that the *Elections and Plebiscites Act* be amended to allow Elections NWT to create a register of future electors, allowing youth aged 16 and 17 years old to register with the same information as permitted under s. 54(2) of the Act.

## **OTHER ISSUES RAISED BY THE CHIEF ELECTORAL OFFICE**

### **Electoral Rebate Program**

The Assembly previously recommended the Act be amended to include an election rebate program. While working to implement this recommendation, the CEO noted an issue where a candidate who contributes to their own campaign, could potentially receive both a rebate for these funds under the new program, as well as a tax credit from the Canada Revenue Agency.

Committee believes that where a candidate receives a tax credit from the Canada Revenue Agency, they should not be entitled to a rebate for those same funds. Only one benefit should be accessible.



#### **Recommendation 4**

The Standing Committee on Rules and Procedures recommends that in implementing an election rebate program authorized under the *Elections and Plebiscites Act*, the Chief Electoral Officer ensure candidates are not able to claim a rebate for any money they donated to their own campaign that is also eligible for a tax credit from the Canada Revenue Agency.

#### **Peace Officers**

It was noted that the requirement for polling station accounts was removed from the Act in 2018; but some references to it remain. The CEO notes that the removal of polling station accounts eliminates the reporting on whether peace officers are appointed at polls, and the reasons why a peace officer was appointed. The CEO believes the requirement to report on such appointments remains important and should be retained.

#### **Recommendation 5**

The Standing Committee on Rules and Procedures recommends that references to “polling station account” be removed from the Act and that a provision be added to section 119(4) that requires any deputy returning officer who appoints a peace officer to state their reasons for doing so in writing to the Returning Officer as soon as possible.

#### **Recommendation 6**

The Standing Committee on Rules and Procedures recommends that section 205(e) of the *Elections and Plebiscites Act* be amended to require that a Returning Officer include in their report of proceedings any appointments of peace officers made under s. 119(4) of the Act.

#### **Electoral Boundaries Commission**

The Electoral Boundaries Commission provided their final report to the Assembly. It was tabled on May 27, 2022 (Tabled Document 654-19(2)). Their report recommended that the *Elections and Plebiscites Act* be amended to clearly allow the Commission to receive information from the Register of Electors. Section 77 of the Act states that information contained in the Register of Electors can only be used for an election or plebiscite,

however section 9 of the *Electoral Boundaries Commission Act*, requires the Commission to consider information in the Register of Elections.

The CEO supports this recommendation, as it would allow for information sharing and support the work of the Commission in recommending changes to electoral boundaries. Committee agrees.

### **Recommendation 7**

The Standing Committee on Rules and Procedures recommends that the *Elections and Plebiscites Act* be amended to allow an Electoral Boundaries Commission to receive information from the Register of Electors under section 77.

### **Business Days**

The CEO has noted that a candidate's financial report is due within 60 calendar days under the Act. When elections were traditionally held on a Monday, this resulted in a candidate's financial report being due on a Friday. When polling shifted to Tuesday, the reporting deadline became a Saturday, when Elections NWT is closed. The CEO recommends amending the Act to refer to business days, rather than calendar days. Committee agrees.

### **Recommendation 8**

The Standing Committee on Rules and Procedures recommends that the *Elections and Plebiscites Act* be amended to allow for a candidate's financial report to be submitted within 45 business days rather than 60 calendar days.

### **CONCLUSION**

The Committee wishes to thank the CEO, Mr. Stephen Dunbar for the additional research and recommendations provided in his Auxiliary Report. This concludes the Committee's review of the Chief Electoral Officer's Auxiliary Report on the 2019 General Election.

## Appendix 1

# Chief Electoral Officer's Letter to Speaker



25 July 2022

Hon. Frederick Blake Jr.  
Speaker of the Legislative Assembly

Dear Mr. Speaker,

RE: Amendments to the *Elections and Plebiscites Act*

In the drafting of instructions for amendments to the *Elections and Plebiscites Act*, there are a few areas where I would appreciate guidance from Caucus, as some of the suggested amendments go beyond the motions passed in Committee of the Whole on 30 March 2021.

#### Election Rebate Program

The Assembly has directed the creation of an election rebate program for candidates, reimbursing candidates for personal expenditures, up to a maximum of \$3,000. In my review of the Act, one area that has not been addressed is the tax receipt that can be issued to candidates for personal contributions to their campaign. Each candidate may claim up to \$1,500 as a personal tax receipt.

In the event of a candidate receiving both the rebate and the personal tax receipt, it is possible that a candidate could receive a tax receipt that exceeds their personal contribution, once a rebate has been issued. For example, if a candidate spent \$2,000 of their own funds, their official agent would issue a tax receipt for \$1,500. However, with the new rebate system, the candidate would receive \$1,000 back upon filing their financial report, resulting in a personal expenditure of \$1,000. I propose an amendment that would reduce the amount this candidate could claim as a personal tax receipt to the \$1,000 that they spent and were not reimbursed by the rebate program.

Does Caucus support an amendment that would ensure a candidate is only eligible for a personal tax receipt for the money they spent, minus any rebate they receive?

#### Advance Voting in the Office of the Returning Officer

The Assembly has directed that advance voting in the Office of the Returning Officer (ORO) be changed, from the 24<sup>th</sup> day before polling day (the Saturday after the close of nominations), to the 21<sup>st</sup> day before polling day (the Tuesday after the close of nominations).

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Part of the rationale for this change was to ensure that voters would have a printed ballot, with names and photos of the candidates, identical to the ballot that voters would receive on polling day. In discussions with our printer, they have advised that to print the 31,000 ballots required for the election, 7-8 business days are needed. This would mean that the earliest day a printed ballot is available at the ORO in all 19 districts would be the 15<sup>th</sup> day before polling day (the Monday two weeks before the election). This is the reason that write-in ballots were used for advance voting in the 2019 election, as those ballots can be printed in advance of the election period.

Unfortunately, I do not have any data on how many voters voted in the ORO in the first week of voting. Discussions with my counterparts from across the country indicate that voting does tend to increase closer to the polling day. Very few jurisdictions allow for the long advance voting period that is allowed in the NWT. The average tends to be 6-10 days of advance voting, whereas in the NWT voting in the ORO is available about 19 days, accounting for Sundays, when the ORO is closed.

I will note that this does not impact the advance voting opportunities available in communities where no Returning Office is located. Those communities have advance voting the week before polling day, and will have printed ballots available (Returning Offices are in Yellowknife, Hay River, Inuvik, Fort Smith, Fort Resolution, Fort Simpson, Fort Providence, Behchokç, Norman Wells, Fort MacPherson and Tuktoyaktuk).

There are two options that I propose, and would appreciate Caucus' direction on which to use.

Option 1: Use a write-in ballot starting on the 21<sup>st</sup> day before polling day, until printed ballots are available, and switch then. The advantages to this are that it is a relatively simple change, and maintains a long advance voting opportunity. The disadvantages are that the earliest voters will still need to use a write-in ballot, and in the event of very few voters voting in the first week, their ballots may be identifiable (for instance, if only one voter votes in the first week, then their ballot would be identifiable as it would be the only write-in ballot in the ballot box).

Option 2: Amend the Act to allow for voting in the ORO to begin on the 14<sup>th</sup> day before polling day (the Tuesday two weeks before polling day). This is what was allowed prior to the amendments made in 2018, and would allow enough time for the ballots to be printed and circulated to all communities. The advantage to this option is that all voters will receive the same ballot, regardless of if they vote in the ORO or on polling day. The disadvantage is that it reduces the number of days of advance voting in the ORO by 8 days from 2019. If this option is preferred, voting in the ORO is offered for 11 days, instead of the current 19 days.



## Peace Officers

As part of the housekeeping amendments, the House recommended deleting section 119(4) that references a "polling station account", which used to be in the Act, but was repealed in 2018. The polling station account was primarily a document used to record information required to pay anyone hired to work at the polling station. This information is now included in the online HR documents that Returning Officers have when hiring staff. However, section 119(4) is the requirement that in the event a Deputy Returning Officer feels it is necessary to have a peace officer present at the polling station, then they shall record their reasons why in the polling station account. I feel that it is essential that should a Deputy Returning Officer feel it necessary to have a peace officer present, that the Returning Officer should be notified of the reasons why, and to report that back to the Chief Electoral Officer. To that end, instead of repealing this section entirely, I propose amending it to state:

119(4) A deputy returning officer who appoints a peace officer shall state his or her reasons in making the appointment **in writing to the Returning Officer as soon as possible after the appointment is made.**

Further, the Report of the Returning Officer required under section 205 should be amended to read:

205(e) **any appointments of peace officers under section 119(4)**

Does Caucus support making this change, instead of repealing the section entirely, as was originally recommended?

## New Amendments

There are four proposed amendments that have not been considered by Caucus, and I am seeking your direction on proceeding with these amendments in the forthcoming bill.

### Change from calendar days to business days

I am proposing an amendment to change the Candidate Financial Report deadlines from the current calendar days to business days. With polling day being changed from Monday to Tuesday in 2018, there are several deadlines that now fall on Saturdays. The Act currently allows for 60 calendar days in which to file a Candidate Financial Report. With the 2023 election scheduled for Tuesday, October 3, this means the deadline to file a financial report is Saturday, December 2<sup>nd</sup>. I am proposing that the deadline should be 45 business days following the election, which would be Thursday, December 7<sup>th</sup>. Extensions can be requested, which for non-elected candidates would be a further 45 business days.



I propose 10 business days for elected candidates, which means that deadline would be Thursday, December 21<sup>st</sup>, which is one day earlier than the currently allowed 15 calendar day extension.

Does Caucus support an amendment to change to business days, and agree with the suggestions I've made for 45 days, and 10-day extension for elected candidates?

#### Recommendation 3 of the Electoral Boundaries Commission

The Electoral Boundaries Commission has recommended that the Assembly should consider amending the Act to ensure that the Commission is able to receive information from the Register of Territorial Electors, as is required under section 9(c) of the *Electoral Boundaries Commission Act*. Section 77 of the *Elections and Plebiscites Act* states that the information on the Register can only be shared with the Chief Electoral Officer of Canada, a municipal corporation or Indigenous government in the Northwest Territories, or a sitting Member of the Legislative Assembly that relates to the electoral district that Member represents. For greater clarity, I am recommending a provision that explicitly allows for information from the Register to be shared with the Electoral Boundaries Commission, upon request.

#### Expanded Advance Voting Options

The Standing Committee on Rules and Procedures asked me to conduct research into a "vote anywhere" model that could be used during advance voting. This would allow a voter to go to any Returning Office and cast a ballot for their home district (for instance, if a healthcare worker from Yellowknife was deployed to Inuvik for the duration of the election, they could vote at the Inuvik Returning Office for their Yellowknife riding). This would also allow for expanded advance voting opportunities in communities without a Returning Officer, as a resident of NdiIQ or the Katt'odeeche First Nation currently have one day of advance voting, despite residents in Yellowknife North or Hay River having 11 or more days of advance voting. I have had discussions with Elections British Columbia and Elections Manitoba on their advance voting anywhere models, and feel that it is an initiative that Elections NWT can successfully implement for 2023.

For the multi-district communities (Yellowknife, Hay River and Inuvik), we can trial a "vote from any polling location" on election day for the ridings in those communities. This would allow a voter who went to the wrong polling station to still cast a vote without having to go to the correct polling station. Those ballots would be sent to the correct polling station in a specially-sealed envelope to be counted.



## Register of Future Electors

In my Auxiliary Report on the Administration of the 2019 General Election, I proposed the creation of a Register of Future Electors, to allow Elections NWT to register 16 and 17 year olds into a new Register, that would automatically transfer these youth onto the Register of Territorial Electors when they turn 18. This is a demographic that is very underrepresented in our current Register, and it is my hope that by registering youth while they are still in school, we will have a more accurate voters list, and allow us to more accurately engage with young voters.

If the Committee has endorsed these initiatives, I would appreciate Caucus' direction to proceed with amendments.

Sincerely,

Stephen Dunbar  
Chief Electoral Officer

CC: Chair, Standing Committee on Rules and Procedures  
Clerk of the Legislative Assembly  
Deputy Clerk, House Procedures and Committees  
Senior Advisor to the Clerk of the Legislative Assembly  
Legislative Coordinator, Department of Executive and Indigenous Affairs