



2001

Annual

Report

December 31, 2002

The Honourable George Hickes
Speaker of the Legislative Assembly
Room 244 Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Speaker:

I am honoured to submit my Annual Report on the administration of *The Elections Act* and *The Elections Finances Act* for the period covering January 1, 2001 to December 31, 2001. This Report is submitted pursuant to subsection 10(2) of *The Elections Act* and subsection 99(1) of *The Elections Finances Act*. Pursuant to subsection 10(3.1) of *The Elections Act* and subsection 99(2.1) of *The Elections Finances Act*, annual reporting under these statutes has been combined for the 2001 calendar year.

The Elections Act states that the Speaker shall lay the Annual Report before the Legislative Assembly within five sitting days after the Speaker receives it, provided the Assembly is in session and, if the Assembly is not in session, within 15 days of the beginning of the next session. *The Elections Finances Act* states that the Speaker shall cause the Report to be laid before the Assembly forthwith if the Assembly is in session and, if the Assembly is not in session, within 15 days of the beginning of the next session.

Pursuant to subsection 10(3) of *The Elections Act* and subsection 99(3) of *The Elections Finances Act*, an Annual Report that contains recommendations for amendments to these Acts stands referred to the Standing Committee on Privileges and Elections for consideration of those matters. Furthermore, these subsections provide that the Committee shall begin its consideration of the Report within 60 days after the report is laid before the Assembly.

Respectfully yours,

Richard D. Balasko
Chief Electoral Officer

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I INTRODUCTION AND HIGHLIGHTS

The year 2001 was a challenging one as Elections Manitoba was tasked with implementing major amendments to both *The Elections Act* and *The Elections Finances Act*. The Legislative Assembly passed the amendments in 2000.

One major amendment to *The Elections Act* involves the independent appointment of Returning Officers by the Chief Electoral Officer. Previously, Returning Officers were appointed by Order-In-Council. The Manitoba Civil Service Commission and the Director of Members' Services of the Legislative Assembly assisted Elections Manitoba with developing personnel policies to begin this major recruitment task.

In September 2001, advertising began and was followed by interviews for the 26 electoral divisions outside Winnipeg. The work continued until December 2001 and was followed by the recruitment of Returning Officers and Assistant Returning Officers in Winnipeg's 31 electoral divisions. At the time of writing, nearly all positions have been filled.

Other amendments to *The Elections Act* were enacted and included the reduction of the minimum election period, from 36 days to 33; leave provisions to permit citizen participation in the democratic process for candidates, volunteers and election workers; the right of access for candidates and their agents to campaign in apartment and condominium buildings; and changes to procedures.

Amendments to *The Elections Finances Act* included source and amount limits on contributions; advertising spending limits (both outside and during an election period); and limits on allocating expenses between political parties and candidates during an election.

Elections Manitoba has a legislative requirement to help stakeholders comply with *The Elections Finances Act*. In 2001, a major initiative was taken to improve the electoral service and support to political parties, candidates, official agents, chief financial officers, and auditors, in order to enhance compliance. The first step was to undertake a formal needs assessment involving extensive consultation with stakeholders. The process resulted in a re-design of information guides, forms, information seminars and the candidate's filing disk. (The disk was used in the 2000 by-elections.) In addition, the Elections Manitoba Web site was expanded to include detailed information about campaign finances.

Provisions in *The Elections Act* [s.10 (3)] and *The Elections Finances Act* [s.99 (3)] require the Standing Committee on Privileges and Elections to begin considering the Annual Report within 60 days after the Report is laid before the Assembly. The Report contains recommendations by the Chief Electoral Officer to make amendments to *The Elections Act* and *The Elections Finances Act*.

As Chief Electoral Officer, I met with the Committee on Privileges and Elections Committee, on January 30, 2001, to discuss my recommendations in the 2000 Annual Report. At that time, the Committee considered and passed a number of statutory reports of the Chief Electoral Officer made between 1988 and 1994.

II ANNUAL ACTIVITIES

Registration of Political Parties

Outside of an election, a political party may become registered by filing the following documents with Elections Manitoba: an application for registration; a financial statement; and a petition signed by no fewer than 2,500 people who were eligible voters during the most recent general election prior to the application.

During a general election, a political party may be registered by filing an application for registration, a financial statement, and by endorsing five or more candidates. A registered party must disclose information for the following officers: the leader, president, chief financial officer and auditor. A registered political party may issue official tax receipts for contributions and have its name printed on the ballots along with the names of the candidates endorsed by the party. Once registered, a political party's name and abbreviation are protected under *The Elections Finances Act*, ensuring that other registered political parties may not use the name or abbreviation.

In 2001, seven political parties were registered in Manitoba. Two inquiries were received related to registering a political party. On a related matter, The Liberal Party in Manitoba changed its registered name to the 'Manitoba Liberal Party', and The Progressive Conservative Party of Manitoba changed its registered abbreviation to 'PC Manitoba' (from Manitoba PC).

The names of the registered political parties and their chief financial officers are listed in **Table 1A**. A comparison of the number of registered political parties from 1980 to 2001 is shown in **Table 1B**.

Table 1A
Registered Political Parties (2001)

Political Party	Date of Registration	Registration Number	Chief Financial Officer	Date of Appointment
CPC-M	Apr. 30/99	P-9905	Glen Wreggitt	Apr. 30/99
GPM	Aug. 28/99	P-9907	Pamela Sanford	Apr. 1/01
Lib	Dec. 12/80	P-8003	Sudhir Sandhu	Dec. 4/01
LPM	Mar. 9/88	P-8808	Don Ives	Dec. 30/93
MP	Aug. 28/99	P-9906	Warren Goodwin	Jun. 18/01
NDP	Nov. 17/80	P-8001	Tom Milne	Sept. 2/97
PC	Nov. 25/80	P-8002	Gordon A. Horne	Aug. 12/99

Unofficial abbreviations used in this report for registered political parties:

CPC-M	Communist Party of Canada – Manitoba
GPM	The Green Party of Manitoba
Lib.	Manitoba Liberal Party
LPM	Libertarian Party of Manitoba
MP	Manitoba Party
NDP	New Democratic Party of Manitoba
PC	The Progressive Conservative Party of Manitoba

Table 1B
Yearly Comparison of Number of Registered Political Parties

Year	Number of Registered Political Parties	Year	Number of Registered Political Parties
1980	3	1991	7
1981	3	1992	7
1982	5	1993	7
1983	5	1994	7
1984	6	1995	4
1985	7	1996	4
1986	7	1997	4
1987	7	1998	4
1988	8	1999	7
1989	8	2000	7
1990	7	2001	7

Political Party Annual Statements and Returns for Contributions

The chief financial officer of a registered political party must file an audited financial statement each year with the Chief Electoral Officer. This statement must set out the income, expenses, assets and liabilities of the party. The statement excludes income and election expenses for an election or by-election campaign period.

The statements for 2000 needed to be filed by April 2, 2001. The following parties filed after the deadline (without an extension): The Communist Party of Canada-Manitoba on April 3, 2001 and the Manitoba Party on May 29, 2001.

A detailed list of contributors is filed with the annual financial statement. The list discloses the name, address and amount of aggregate contributions of \$250 or more made that year to the political party by any person or organization. The annual financial statement excludes as income any contributions received during the campaign period of an election or by-election. (Such contributions are reported as income on the election period statement.)

The 2001 annual financial statements of registered political parties are filed in 2002. As a result, the summaries of the 2001 financial statements and contributions received by registered political parties will be published in the 2002 Annual Report.

The 2000 annual financial statements were filed in 2001. A summary of the 2000 annual financial statements filed by the registered political parties is contained in **Table 2**. A summary of the contributions received by registered political parties in 2000 is found in **Table 3**.

According to *The Elections Finances Act* [s.70 (1)], all statements and returns filed with the Chief Electoral Officer are public information. The documents are open to inspection by anyone during regular office hours.

Table 2

Registered Political Party Annual Financial Statements (2000)

Registered Political Party Annual Financial Statements (2000)

	CPC-M \$	GPM \$	Lib. \$	LPM \$	MP \$	NDP \$	PC \$
Income and Expenses							
Contributions ¹	11,803	3,299	122,575	100	100	583,130	592,411
Transfers	0	0	0	0	0	11,175	19,037
Other Income	0	1,113	157,862	841	0	26,296	318,980
Total Income	11,803	4,412	280,437	941	100	620,601	930,428
Expenses	11,926	4,121	276,866	2,342	51	803,056	1,293,782
Surplus (Deficit)	(123)	291	3,571	(1,401)	49	(182,455)	(363,354)
Assets and Liabilities							
Assets	8,74	1,317	768,242	899	255	362,890	647,431
Liabilities	3,171	0	73,932	200	0	177,208	81,917
Net Worth (Deficit)	(2,297)	1,317	694,310	699	255	185,682	565,514

Financial Statements filed April 03/01 March 27/01 May 08/01 April 02/01 May 29/01 May 02/01 June 29/01

¹ Excludes contributions received during the election period.

Table 3

Contributions Received by Registered Political Parties (2000)¹

	CPC-M	GPM	Lib.	LPM	MP	NDP	PC	Totals
\$250.00 or More								
Total value \$	7,930	1,023	760,659	0	0	684,439	1,092,720	2,546,771
No. of contributors	12	3	147	0	0	647	714	1,523
\$25.00 to \$250.00								
Total value \$	3,745	1,696	95,468	521	0	302,955	180,181	584,566
No. of contributors	44	21	1,015	4	0	3,037	1,871	5,992
Less Than \$25.00								
Total value \$	129	580	66,909	0	100	18,820	13,489	100,027
No. of contributors	11 37	4,302	0	5	2,010	1,426	7,791	
Total of all Contributions \$	11,804	3,299	923,036	521	100	1,006,214	1,286,390	3,231,364

¹ Includes all contributions received during the year, including the election period.

Advisory and Ad Hoc Committees

The Advisory Committee, established under *The Elections Finances Act* [s.4 (1)], is comprised of one appointed representative from each registered political party. In addition, it is customary to include the chief financial officers of registered political parties. Members of the Advisory Committee are listed in **Table 4**.

The Chief Electoral Officer may meet with the Committee to seek its advice on the proper administration of *The Elections Finances Act*. Although a decision or recommendation by the Advisory Committee is not binding on the Chief Electoral Officer, the advice offered by Committee members is of considerable benefit.

In 2001, the Advisory Committee met to discuss recommendations for legislative amendments and a proposed compliance assistance program.

**Table 4
Advisory Committee Members (2001)**

Party	Committee Member
Communist Party of Canada – Manitoba	Darrell Rankin
Liberal Party	Bill McDonald
Libertarian Party	None appointed
Manitoba Party	Roger Woloshyn
New Democratic Party	Randy Mavins
The Green Party of Manitoba	Markus Buchar
The Progressive Conservative Party of Manitoba	Don MacKenzie

In addition to the Advisory Committee, an Ad Hoc Committee discusses matters related to *The Elections Act*, including the conduct of elections. Although not required under *The Elections Act*, the Ad Hoc Committee meetings have produced helpful exchanges between the registered political parties and Elections Manitoba. **Table 5** lists the Ad Hoc Committee members for 2001.

Since 1990, the Ad Hoc Committee has met to review and discuss new procedures and policies for upcoming elections. In addition, the Committee reviews operational issues raised by the political parties. Following elections, the Committee meets to provide Elections Manitoba with feedback on the practices that worked well and the ones to be improved for a future election.

In September 2001, the Ad Hoc Committee met to discuss the new recruitment procedures for Returning Officers and Assistant Returning Officers. In addition, Committee members met the people involved in administering the recruitment process.

**Table 5
Ad Hoc Committee Members (as of September 2001)**

Party	Committee Member
Communist Party of Canada – Manitoba	Darrell Rankin
Manitoba Liberal Party	Kevin Lamoureux Bill McDonald
Libertarian Party	Clancy Smith
Manitoba Party	Roger Woloshyn
New Democratic Party of Manitoba	Becky Barrett Tom Milne
The Green Party of Manitoba	Chris Billows
The Progressive Conservative Party of Manitoba	Gabrielle Lewadniuk Don MacKenzie

Constituency Associations

The person responsible for the finances of a constituency association must file a return each year with the Chief Electoral Officer. The return must disclose the name and address of each contributor whose aggregate annual contribution totaled \$250 or more to the constituency association. A party-by-party summary of annual contributions to constituency associations of \$250 or more for 2001 is shown in **Table 6A**. A yearly comparison of total contributions of \$250 or more to all constituency associations is shown in **Table 6B**.

Constituency associations may not issue receipts for income tax purposes.

Constituency association returns are public information. They are available for inspection at Elections Manitoba.

Table 6A
Contributions of \$250 or More to Constituency Associations (2001)

	Lib.	NDP	PC
Total # of Constituency Associations	57	57	57
# Reporting Contributions of \$250 or more	1	2	1
Contributions \$250 or more	\$500	\$895	\$500

Note: The Communist Party of Canada-Manitoba, The Green Party of Manitoba, Libertarian Party of Manitoba and the Manitoba Party do not have constituency associations.

Table 6B
Yearly Comparison of Constituency Associations Reporting Contributions of \$250 or More

Year	# of Constituency Associations	# Reporting Contributions of \$250 or more	Total Contributions of \$250 or more
1986	163	12	\$27,635
1987	161	6	\$9,152
1988	181	8	\$23,633
1989	187	2	\$2,472
1990	176	6	\$6,807
1991	172	2	\$925
1992	171	0	\$0
1993	171	0	\$0
1994	171	3	\$1,312
1995	171	1	\$2,039
1996	171	0	\$0
1997	171	4	\$10,536
1998	171	4	\$5,690
1999	171	8	\$11,637
2000	171	5	\$7,323
2001	171	4	\$1,895

Candidates' Campaign Deficits

Contributions of \$250 or more made to a candidate's campaign deficit after a campaign period must be reported to the Chief Electoral Officer. During the 1999 General Election, 52 candidates reported a campaign deficit. By the end of 2001, 49 of the 52 deficits from 1999 had been eliminated. Candidates' campaign deficits of \$250 or more are listed in **Table 7**.

During the 1995 General Election, 45 candidates reported a campaign deficit. In 2001, two contributions of \$250 or more were made to 1995 campaign deficits. As of the end of 2001, all 45 deficits from 1995 had been eliminated.

Table 7
Candidates' Campaign Deficits of \$250 or more

Year	# of Candidate Deficits	Total Deficits Eliminated at Dec. 31/00	Deficits Eliminated in 2001	Total Candidate Deficits at Dec. 31/01
1995	45	(43)	(2)	0
1999	52	(42)	(7)	3
2000	1	n/a *	(0)	1

* No deficits to report in 2000 because the by-election candidacy period extended into 2001.

Candidates' deficits may be eliminated in ways other than through contributions of \$250 or more. These include transfers from a political party; contributions of less than \$250; and by reimbursement of election expenses. A candidate who pays from his or her own resources towards eliminating a deficit has made a contribution. It must be reported if the aggregate of the amounts is \$250 or more in any year.

On an annual basis, the Office of the Chief Electoral Officer monitors those candidates with outstanding deficits. This process continues until deficits are cleared. Deficits returns are public information and are available for inspection at Elections Manitoba.

Manitoba Tax Credit Program

In 1980, *The Income Tax Act* (Manitoba) implemented a tax credit system for political contributions. A percentage of contributions to registered political parties and registered candidates is eligible for a tax credit. Manitoba tax credits claimed for political contributions is listed in **Table 8**.

The deductible amount from tax payable is:

- 75% of the amount contributed if the amount contributed does not exceed \$100;
- \$75 plus 50% of the amount by which the amount contributed exceeds \$100 if the amount contributed exceeds \$100 but does not exceed \$550; and
- if the amount contributed exceeds \$550, the lesser of

- i) \$300 plus 33¹/₃ % of the amount by which the amount contributed exceeds \$550; or
 - ii) \$500
- if the payment is supported by a proper income tax receipt.

The total value of tax credits for 2000, the most current year for which total information is available, is \$662,777. From 1982 to 2000, the tax credits claimed on individual and corporate returns amounted to \$14,262,900.

Table 8
Manitoba Tax Credits Claimed for Political Contributions (1982 - 2000)*

Tax Year	Individual Returns \$	Corporate Returns \$	Total Credits \$
1982	293,500	54,200	347,700
1983	429,200	47,300	476,500
1984	520,400	69,000	589,400
1985	642,900	90,100	733,000
1986	863,356	119,598	982,954
1987	476,617	65,708	542,325
1988	1,115,750	136,091	1,251,841
1989	642,722	68,720	711,442
1990	1,019,617	93,542	1,113,159
1991	470,509	54,817	525,326
1992	512,373	38,387	550,760
1993	539,930	87,426	627,356
1994	634,297	91,109	725,406
1995	1,038,872	123,903	1,162,775
1996	558,774	87,700	646,474
1997	560,071	71,617	631,688
1998	553,526	82,243	635,769
1999	1,229,513	116,735	1,346,248
2000	562,901	98,876	662,777
Total Tax Credits claimed Since 1982	\$12,664,828	\$1,598,072	\$14,262,900

*Figures provided by Manitoba Finance

Compliance Assistance and Public Disclosure

Elections Manitoba is required by legislation to help the following with compliance: auditors, candidates, chief financial officers, constituency associations, official agents and political parties. Assistance is provided by:

- organizing information sessions throughout the province for campaign managers, candidates and official agents before and during an election;
- posting information on the Web site;

- meeting one-on-one with official agents and party representatives;
- offering a financial subsidy for auditors to consult with official agents on record-keeping;
- answering telephone, written and E-mail inquiries (extended hours are offered during an election);
- issuing periodic reminders to participants;
- providing customized software and printed materials (e.g. guidelines) to auditors, candidates, chief financial officers, official agents and registered political parties.

In addition, Elections Manitoba undertook a major initiative to review how compliance assistance is provided. The initial phase of the review included formal consultation with participants. This provided essential information for a major redesign of forms, guidelines and materials. The process has been completed, resulting in revisions to the compliance assistance program. For example, guidelines have been re-written and are available on the Web site. Finally, new information tailored to specific needs has been developed to include the 'candidate's checklist' and the 'constituency association checklist'.

Another statutory responsibility of the Chief Electoral Officer concerns public information. The statements, returns, registers and records must be available to the public. The same holds true for copies of *The Elections Finances Act*. This information is open to public inspection during regular office hours at Elections Manitoba, 200 Vaughan Street, Winnipeg, Manitoba.

The Elections Finances Act directs that statements and returns filed with the Chief Electoral Officer be available for public inspection upon receipt. It should be noted that such statements and returns may not be finalized or may contain errors, since the review of the documents may not have been completed at the time of initial filing. Following a thorough review and verification, all statements and returns are finalized and remain available for inspection. Academics, members of the media and, in particular, political representatives inspect the documents and records.

For people unable to attend the office, information can be mailed upon request. Election results and financial information, in summary form, are available on Elections Manitoba's Web site. The election information can be reviewed several ways, including by political party affiliation and by electoral division. In addition, political party annual financial statements and the Elections Manitoba Annual Report are available on the Web site. Updated information is added to the Web site, as it becomes available.

Public Information

In February 2001, ten current and former election officials were trained to give presentations to schools and community groups (e.g., aboriginal friendship centres, adult literacy groups, high schools) province-wide. This represented the first time election presentations were offered on a year-round basis. One hundred forty four presentations were given to school and community groups in 2001. This represents a five-fold increase over the previous year. At the time of writing, materials for the public information program are being reviewed and should be updated by Spring 2003.

Cooperation with Other Jurisdictions

Cooperative efforts with other jurisdictions continue to expand. Examples include sharing information and materials; staff secondments; and cooperation during elections.

Elections Manitoba is spearheading a joint Rural Addressing Initiative. Along with other provincial, federal and private organizations, a Geographic Information Systems (GIS) database is being developed with the goal of identifying every residential building in rural Manitoba. Partners involved to date include the Assembly of Manitoba Chiefs; Association of Manitoba Municipalities; Indian and Northern Affairs Canada; Manitoba Department of Intergovernmental Affairs; Manitoba Health Emergency Services; Manitoba Telephone System - 911 Services; Natural Resources Canada; and The City of Brandon.

The GIS database includes street names for several communities; the number of dwellings in most communities; and the number of dwellings per section of land in rural areas. This information is provided to Returning Officers, to assist them with the task of drawing polling subdivision boundaries for the next election.

Elections Manitoba is participating with Elections Canada in a study to compare provincial Voters Lists with federal lists, for two Winnipeg electoral divisions. The conduct of by-elections in the electoral divisions of Kirkfield Park and Tuxedo, at virtually the same time as the November 2000 federal election, created ideal conditions for analyzing the compatibility of the two lists.

Elections Manitoba's preliminary Voters Lists were created through enumeration in November 2000 during the by-elections in the Kirkfield Park and Tuxedo electoral divisions. The corresponding final lists reflect changes made during the revision period and on election day. The federal, preliminary list of electors was generated from the National Register of Electors for the 2000 federal election. The final list of electors included changes made during that election. An independent consulting firm was retained to perform computerized and visual matching of elector names and addresses and to report the results. The results of this study, and future comparisons of Voters List information from rural electoral divisions, are being used to understand issues surrounding alternative methods of voter registration and the construction of Voters Lists by both Elections Manitoba and Elections Canada.

Election officials representing federal, provincial and territorial jurisdictions meet annually, often on an informal basis, to share materials and ideas. For example, the Northwest Territories and Nova Scotia are interested in our provisions for absentee voting and voting at home for the disabled. Nova Scotia has expressed interest in our new recruitment procedures for Returning Officers. Ontario has sought background information for a review of its Tariff of Fees. Prince Edward Island is examining our hospital voting provisions. Several jurisdictions would like to receive a copy of our election payroll system.

Elections Manitoba offers informal advice and such background materials as manuals and forms to various organizations including Lord Selkirk Tenant's Association; Manitoba Canola Growers Association; and Red River Community College Student's Association.

At the time of writing, Elections Manitoba has supplied customized Voters Lists to Manitoba rural municipalities, school boards, towns and villages in preparation for October 2002 school board and municipal elections.

Recent meetings with Elections Canada have pointed to additional areas where increased co-operation and information exchanges offer mutual benefit. The initiatives include exploring the feasibility of developing common polling subdivision boundaries and polling place locations; sharing Information Technology (IT) specifications and usage policies for computer installations; and launching another Voters List comparison study using a rural electoral division.

Finally, Elections Manitoba and the City of Winnipeg Clerk's Office have discussed sharing lists of possible election workers in preparation for our respective elections.

Election Officials Workshops

On February 15 and 16, 2001, workshops were held in Winnipeg to discuss the topics of election operations and finances. The first day was dedicated to operations and the recruitment of election officials. The second day dealt with the finance topics of assisting with compliance, enforcement and investigations. Twenty-seven participants attended, representing nine electoral jurisdictions. Based on their feedback, the success of the workshops demonstrates the value of ongoing collaboration. The meeting marked the resumption of the annual election officials' workshops, which had not occurred for several years.

Communications issues were featured as the topic of the Election Officials Workshop in February 2002. Elections Manitoba staffs were unable to attend due to the by-election in Lac du Bonnet.

III ENFORCEMENT

Prosecutions

Following the investigation of a complaint of defamatory information being distributed during the 1999 general election, charges were laid against two people in February 2001. Two charges under *The Elections Act* were laid against Heather Campbell-Dewar on February 7, 2001: 1) defamation of a candidate during an election for the purpose of influencing its outcome [s.155]; and 2) obstruction, hindering, or making a false or misleading statement to a person appointed by the Chief Electoral Officer during an investigation [s.163.2]. The accused in this case pleaded guilty and on August 10, 2001 was fined \$1500 on the defamation charge and \$300 on the obstruction charge.

On February 8, 2001, Roland Percival Barrett was charged with defamation under *The Elections Act* [s.155]. At the time of writing, the matter is still before the court.

As a result of conducting compliance reviews of candidate financial statements following the 1999 election, three candidates and one campaign manager were charged with exceeding the spending limit applicable to the electoral division.

Vic Toews, PC Manitoba candidate in the Rossmere electoral division, was charged under *The Elections Finances Act* [s. 84] for exceeding the limit on election expenses. (The charge was laid November 22, 2001.)

Ellen Kowalski, PC Manitoba candidate in The Maples electoral division, was charged under *The Elections Finances Act* [s. 84] for exceeding the limit on election expenses. The accused in this case pleaded guilty and on November 5, 2002 was fined \$50. In addition, the election expense reimbursement otherwise payable to Ms. Kowalski was reduced by \$2700 – the amount by which campaign spending exceeded the spending limits.

Marnie Larkin, the campaign manager for Ellen Kowalski, was also charged under *The Elections Finances Act* [s. 86] as an officer responsible for overspending. (The charges against Ms. Larkin and Ms. Kowalski were laid November 22, 2001.)

George Sandhu, PC Manitoba candidate in the Inkster electoral division was charged under *The Elections Finances Act* [s. 84] for exceeding the limit on election expenses. (The charge was laid December 19, 2001.)

At the time of writing, the matters relating to Vic Toews, Marnie Larkin and George Sandhu are still before the court.

IV FUTURE DIRECTIONS

Returning Officer Recruitment

Returning Officers (ROs) are now recruited using a public, merit-based competition. The process was initiated in September 2001 for electoral divisions outside Winnipeg and, in January 2002, it began for electoral divisions in the City of Winnipeg. Elections Manitoba received approximately 1000 applications and held approximately 350 selection boards for Returning Officers and Assistant Returning Officers (AROs). At the time of writing, nearly all positions have been filled. Qualified people are being sought to replace a small number of ROs and AROs who, for personal reasons, have since resigned.

Training of Returning Officers/Assistant Returning Officers

Changes were required in the RO/ARO training program in order to account for the increasingly important and demanding role of the ROs and AROs; the large number of novice ROs and AROs; the necessity to re-map the polling subdivisions; and feedback received at post-election seminars from ROs and AROs who worked in the 1999 general election.

At the time of writing, 97% of the ROs and AROs have completed four days of comprehensive training in preparation for the 38th general election.

Automation Initiatives

In 2001, Elections Manitoba began making revisions to its Election Management Information System (EMIS) and Voter Enumeration System (VES). In addition, in response to legislative amendments and in preparation for the next general election, modifications were made to the automated, election payroll system – a successful pilot project developed for the November 2000 by-elections in Kirkfield Park and Tuxedo.

At the time of writing, work is nearing completion on the above projects. Other automation initiatives underway include the use of the Internet to transfer election management information between the 57 returning offices and the Elections Manitoba central office. (This was piloted during the Kirkfield Park and Tuxedo by-elections.) The goal is to have similar connections in use for the 38th general election at each of the 57 returning offices.

Mapping Initiative

In 1998, *The Elections Act* was changed to increase the average size of each polling subdivision. Due to late Returning Officer appointments at the time, and the possibility of an election occurring under either old or new electoral division boundaries, only a small number of Returning Officers were able to do a complete review of their polling subdivision boundaries prior to the September 1999 general election.

Following up on the successful mapping initiative for Winnipeg's electoral divisions during the 1999 general election, similar improvements are being made to the election maps outside Winnipeg. Precise details and coordinates are being included for First Nations communities; hospitals and personal care homes; highways and roads; lakes and rivers; and parks. Extra in-set maps of the larger communities are being included for each electoral division. In addition, Winnipeg polling subdivision maps are being improved, and hospitals and personal care homes are being marked clearly.

The mapping initiative will assist Enumerators with their work, and assure Returning Officers that all areas of the electoral division have been properly enumerated. In addition, the new maps will make it easier for candidates and their workers to campaign.

At the time of writing, the Returning Officers in each of the 57 electoral divisions have completed the re-configuration of their polling subdivisions based on the numbers of registered voters in the 1999 general election, plus any actual or anticipated population shifts and new developments. Not since the lead-up to the 1995 general election have all the electoral divisions had a full review to take into account population shifts.

Finally, new polling subdivision maps, descriptions, poll and street keys are being printed for distribution to the political parties. This process will be completed by the end of January 2003.

Forms, Materials and Manuals

In 2001, the review and revision of all forms, materials and manuals began for the 38th general election. The changes were required, in part, as a result of the new 33-day election period. They were supported by suggestions from Returning Officers and other election officials, candidates and representatives of the registered political parties, via the Ad Hoc Committee.

At the time of writing, all forms, materials and manuals have been reviewed and revised in time for the training workshops for Returning Officers and Assistant Returning Officers in Summer/Fall 2002.

Campaign Access/Election Signs and Posters

Amendments made to *The Elections Act* in 2000 clarified a candidate's right to canvass and distribute election material in apartment buildings, condominium units and other multiple residences. In addition, tenants and condominium owners may now display election signs or posters on their own premises, subject to reasonable conditions regarding size and/or type.

In late 2001, plans were introduced to inform landlords, caretakers and condominium boards about campaign access, as well as election signs and posters.

At the time of writing, plans are proceeding to distribute a notice to property management companies and condominium boards. Specifics on the personal identification required for candidates and their representatives will be finalized with the Ad Hoc Committee.

Unpaid Leave

Employers are now required to give unpaid leaves of absence to employees who are candidates, election officials or volunteers working for political parties or candidates. Up to two volunteers per candidate and, in a general election, up to twenty volunteers per political party may apply. Employers may apply to the Manitoba Labour Board for an exemption if the employer thinks that granting a leave would pose a serious detriment to his or her operations. When an application for exemption is received, a retired judge is appointed to decide the application.

At the time of writing, two employers of Returning Officers/Assistant Returning Officers have applied for exemptions. In the one case that has been heard, the application was denied. Elections Manitoba will be reminding registered political parties to ask the designated campaign volunteers to apply early for their leave of absence.

Communications

An audit of all communications materials in preparation for the 38th general election began in late 2001. The communications materials are being reviewed for five reasons:

- 1) To comply with changes to *The Elections Act* with respect to the new 33-day election period and new provisions regarding campaigning.
- 2) To direct voters to their local Returning Officer (now independently appointed by the Chief Electoral Officer) as a primary source of information.
- 3) To address the declining voter turnout, particularly in the 18-25 age group.
- 4) To support a new policy whereby enumerators carry photo identification (tested in recent by-elections).
- 5) To comply with the public communications mandate outlined in section 10(1.1) of *The Elections Act*.

At the time of writing, a one-year, communications strategy has been finalized. The strategy serves as a 'road map' for all communications initiatives, including the recent hiring of advertising and research firms to develop, and test, creative concepts; a re-design of the Voter's Guide; and updates to print, radio and television advertising, to be completed by early 2003.

Web site

During the 1999 general election, approximately 750,000 visits were made to Elections Manitoba's Web site. This indicated that Manitobans regard the technology as a reliable source of elections information.

In Fall 2001, work was initiated to re-design the Elections Manitoba Web site. The project's goals included offering updated and comprehensive information about Manitoba's electoral system; ensuring that Elections Manitoba's commitment to transparency and accessibility extends to this vital service; enhancing the site's ease of navigation and relevance for all visitors; and establishing an easy-to-remember address: www.electionsmanitoba.ca.

At the time of writing, a new Internet Service Provider (ISP) is being sought to provide stable service with the capability to accommodate the increased usage expected during the 38th general election. The enhanced Web site is scheduled to be launched by early 2003.

Shared Code of Ethical Conduct

The 2000 Annual Report highlighted the status of adoption of the shared code of ethical conduct. The code was developed through consensus by all the registered political parties.

It was reported that since June 2000, when the shared code was finalized, The Green Party of Manitoba, the Manitoba Liberal Party and the Manitoba Party had adopted it. Since that time, the New Democratic Party of Manitoba has also formally adopted the shared code. In addition, the executive bodies of the Communist Party of Canada – Manitoba and the Progressive Conservative Party of Manitoba have approved the code. These latter two parties will be referring the code to their provincial committee and executive council, respectively, for ratification and formal adoption.

This means six of the seven registered political parties in Manitoba have adopted, or are in the process of adopting, a common code of ethical conduct. (The exception is the Libertarian Party of Manitoba.) In addition, a number of parties possess their own code of ethics.

It should be noted that, in Manitoba's *Commission of Inquiry into Allegations of Infractions of The Elections Act and The Elections Finances Act*, Commissioner Alfred M. Monnin recommended that all political parties voluntarily prepare and implement a code of ethics by December 31, 2001. In addition, the recommendation states that, if a code is not implemented by that date, a standard code should be made compulsory by legislation.

Preparations for the 38th General Election – *The Elections Finances Act*

A number of initiatives tested in previous by-elections will be implemented for the 38th general election:

- **Record keeping assistance** - To assist official agents with their record keeping responsibilities, candidates' auditors will be compensated (to a maximum of \$300)

for their consulting services during the election period. An auditor will assess an official agent's record keeping and accounting systems and will make recommendations where necessary. This fee is not intended to provide bookkeeping, record keeping or auditing services.

- **Electronic filing disk** - Customized software will be provided, in disk format, to official agents. The software is similar to that used to file income tax returns. In addition to performing basic arithmetic functions, the software has built-in diagnostics and checks to assist with the preparation of a candidate's election financial statement (Form 922). The diagnostics and checks were based primarily on common errors observed in the review of financial statements from previous elections. The software can print a Form 922 along with a number of other useful reports to assist in preparing and filing financial statements. In addition, data can be downloaded to a disk and filed with Form 922. This results in more efficient processing and review of financial statements. The software also permits income tax receipt information to be recorded in detail.
- **Expanded scope of information sessions** – Traditionally, information sessions were held for candidates and official agents, and have dealt with financial responsibilities under *The Elections Finances Act*. Campaign managers will also be invited and the sessions will be expanded to cover important operational information set out in *The Elections Act*. In addition, the sessions will be offered in more locations throughout the province.
- **Auditor information sessions** - Auditor information sessions will be provided throughout the province, similar to those provided for official agents and campaign managers. The sessions will focus on information about *The Elections Finances Act*, in order to assist auditors in their duties.
- **Providing expense receipts upon filing** - Candidates' campaigns will be requested to provide copies of receipts and vouchers for all expenses (election and non-election) when filing Form 922. Based on our experience in previous by-elections, this will result in more efficient reviews, and fewer inquiries for clarification, of financial returns.
- **Tax receipts and financial information packages available at returning offices** - Campaigns will be able to obtain income tax receipts from returning offices or the Elections Manitoba central office. Registering to issue income tax receipts requires a candidate's campaign to file valid nomination papers (Form 499) and an application for registration (Form 911). In addition, information about *The Elections Finances Act* will be available for candidates and official agents.

V LEGISLATIVE CHANGES

Summary of Changes to *The Elections Act* in 2001

The Elections Act allows people to vote in a provincial election only if they have resided in Manitoba for at least six months immediately before election day. *The Canadian Forces Personnel Act* (Bill 9: 'Amendments Relating to Voting Rights and Driving Privileges'), introduced in the Legislature in December 2001, makes an exception to this residency rule. It allows Manitoba residents who are members of the Canadian Forces, and the people who live with them, to vote when posted outside the province. This Bill received Royal Assent on July 17, 2002. This extension to voter enfranchisement was among the recommendations made by the Chief Electoral Officer in previous Annual Reports.

The only other amendments to *The Elections Act* since the 2000 Annual Report pertain to Bill 34 -*The Charter Compliance Act*. As part of *The Charter Compliance Act*, the definition of 'common-law partner' was added into the 'definitions' section of *The Elections Act* under rule 5, subsection 35(1) of the residency rules. *The Charter Compliance Act* received Royal Assent on August 1, 2002.

Summary of Changes to *The Elections Finances Act* in 2001

The Elections Finances Act was also amended in 2000. Most of the amendments came into effect on January 1, 2001, and concerned spending and contribution limits. A summary of the amendments is described below.

Contribution Limits

Only those people who normally reside in Manitoba may contribute to the following: any candidate running in a Manitoba election; any constituency association of a political party registered in Manitoba; or a political party registered in Manitoba. The combined total of all contributions made by a person to all recipients may not exceed \$3,000 per calendar year. Other related amendments are listed below.

- No person may solicit, or knowingly accept, a prohibited contribution. Such contributions must be returned.
- Contributions to people seeking to be the nominated candidate of a constituency association are deemed to be contributions to the constituency association.
- Candidates, constituency associations and registered political parties must disclose to Elections Manitoba the details of all contributions, not just contributions of \$250 or more.
- Penalties exist for making, or knowingly accepting, prohibited contributions.

Advertising Spending Limits Re-instated

The advertising expenses of candidates and registered political parties during an election period will be subject to a spending limit. Advertising spending limits were removed from the Act in 1998. Advertising expenses are essentially for media and commercial buys, including internet advertising. The advertising limit is separate from the overall election expense limit. Overspending the advertising limit reduces any reimbursement of election expenses to a candidate or a political party.

Candidate and Political Party Spending Limits

All polling costs incurred in an election period will now be included as election expenses. Previously, polling costs were specifically excluded as election expenses.

Registered political parties and their candidates may not transfer, charge or otherwise allocate election expenses to each other. Goods may be transferred and used but election expenses may not be transferred. For example, a political party's election expenses may not be charged against a candidate's spending limit. It is not permitted to arrange transactions to avoid allocation provisions.

Annual Advertising Spending Limits

Registered political parties are limited to spending \$50,000 per calendar year (CPI adjusted) for annual advertising expenses. This limit is separate from, and may not be combined with, a registered political party's election period advertising limit. A party must include, in its annual limit, advertising expenses incurred by candidates and constituency associations of parties, outside of a writ period. Specifically excluded from a party's annual advertising spending limit are allowances paid to members of the Legislative Assembly, as outlined in *The Legislative Assembly Act*. Advertisements must display an authorization.

Third Party Limits (not yet proclaimed)

The status of *The Elections Finances Act* amendments with respect to third party activities during an election remained the same in 2001. The amendments were passed in 2000 but were not proclaimed.

The position of the Chief Electoral Officer, consistent with previous recommendations, is that the issue remains relevant and that:

- reasonable limits on third party expenditures should be considered but it may be prudent to wait for pending court cases, which may provide further direction as to the constitutionality of limits; and
- In the absence of judgements to the contrary, disclosure requirements should be enacted for third parties incurring election expenses above a certain threshold.

There is one outstanding court decision, *Harper v. Canada* (Attorney General), under the *Canada Elections Act* which may impact on Manitoba's legislation. The Crown appealed the June 29, 2001 decision of the Alberta Court of Queen's Bench, which struck down the 3rd party spending limits. Harper cross-appealed the Court's decision to uphold the remaining "attribution, registration and disclosure" provisions. The Appeal was heard May 9, 2002.

In a British Columbia case, *Pacific Press v. British Columbia* (Attorney General), the February 2, 2000 decision of the British Columbia Supreme Court ruled that, with respect to election advertising sponsors (i.e. third parties), election advertising spending limits were ruled in contravention of the Charter. However, the Court stated that election advertising sponsors must still register and file financial reports.

Should a law for third party limits be proclaimed in Manitoba, considerable time and resources will be needed for implementation, including extensive consultation with an advisory committee in order to develop election communication guidelines. In addition, an information campaign will be needed to contact potential third party participants in an election. Finally, guidelines, reporting forms and support systems will also be required.

VI RECOMMENDATIONS

In the period since the 2000 Annual Report was published, the Standing Committee on Privileges and Elections met once to consider the recommendations to amend sections of *The Elections Act* and *The Elections Finances Act*.

New recommendations are included with outstanding recommendations from the 2000 Annual Report. Where applicable, updates to the 2000 recommendations are documented. Therefore, this represents the entire, consolidated list of recommendations for legislative amendments.

The Elections Act

Voting Entitlements

1. Qualification for Voters List (six-month residency rule) - [s. 32 (1) and 35 (1)]

Background: In section 35 (1) of *The Elections Act*, Rule 2 states, “A person does not lose residence in the province by leaving the province for a definite purpose during a definite period of less than six months, if he intends to return to the province and reside within the province after that period.”

Significant improvements to voter enfranchisement were made to *The Elections Act* in 1998, with the introduction of absentee voting. Absentee voting was well received across the province during the 1999 general election. An eligible voter located anywhere outside the province can vote in a Manitoba provincial election by using a special blank ballot, provided the voter has not left the province for more than six months. An eligible voter within the province who is temporarily away from his or her home electoral division for less than six months and, consequently, unable to attend advance or regular polls in his or her home electoral division, may also vote using an absentee ballot.

The Canadian Forces Personnel Act exempts Manitoba residents who are members of the Canadian Forces from the six-month residency period. The exemption also applies to employees of the Canadian Armed Forces. The amendment to *The Elections Act* allows Manitoba residents who are members of the Canadian Forces, and the people who live with them, to vote while posted outside the province.

However, it was also recommended that the requirement under *The Elections Act* for six-month residency be reviewed, particularly as it relates to otherwise qualified voters who may be absent from the province for more than six months, yet intend to return to Manitoba within a specified time.

During an election, students can be affected by the residency requirement. Elections Manitoba’s interpretation of the six-month residency requirement, as it pertains to students, is based on a 1981 decision of the Provincial Judges Court. Currently, if a

student is attending a program of studies outside the province for six months or more, he or she would not be qualified to vote. However, if the student returns home from outside the province within six months, the six-month residency 'clock' begins anew, once the student resumes studies outside the province.

During the 1999 general election, students and their families expressed concerns that the six-month residency requirement should not apply to people studying outside the province. It was felt that a student who is unable to return home within a six-month period should still be permitted to vote by absentee ballot. The Ad Hoc Committee for *The Elections Act* recommended that a five-year exemption apply to students, public servants and employees of international organizations.

In British Columbia, an eligible voter does not lose residency if he or she is engaged in the service of the government of British Columbia or Canada. There is no specific time limit set for BC's residency exemption.

In Ontario, an eligible voter who ceases to reside in the electoral division within two years before election day is entitled to vote there, provided he or she lives in Ontario for at least 12 consecutive months before moving from the province; he or she intends to reside in Ontario again; and his or her last Ontario residence was in the electoral division. The two-year limit does not apply to a person absent from Ontario in the service of the Government of Ontario or the Government of Canada, or to attend an educational institution.

In Québec, an eligible voter may exercise his or her right to vote from outside that province for two years after his or her departure. However, the two-year limit does not apply to a voter who is posted outside Québec to a position with the government of Québec or Canada, or to a voter who is posted outside Québec to a position with an international organization of which Québec or Canada is a paying member.

In Saskatchewan, an eligible voter loses residency if he or she moves away from Saskatchewan and intends to remain outside Saskatchewan for at least five years.

For federal elections, the residency exemption applies to the staff of international organizations of which Canada is a paying member. The exemption extends to employees in the public service of Canada or a province, who are posted outside Canada. The residency exemption also applies to eligible voters who live outside Canada for less than five years and intend to return to Canada.

In Canada, British Columbia, Ontario and Québec, eligible voters who are spouses and family members of the category of employees listed above are also exempt from the normal residency rules.

Recommendation: That the six-month residency requirement be extended to a period of several years for the following people who are otherwise eligible to vote:

- employees of the Federal Public Service or Manitoba Civil Service or international organizations who have every intention of returning to live in Manitoba upon the conclusion of their employment;
- students living outside of the province, who have every intention of returning to Manitoba; and
- the immediate family of any such workers or students.

2. Caregiver of a homebound voter - [s.101 and 102]

Background: A few instances arose during the by-elections in 2000 where the caregiver of a homebound voter would have been served better if a provision existed in *The Elections Act* to allow the caregiver to use the homebound voting provisions.

During the 1999 election, Returning Officers received requests from caregivers to vote at home. Many of these caregivers were spouses and other family members who, except for occasional relief by home care workers, were confined to their homes to care for their disabled partner or family member. This respite did not always coincide with a voting day, especially if the relief was not available on a weekly basis.

Recommendation: That *The Elections Act* be amended to enable the qualified caregivers of homebound voters, who are otherwise unable to attend advance or regular polls, to use the homebound voting method.

3. Special circumstances - [s. 101 and 102]

Background: During every election, on the Sunday and Monday before election day, calls are received by Elections Manitoba from qualified voters whose circumstances have changed. They explain that they will not be able to attend their polling place location on election day. The most common situations heard are:

1. The voter has been called out of town unexpectedly, either on business or personal matters, and the absentee application deadline was the previous Saturday.
2. A voter is released earlier than expected from the hospital, where he or she had intended to cast a ballot. The voter is physically unable to go to his or her designated polling place location and the homebound voter application deadline was the previous Saturday.

Though the number of people in circumstances such as these is not exceptionally large (perhaps an average of one or two per division), there is no voting opportunity in place for them.

Voters with personal security concerns may apply, then vote, anytime up to and including election day. They may vote either at the regular poll or by presenting

themselves at the returning office. Alternatively, they may use the homebound voting poll.

Similar voting options to the ones described above could accommodate people with 'special circumstances'. By using the homebound poll, the voter who leaves the hospital early could arrange to have the ballot delivered by the Returning Officer. If distance is a factor, this might need to be done by someone designated by the Returning Officer.

Recommendation: That sections 101 and 102 be amended to extend the homebound voting provisions to voters with 'special circumstances'. In such cases, the Returning Officer must be satisfied that a voter has missed the deadlines for other voting options due to unforeseen circumstances and would otherwise be unable to vote. This opportunity would only be available through the returning office on the Monday before election day.

4. Residency of disadvantaged individuals - [s. 35 (1)]

Background: Prior to the 1999 Election, Elections Manitoba developed a policy to address the issue of residency for people who live in temporary residences (e.g. hostels). The policy states, "A temporary residence or establishment where the voter is provided with food or lodging or other social services (including soup kitchens, shelters, hostels or similar institutions) shall be considered not to be the place of residence of a voter unless the voter has no residential quarters in any other electoral division to which, on polling day, he or she may go, in which case the voter's temporary quarters are deemed to be the place where the voter is ordinarily resident." (The *Canada Elections Act* contains a provision similar to Elections Manitoba's policy.)

Recommendation: That the determination of temporary residential quarters be incorporated in *The Elections Act*, as outlined above.

Voters List

5. Authorized signatures and delivery to Returning Officers - [s. 36 (1 & 2)]

Background: During the 1999 general election, a new way of producing the Voters List was used. Data entry operators entered the voter's name and address on a computer template. This replaced the practice of having each Enumerator type his or her own Voters List. The Voters List was then reproduced in the returning office, instead of having it prepared by a commercial printer. In some rural electoral divisions, data entry operators were arranged on a regional basis. Currently, *The Elections Act* states that the Enumerator shall sign the Voters List. While the signature of the Enumerator remains an important concept, it would be more efficient to permit either the Enumerator or the Returning Officer to sign the finalized Voters List.

Recommendation: That *The Elections Act* be amended so that, where required, the Returning Officer may sign the Voters List for an Enumerator.

6. Safeguarding the Voters List - [s. 156 (1); 156 (2); 158; 163.1 (1); and 164]

Background: In the 1995 Statutory Report, it was recommended that, “[*The Elections Act*] be amended so that the Chief Electoral Officer may take such steps as deemed necessary to safeguard proper use of the Voters List and that subsections 156 (1) and 156 (2) specifically allow the Chief Electoral Officer and Returning Officers to make control entries on the list.”

Protection of personal information is an important public concern. Amendments are necessary to ensure that Voters Lists are being used properly and to ensure that the privacy of voters is respected.

Recommendation: That subsections 156 (1), 156 (2) and section 158 specifically exempt the Chief Electoral Officer and Returning Officers in order to permit control entries to be made on the Voters List. In addition, the Chief Electoral Officer should be permitted to take such steps as deemed necessary to safeguard proper use, and detect misuse, of the Voters List.

7. Use of the Voters List - [s. 163.1 (1) and 164]

Background: The Voters List contains the names, addresses and, where provided, phone numbers of voters. Section 163.1(1) of *The Elections Act* is worded in such a way as to make it an election offence to misuse the Voters List without stating clearly what constitutes authorized use of the list. Provisions to guard against misuse, and clarify how the lists may or may not be used, should be added. The elections legislation of Canada, British Columbia and Québec jurisdictions are specific regarding acceptable uses of Voters Lists. Now that the Voters List is available in electronic form, it is recommended that this section of *The Elections Act* be more specific.

Recommendation: That section 163.1(1) be revised to be more specific as to use of the Voters Lists to include the following:

- a. That there be a clause stating, in a positive manner, who may have access to, and use of, the Voters List. In addition, personal information recorded on the Voters List may only be used for purposes consistent with the following statutes: *The Elections Act*; *The Elections Finances Act*; a referendum conducted under *The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act* (“*The Balanced Budget Act*”); *The Local Authorities Elections Act*; *The City of Winnipeg Act*; the *Canada Elections Act*; and any related Regulations pertaining to these Acts.
- b. That the Chief Electoral Officer may enter into an agreement with any body governed by the above statutes to share Manitoba Voters List information under conditions appropriate to the use of the list. For the purpose of ensuring the protection of personal information recorded on the list, the Chief Electoral Officer may impose conditions, restrictions and safeguards on the use of Voters List information.

- c. That an election officer may require a person wishing to inspect a copy of a Voters List, or record pertaining to the Voters List, to provide a signed statement that the person will not use personal information included in the Voters List or record, except for a purpose permitted by *The Elections Act*. This requirement should also extend to any individual or organization on whose behalf the person is inspecting the Voters List or record.

8. Access to communities by election workers - [s. 174]

Background: In 2000, two amendments to Bill 17, *The Elections Amendment Act*, were passed at the report stage. **(See Part VI - Legislative Changes: Summary of Changes in 2001 to *The Elections Act*.)** The amendments to section 174.2 of *The Elections Act* established the right of candidates and their representatives to enter communities for the purpose of canvassing or distributing election campaign material. The provisions in section 174 should be extended in order to ensure access to all communities by Enumerators and election officers including the Returning Officer.

Recommendation: That section 174 be amended to include access provisions to all communities by Enumerators and election officers.

Offences

9. False entries or statements - [s. 156 (2)]

Background: Currently, section 156 (2) of *The Elections Act* makes it an election offence to make a false statement, knowingly, on a Voters List. This provision should be expanded to make it an election offence to make a false entry or false statement, knowingly, on any election papers used under *The Elections Act*.

The integrity of the electoral process is undermined if people make false statement on any oaths or forms related to an election. Sections 81 and 82 of *The Elections Finances Act* prohibit the filing of false documents and false information. Similar provisions should be included in *The Elections Act*.

The elections acts of British Columbia, Canada, Newfoundland and Yukon address the issue of a false entry, oath or statement and misleading information.

Recommendation: That there be a specific election offence for people who make false entries or false statements on any election papers used in *The Elections Act*, including poll books used at the poll and nomination papers filed by candidates.

10. Influencing votes - [s. 145]

Background: This section of *The Elections Act* deals with the inducement of voters and candidates.

The question often arises whether driving voters to the polls or inviting voters to a barbeque are 'benefits' that are prohibited under section 145.

An overly broad interpretation of this section should be prevented. It should be stated explicitly that 'benefits' are not acceptable if there is a 'corrupt intent'. This would help candidates, registered political parties and the public. This would be similar to a concept expressed in section 147 that deals with "treating" for the purpose of corruptly influencing another person.

Recommendation: That section 145 be amended to clarify the term 'benefit' by making it an offence to offer, agree to, or receive a benefit 'with a corrupt intent'.

11. Obstruction of election officers - (Part 7: Voting)

Background: Currently, provisions exist in *The Elections Act* [s. 30.3 (2)] making it an offence to obstruct an Enumerator in the performance of his or her duties. Many other jurisdictions (e.g. British Columbia, Canada, Québec, Yukon) have extended their legislation to make it an offence to obstruct any election officer.

Recommendation: That a person who impedes or obstructs an election officer in the performance of his or her duties is guilty of an election offence.

12. Political activities on polling day/campaigning within 50 metres of polling place - [s. 111 and 112]

Background: In the 2000 by-elections, and in past general elections, some people expressed confusion about political campaigning on election day. In order to provide clarity, changes need to be made to sections 111 and 112 of *The Elections Act*.

Subsections 111(1) and (2) are intended to prohibit political campaigning within 50 meters of the entrance to polling place locations. Presently, *The Elections Act* prohibits circulars, etc. "within or within 50 meters of the entrance of a building in which there is a polling place [location]." The provisions also apply to advance poll voting, whether in a separate polling place location or in the returning office, and to absentee voting taking place at the returning office. Presumably, this section was written to prevent the last-minute influence of a voter by a political party or candidate while the voter was entering a polling place location.

The Returning Officer and candidates often locate their offices within 'strip malls'. If the term "building" is interpreted to mean the entire strip mall, returning offices and candidate campaign offices would not be permitted within the same strip mall because they would, by definition, be in the same building.

If, as in Alberta, the individual leasehold units within a mall are considered to be "the building", the two offices would only need to be located at least 50 metres apart. The 50 metres from the entrance of the returning office (polling place location) could be

considered as the shortest distance a person would be able to travel between the two polling place locations within that mall.

Clarification of the term “building” would also be helpful to prohibit campaigning within 50 metres of the entrance to the polling place location for polling places located in residential complexes.

Recommendation: That sections 111 and 112 be amended to provide for exceptions to the effect that:

Polling place locations are often established in a residential complex or building containing interlocking units, offices, stores or other premises. In such cases, the prohibition of signs, etc. should apply to the polling place location, and to a 50-metre distance from the entrance of the polling place.

Voting Provisions

13. Ballots: how to mark a regular ballot - [s. 92 (3)]; and ballots to be rejected/marks allowed on ballot - [s. 116 (1) & (2)]

Background: On occasion, ballots with frivolous markings are debated at the count or recount as to whether or not they are valid. This occurred after the 1999 general election. One such ballot featured the name of a rock star, another was marked with a ‘happy face’. A Court of Queen’s Bench judge rejected both ballots. The decisions were upheld in the Court of Appeal. (Québec legislation clearly rejects a ballot that bears fanciful or injurious entries.)

Recommendation: That *The Elections Act* be amended to make it clear that frivolous markings will result in the ballot being rejected.

14. Return of writ - [s. 140 (1)]

Background: Currently, section 140 (1) (b) of *The Elections Act* states that the writ is returned “immediately after the 10th day after announcing the result of the count.” This enables the deadline for applying for a judicial recount to pass as specified in section 131(1.1). It states that the deadline for an application for recount is “not later than eight days after the Returning Officer of the electoral division announces the results.”

With rapid communication methods in place, the writ could be returned immediately after the deadline for an application for recount. Such a change would enable elected Members of the Legislative Assembly to take office and Ministers to be sworn in two days earlier.

Recommendation: That section 140 (1) be amended to state that the writ be returned as soon as the period for the application for recount has ended.

15. Election signs on public property: date by which signs should be down - [no reference in *The Elections Act*]

Background: For a few weeks following the 1999 general election, several complaints were received from the public about campaign signs left on boulevards by candidates.

In Québec, the election legislation states that all election posters and billboards must be removed not later than 15 days after election day, failing which they may be removed by the local municipality or by the owner of the property, at the expense of the party or candidate concerned.

In Manitoba, the current provisions for the removal and penalties for signs and posters within 50 metres of a polling place location work reasonably well. In other words, provisions for the removal of election signs on public property after polling day should be based on section 111 (2) and (3) of *The Elections Act*. As discussed with the Ad Hoc Advisory Committee, a deadline of seven days after election day seems reasonable. This would not apply to signs on private property.

Recommendation: That election signs and posters must be removed from public property by the candidate or registered political party responsible for posting the sign or poster within seven days after election day. Every person or registered political party failing to do so would be guilty of an offence with penalties in line with the penalties found in section 111(3).

16. Senior Deputy Returning Officers - [s. 21 (2)]

Background: According to *The Elections Act*, a polling place location requires more than three polls in order for a Senior Deputy Returning Officer to be appointed. In past elections, some polling place locations hosted only three polls. In these cases, a Senior Deputy Returning Officer would have been useful, especially in polling place locations where only one poll official had election day experience.

Currently, only one Senior Deputy Returning Officer can be appointed per polling place location. Some polling place locations (e.g., schools) host eight to twelve polls within one building. It would be advantageous in such polling place locations to appoint two Senior Deputy Returning Officers.

Recommendation: That section 21(2) be amended to make it possible for a Returning Officer to appoint a Senior Deputy Returning Officer for a polling place location where there are three or more polls, and that the Returning Officer may also appoint more than one Senior Deputy Returning Officer in a polling place location where it is warranted.

17. Homebound ballot voting: delivery - [s. 101 and 102]

Background: The role of a Returning Officer has evolved to include more managerial responsibilities than it did in the past. The Returning Officer now has less time to accomplish some of the tasks that were traditionally part of the job. One such task is

administering the vote to homebound voters. *The Elections Act* states that, if the Returning Officer is satisfied an applicant meets the requirements to be a homebound voter, “the Returning Officer shall deliver or mail” a homebound voting kit to the voter. Because homebound voters often require assistance, it has been found that home delivery is the most viable way to administer the ballot in these cases. As this task can often be very time consuming due to the circumstances involved with many homebound voters, time does not always allow a Returning Officer to deliver and administer the vote. By allowing either the Assistant Returning Officer or a designate to administer this voting opportunity, homebound voters will be better served. The Returning Officer would still retain the responsibility to approve applications for homebound ballots.

Recommendation: That section 102 (1) be amended to read, “the Returning Officer shall deliver or cause to be delivered” a homebound voting kit to allow, when necessary, another person to deliver and administer the vote to those who have met the requirements to vote at home.

Administrative Issues

18. Tariff of fees regulation 168/88 - [s. 175]

Background: The 1988 Tariff Order-in-Council regulations, with amendments made in 1990, 1995 and 1999, set out fees for field election officials and related costs. It is customary prior to general elections to review the tariff and adjust payments to reflect the value of the services. As in the 1999 and 2000 Annual Reports, the Chief Electoral Officer recommends revision of not just amounts but also to reduce the number of categories of tariff expenses. Based on the current tariff, in a number of cases fees are inadequate as they do not reflect the value of services and if not addressed may be expected to impact negatively on recruitment of qualified officials for the next election. Generally, Manitoba’s fees are the lowest in Western Canada, in some cases below provincial minimum wage.

Recommended fees would result in fees in the mid range of payments across Western Canada. In 1999, the Returning Officer and Assistant Returning Officer rates of pay and some other expenses were increased modestly as a stopgap measure. Tariff should cover only those fees that are payable to field officials including Returning Officer, Assistant Returning Officer, Deputy Returning Officer, Poll Clerk, Senior Deputy Returning Officer and Enumerator This represents about 90 % of the total of tariff payments in the last election. Such items as printing should be deleted from the tariff as they are either obsolete or unnecessary.

As a result of amendments to *The Elections Act* in 2000, the Chief Electoral Officer appoints Returning Officers using a public, merit-based competition. Now that appointments are no longer political and made well in advance of an election, the expectations placed on Returning Officers and Assistant Returning Officers by candidates, political parties, the public and Elections Manitoba may be expected to increase. The increase in expectations, responsibilities, workload and the level of professionalism should also be met with a commensurate increase in remuneration.

As in the 1988 and 2000 Statutory Reports, the Chief Electoral Officer recommends that fees included in the tariff be automatically adjusted annually, on the basis of changes to the Consumer Price Index. This ensures that any increases could be made in small increments rather than having to make significant adjustments on an irregular basis.

At the time of writing, recommendations for a revised tariff are being drafted for consideration by Cabinet.

Recommendation: That the tariff of fees be streamlined to include only the positions of Returning Officer, Assistant Returning Officer, Deputy Returning Officer, Poll Clerk, Senior Deputy Returning Officer, and Enumerator, and that the fees be reviewed prior to the next election and thereafter be linked to the Consumer Price Index.

19. Plain language - [no references in *The Elections Act*]

Background: The principles of plain language are being used as sections to *The Elections Act* are amended. However, many sections remain more complex and wordy than they need to be. *The Elections Act* is an important statute and, therefore, it is essential that it be understood by candidates, election officials and the public. Clear language will also benefit people who have difficulty reading.

Recommendation: That *The Elections Act* be re-written in plain, gender-neutral language.

Note: At the July 4, 2002 meeting of the Standing Committee on Privileges and Elections, there was a commitment, over the medium term, to re-write *The Elections Act* in plain language so that the public can understand it.

20. Statement of account - [s. 122]

Background: The responsibility for completing and certifying statements of account for all fees and expenses of poll officials and rent – and then delivering or mailing the statements to the Returning Officer - does not belong to the Deputy Returning Officer. Moreover, these duties are not completed at the polling place location, as stated in *The Elections Act*. The statements of account and rents are an administrative duty of the Returning Officer and are completed in the returning office.

Recommendation: That section 122 be repealed.

The Elections Finances Act

Contributions

1. Proceeds from commercial activities – [s.1, definition of ‘contribution’; no other definitive references in *The Elections Finances Act*]

Background: *The Elections Finances Act* does not specify how the proceeds from a commercial activity should be treated. Specifically, this issue relates to the extent to which a portion of a commercial sale may be considered a contribution. Any portion considered a contribution is relevant because it impacts the issuance of tax receipts and contribution limits by source (only individuals) and by amount (maximum of \$3,000).

A commercial activity, such as the sale of merchandise, involves two variables. One variable is the acquisition cost or value of the item being sold and the other is the proceeds received, or selling price, for the item being sold. The determination of the acquisition cost depends on whether the merchandise is purchased directly by the seller or provided to the seller as a 'donation in kind' and valued accordingly pursuant to existing provisions [s. 40 (1) and 40 (2)]. However, *The Elections Finances Act* does not specify how to treat any net profit that is the residual of the selling price less the cost to acquire the item.

Under *The Elections Finances Act*, a 'contribution' is defined as "...money paid or a 'donation in kind' provided, without compensation..." A commercial transaction involves money paid in exchange for an item of merchandise (assuming it is a merchandise sale). At first glance, the definition of 'contribution' may not be met where merchandise is received for money paid. In other words, this appears to be a transaction. This seems reasonable where the proceeds from the sale equal the cost of the goods to the seller. For example, the sale of political party merchandise at a price of \$350 where the cost to the political party to acquire the merchandise is \$350 would not result in a contribution.

However, where proceeds from the sale exceed the cost to acquire the merchandise, a net profit arises. This makes sense from the seller's perspective and in fact may be what drives the sale of merchandise in the first place. It could be argued that the net profit element of the transaction meets the definition of contribution as the purchaser has paid money, without compensation, for the net profit element of the transaction. For example, the sale of political party merchandise at a price of \$350 where the cost to the party to acquire the merchandise is \$250 would result in a net profit (and presumably a contribution) of \$100.

Equating profit from the sale of merchandise to a contribution is conceptually consistent with the way in which 'fundraising' is dealt in *The Elections Finances Act* by recognizing both compensation and contribution portions. For example, the purchase of a fund raising dinner ticket involves compensation in terms of the dinner as well as an element of contribution. A fund raising function "means any social function held for the purpose of raising money..." The initial difficulty in adopting this treatment for commercial transactions is the determination of whether a commercial sale may be interpreted to be a 'social function' under *The Elections Finances Act*.

A more significant difficulty with this approach, assuming the definition of fundraising function were amended to include commercial activity, is the resulting overstated value of the contribution portion as determined under subsection 38(2), being 75% of the

selling price, along with the overstated value of the tax receipt. For example, using the social fundraising formula, the sale of party merchandise at a price of \$350 where the cost to the party to acquire the merchandise is \$250 would result in a contribution of 75% of \$350, or \$262.50.

Commercial sales are also distinct from such social fundraising functions as dinners because the net profit on a fundraising dinner ticket is not known in advance due to unknown variables, including the number of tickets sold and the number attending the dinner. Because of these unknown variables associated with social fundraising events, the 75% contribution and 25% contribution formula was incorporated out of practical necessity. In the case of merchandise sales the acquisition and selling costs are both known at the point of sale.

Recommendation: The method for dealing with proceeds from commercial transactions should be clear and specific in the legislation, particularly because of its impact on source and amount contribution limits and tax receipting. For the purpose of *The Elections Finances Act*, it is recommended that the residual of the selling price, less the cost to acquire an item, be considered a contribution.

In addition, *The Elections Finances Act* should consider whether a minimum threshold should be in place below which commercial sales for single or several items are not considered to include contributions for the purposes of *The Elections Finances Act*. A parallel exists in section 38 (3) where an individual charge of less than \$15 for a fundraiser, and where multiple charges totaling less than \$45 (individual charge must also be less than \$15), are not contributions, according to *The Elections Finances Act*.

2. Candidate registration deadline - [s. 25; 27; and 29 (1)]

Background: Under *The Elections Finances Act* [s. 25], a registered candidate may issue income tax receipts for cash or near-cash contributions. A candidate may submit an application for registration and, provided the nomination papers have been filed properly, he or she is registered.

Subsection 29 (1) of *The Elections Finances Act* states that a candidate's registration terminates at the end of the campaign period. The campaign period ends two months after election day. The present interpretation is that an application for registration must be submitted by the end of the campaign period. This interpretation has been disputed, however, and *The Elections Finances Act* should be clear with respect to the deadline. To do otherwise may permit registration applications for previous elections.

Recommendation: That *The Elections Finances Act* specify that no application for registration be considered if it has been submitted after the end of the candidacy period.

3. Valuing and recording 'donations in kind' having minimal value - [s. 40]

Background: The definition of a 'donation in kind' [s.1] includes all goods donated. Donated goods must be valued at market value and recorded as contributions. In addition, identities of the contributors must be established [s.40 (1), (2) & (3)].

A concern has been raised that it is burdensome and impractical for election campaigns to value and record donations in kind' having minimal value. At the same time, the aggregate value of such donations should be set at a low level so that contribution and spending limits will not be circumvented.

Recommendation: That donated goods below a minimal value not be considered as contributions and therefore not recorded. The minimal value should be an aggregate value of contributions from a person. The appropriate amount should be determined by the Legislature.

4. Tracking candidates' actual deficits – [s. 68 and 75 (1)]

Background: *The Elections Finances Act* [s. 68] requires that a candidate submit an annual report on the balance of his or her 'campaign deficit' arising from an election, until the campaign deficit is eliminated. The contribution details must be disclosed where there has been a contribution of \$250 or more towards a candidate's 'campaign deficit'.

The determination of a campaign deficit does not include non-election expenses incurred by a candidate (but does include election expenses incurred). An example of a non-election expense would be an expense incurred for 'thank-you' signs after the election. As such, a candidate's actual deficit (assets less liabilities) may often be larger than the candidate's campaign deficit. A candidate may receive contributions to eliminate his or her actual deficit but is only required to report until the campaign deficit is eliminated.

A candidate should be required to report each year on the balance of his or her actual deficit until the actual deficit has been eliminated. All contributions towards a candidate's actual deficit should be reported but only contributions of \$250 or more would be publicly disclosed. This is important both to ensure public disclosure of all political contributions and to ensure that the \$3,000 annual contribution limit is applied. Tracking an actual deficit would not change the existing requirements in *The Elections Finances Act* [s.75] concerning the calculation of a 'deficit'. That section determines how a candidate's reimbursement of election expenses is distributed.

Recommendation: That subsection 68 of *The Elections Finances Act* refer to an 'actual deficit'. The amount of an actual deficit for a candidate should be defined as the total of a candidate's liabilities plus the candidate's loan interest and bank charges, as determined in section 75 (1), which exceeds the candidate's assets plus any reimbursement payable under section 72 (as varied by section 73).

Reporting

5. Independent candidates' candidacy period – [s. 1]

Background: *The Elections Finances Act* should clarify the date a person becomes an independent candidate. Currently, a person who is not endorsed by a registered political party becomes an independent candidate by declaring himself or herself to be a candidate in the next election. This is done by written notice to the Chief Electoral Officer. Past experience indicates that an independent candidate will be aware of the necessity of proper notification.

The candidacy period is important since candidates' campaigns must file a financial statement for that timeline. Furthermore, income tax receipts for contributions to candidates' campaigns may only be issued for the candidacy period.

Recommendation: That *The Elections Finances Act* clarify that the candidacy period for an independent candidate begins on the date a person publicly declares himself or herself to be an independent candidate. This would not require filing a notice in writing with the Chief Electoral Officer.

6. Authorizations for candidate and constituency association advertising – [s. 54 (2)]

Background: All advertisements sponsored by a registered party must display an authorization by the party's chief financial officer. An official agent must authorize a candidate's advertisements that appear during an election period. Advertisements for candidates and constituency associations that run outside of an election period are required to be included in a party's annual advertising limit. However, it is unclear who is required to authorize the advertisements, or whether an authorization is required at all.

Advertisements for candidates and constituency associations that run outside of an election period should display an authorization, primarily for reasons of public disclosure and compliance. The general public should have knowledge of the sponsor of a political advertisement. Displaying authorizations will assist political parties in ensuring that the advertisements of their candidates and constituency associations are included in the parties' annual spending limits. In addition, advertisements for candidates appearing outside of an election period often become advertisements used during an election period, for which an authorization is required.

Recommendation: That advertising sponsored at any time by a constituency association display an authorization by the person responsible for the finances of a constituency association. In addition, all advertising sponsored at any time by a candidate's campaign should display an authorization by the candidate's official agent.

7. Information and documentation – [s. 83]

Background: *The Elections Finances Act* [s. 83] makes it an offence for any person or organization to fail to file a required statement or return, or to file a statement or return

that substantially fails to disclose required information. Financial agents (i.e. chief financial officers, constituency treasurers, official agents) who are required to file statements and returns need to have all relevant information necessary to file, in compliance with section 83. There may be officers or others associated with candidates' campaigns, constituency associations and political parties who have financial information or documents necessary to ensure a complete statement or return. However, for various reasons, the information or documents are not provided to the financial agent responsible for filing. The result may be an inaccurate statement or return. *The Elections Finances Act* should require officers and others to give financial agents the necessary information, to ensure that a financial statement or return is complete and accurate. Failure to provide such information should be a general offence.

In addition, a general, anti-avoidance provision applicable to all sections of *The Elections Finances Act* should be considered. The provision would make it an offence to engage in any activity designed to circumvent any provision or purpose of *The Elections Finances Act*. A specific, anti-avoidance provision exists in *The Elections Finances Act* [s.51(4)]. It deals with the allocation of election expenses between a political party and a candidate during an election period.

Recommendation: That officers or others associated with candidates' campaigns, constituency associations and political parties be required to provide financial agents with all the necessary information or documents. This measure would ensure a complete and accurate statement or return. In addition, it would assist financial agents with their filing responsibilities. Failure to provide such information should be a general offence.

Finally, *The Elections Finances Act* should contain a general, anti-avoidance provision, applicable to all sections.

Reimbursement

8. Auditor's services – [s.1, 'donation in kind'; s. 59; 71 (3); 72 (3); 74 (2); and 75]

Background: Financial statements of registered political parties and candidates, which are required to be filed with the Chief Electoral Officer, must be audited by a qualified auditor. Auditors perform an important role by ensuring that the financial statements are accurate and complete. Requiring audited financial statements provides a level of assurance that financial statements are in compliance with *The Elections Finances Act*. Five issues affecting the auditors of candidates and registered political parties should be reviewed.

1. The amount of compensation in relation to the work required for a thorough audit.
2. The surplus funds of a candidate as a means to pay for audit services.
3. The requirement that donated services by auditors are 'donation in kind' contributions, which must be reported against an auditor's individual contribution limit.
4. The requirement of *The Elections Finances Act* that auditors do not receive a subsidy payment until the review of financial statements is complete.
5. There is no audit subsidy for the audit of a registered political party's annual financial statement.

The Elections Finances Act [s.71, 72, and 74] provides auditors with a maximum subsidy of \$600 for auditing the election financial statement of a candidate or political party. The amount does not fully compensate most auditors, nor was this the intention. Nevertheless, the amount should be reviewed. The audit subsidy should more closely correspond to the complexity of the audit services required. A more complex audit should receive relatively more of a subsidy than less complex audits. A sliding scale based on total expenses should be considered. In general, the audit of a return is more complex if total expenses are greater. A sliding scale with a minimum and a maximum amount payable would mean that some subsidies paid may be greater than the current \$600 and some would be less. Federally, candidates' auditors receive the lesser of 3% of election expenses or the amount billed by the auditor (not less than \$250) to a maximum of \$1,500.

Campaigns may compensate their auditors for the remaining value of the services performed. However, money paid for audit fees is not an election expense, as defined in *The Elections Finances Act* [s.1]. This offers the advantage whereby audit fees are not applied against the candidate and political party spending limits. This is appropriate because the fee paid beyond the subsidy does not raise spending limit issues and, therefore, should encourage adequate compensation to be paid to auditors. However, because audit fees are not 'election expenses', the fees are not included in the candidate surplus or deficit calculation in section 75.

Any surplus of contributions and/or reimbursement payable over "election expenses" must be transferred to the candidate's endorsing political party. In the case of an independent candidate, the Chief Electoral Officer holds a surplus in trust and a reimbursement is not paid. As such, surplus funds to pay necessary additional audit expenses would not be available to the candidate's campaign because any surplus over election expenses is transferred away. However, exceptions to surplus transfers exist to permit candidates to retain funds to pay bank fees and loan interest that accrue after polling day (i.e. not 'election expenses').

A similar exception for auditor fees would encourage appropriate compensation for auditors by permitting candidates with funds to pay for the specific audit services rather than transfer those funds. The Advisory Committee expressed a reservation that this would impact on candidate campaign funds available to transfer to his or her endorsing political party. In those cases where there is not a surplus, a candidate would still have the flexibility to decide which suppliers are paid. Nevertheless, in the interests of

promoting compliance, consideration should be given to allow a candidate's campaign to pay from excess funds the amount of an auditor's fee that is greater than the subsidy amount.

Contributions by a person must be reported against the individual's \$3,000 contribution limit. An auditor makes a contribution in the form of donated services in situations where full compensation is not paid for the auditing services provided. The 'donation in kind' contribution is attributed against the person's \$3,000 contribution limit.

A prohibited contribution has been made in the case of a partnership providing auditor services for which there is not full compensation paid for the auditing services provided. Only individuals normally resident in Manitoba may make contributions. Partnerships are prohibited from contributing. Unless a partnership could be guaranteed of receiving full payment for services provided, the partnership might not offer the services because of the risk of making a prohibited contribution and contravening *The Elections Finances Act*. Auditors play an important role to ensure compliance with *The Elections Finances Act*.

The Advisory Committee agrees that unpaid auditor services, whether in relation to individual auditors or partnership auditors, should not be considered as 'donation in kind' contributions.

The Elections Finances Act does not permit an audit subsidy to be paid until the review of a financial statement is complete. For example, in subsections 72 (2) and (3), the Chief Electoral Officer must prepare a certificate that states that the information requested under *The Elections Finances Act* has been provided before an auditor subsidy may be paid. There is no apparent purpose served in delaying auditor subsidy payments while the return is reviewed to ensure compliance with *The Elections Finances Act*. Once their services have been provided the auditor should be paid.

The Act requires a registered political party to submit an audited annual financial statement each year. Although the statement must be audited, there is no audit subsidy similar to the audit of election financial statements. The audit of a registered political party's annual statement is much more complex than the audit of an election financial statement and an audit subsidy provision should be considered.

Recommendation: The audit subsidy should be reviewed and adjusted so that the subsidy more closely corresponds to the complexity of the audit services required. An audit subsidy for the audit of a registered political party's annual statement should be included in this review. The surplus/deficit calculation in section 75 for candidates should include the reasonable amount of audit fees that exceed the amount of an auditor's subsidy. Where auditor services are provided without compensation, the services should not be a contribution under *The Elections Finances Act*. The definition of 'donation in kind' (clause "b") should be amended to exclude auditor services. An auditor's subsidy should be paid after an auditor completes an audit, files the return and submits an invoice to the Chief Electoral Officer for services rendered.

9. Child care expenses – [s. 1, definition of ‘election expenses’, (g)]

Background: A recommendation in the 1995 Annual Report of the Chief Electoral Officer regarding candidate personal expenses was addressed partially by amendments in 1998. Briefly, the recommendation was that there be a separate personal expense category similar to that in the *Canada Elections Act*, and that *The Elections Finances Act* should define the items that should be included in this category. Child care and disability expenses were recommended to be included as personal expenses. In addition, it was recommended that personal expenses be excluded from being election expenses but should be eligible for reimbursement.

The 1998 amendments for ‘candidate personal expenses’ were essentially as follows:

- Reasonable disability expenses of a candidate were excluded from being election expenses, as recommended, but made reimbursable at 100%.
- Reasonable childcare expenses of a candidate were recognized as election expenses so that they are reimbursable but also subject to the spending limits. It had been recommended that reasonable childcare expenses of the candidate be excluded as election expenses (i.e. not included in the spending limits), but reimbursable.

Recognizing childcare expenses as election expenses may create an inequity and put some candidates at a disadvantage. Some candidates with responsibility for childcare will incur childcare expenses, which must be included as election expenses. Even though these expenses would be reimbursed, they reduce the amount that may be spent due to the spending limits. Others without childcare responsibility would not be in this position.

Recommendation: That the additional and unique, reasonable costs incurred by a candidate for child care expenses as a result of an election be excluded as ‘election expenses’. These costs, however, should be eligible for reimbursement.

10. Independent candidate’s excess reimbursement - [s. 75 (2) & (3); and 76]

Background: Where an independent candidate has a surplus (or where receipts equal expenditures) and has qualified for a reimbursement of election expenses, subsection 76 (b) states that no reimbursement is payable. There appears to be an inequity when considering the payment of an endorsed candidate’s reimbursement where the endorsed candidate has a surplus. In the latter situation, the endorsed candidate’s reimbursement is paid to his or her endorsing political party. The funds paid to the endorsing political party could be available to the candidate in subsequent elections or may indirectly provide benefit to the candidate. An independent candidate who has qualified but who does not receive a reimbursement because of his or her surplus status would not have funds available for a future campaign or otherwise receive a benefit.

A possible solution to this situation would be to hold the independent candidate's reimbursement in trust similar to the requirements under subsections 75 (2) and (3) concerning an independent candidate's surplus. An endorsed candidate's surplus is paid to his or her endorsing political party and an independent candidate's surplus is held in trust for possible future use.

Recommendation: That subsection 76 (b) of *The Elections Finances Act* be amended such that a reimbursement for an independent candidate with a surplus be held in trust by the Chief Electoral Officer. The same provisions that exist in subsection 75 (3) for an independent candidate's surplus held in trust should apply to a reimbursement held in trust, namely that it be held in trust for the independent candidate's use in the next following election. The reimbursement held in trust would be paid to the Consolidated Fund if the independent candidate does not run in the next following general election.

11. Reimbursement for transferred goods and services - [s.44 (6); 71 (2); and 75]

Background: Under section 44 (6) of *The Elections Finances Act*, transferred goods used as election expenses are election expenses of the transferee. It has been a longstanding interpretation that these election expenses are reimbursable to the transferee. *The Elections Finances Act* does not provide for a reimbursement to be paid to a political party on anything but a political party's election expenses. [s.71(2)].

If, for example, a political party purchases brochures and transfers them to a candidate's campaign, which are then used by the campaign in an election period, the campaign must report the cost as an election expense. The campaign, if eligible, would receive a 50% reimbursement of the cost. The transferee receives the reimbursement even though the transferor actually purchased or paid for the brochures.

In addition, a candidate's campaign may be left with surplus funds when it seems that one of the purposes of *The Elections Finances Act* is to leave a campaign with a zero balance. The additional surplus funds may occur because the surplus calculation in section 75 must consider all election expenses including those under section 44 (6) where no money has been paid by the campaign. Election expenses recorded as 'donations in kind' are not included in the surplus calculation.

It seems appropriate that the election expenses are reported by the transferee (i.e. the candidate in the above example). It would also seem appropriate that the entity purchasing the brochures (i.e. the political party in the above example) would receive the reimbursement assuming that the entity is eligible for reimbursement and the goods or services are used as election expenses by the transferee. The Advisory Committee was not strongly in favour of addressing this issue, but did not oppose it.

Recommendation: That *The Elections Finances Act* [s.44 (6)] be amended to specify that the reimbursement for transfers be paid to the transferor if the transferor is eligible for reimbursement, and if the transferred goods or services are used as election expenses by the transferee. Where the transferee is a candidate's campaign, *The*

Elections Finances Act should be further amended to exclude transferred goods transactions from section 75 ('deficit calculation').

Offences

12. Administrative fines - [no references in *The Elections Finances Act*]

Background: The 1995 Annual Report of The Chief Electoral Officer on *The Elections Finances Act* recommended that there be administrative fines for essentially administrative infractions. The recommendation has not been addressed by legislative amendment and remains relevant.

Most of the penalties and enforcement provisions of *The Elections Finances Act* involve prosecution. A system of administrative fines or penalties may be more appropriate for some essentially administrative infractions. For example, if a candidate's financial statement is not filed by the deadline [s.61], or if information necessary to clarify or verify a political party's annual return has not been filed by the deadline specified [s. 57 (2)], a daily penalty for each day beyond the filing deadline could be instituted on an administrative fine schedule. There should be a maximum amount specified, which should be less than the maximum amount of any fine specified [s. 83]. *The Elections Finances Act* would authorize the Chief Electoral Officer to institute administrative fines including the authority for collecting if the fines are not paid. In some cases, an administrative fine may be more effective for ensuring compliance with *The Elections Finances Act* and would also be less costly than a prosecution. The right to prosecute should still be maintained if administrative penalties were not effective in causing the return or information to be filed. An administrative fine or a prosecution may be imposed, but not both.

The Royal Commission has recommended that administrative fines be part of the enforcement provisions of federal election law. Administrative fine provisions exist in such jurisdictions as British Columbia and Newfoundland. The Chief Electoral Officer of Canada has recommended the decriminalization of such offences as late filing of expense returns, which are deemed to be of an administrative nature.

In addition, the Royal Commission has recommended that voluntary compliance agreements be used, where warranted, in place of prosecutions. The *Canada Elections Act* was amended to include such agreements.

Voluntary compliance agreements, compliance letters and other enforcement processes in lieu of prosecutions should be expanded further, in certain instances, and considered as possible amendments to *The Elections Finances Act*.

Recommendation: That section 98 of *The Elections Finances Act* be amended to allow the Chief Electoral Officer to direct that administrative fines be paid for certain administrative infractions. The authority should apply only to those sections of *The Elections Finances Act* where statements and returns are required to be filed and where information has been requested.

In addition, the Chief Electoral Officer should have the authority to enforce collection in the event administrative fines have not been paid. The authority to prosecute must be retained in the event that the administrative fines do not result in the necessary statement, return or information being filed. It should be clear that either an administrative fine may be imposed or a prosecution pursued, but not both. The administrative fine should be a daily amount for each day that a statement or return or requested information is beyond a required deadline to a specified maximum. Administrative fines should be disclosed to the public.

Finally, where appropriate, other enforcement processes in lieu of prosecutions should be expanded further and considered as possible amendments to *The Elections Finances Act*.

13. Reimbursement must be used to settle debts – [no references in *The Elections Finances Act*]

Background: The intent of *The Elections Finances Act* is that election expense reimbursement payable to the official agent of a candidate or to the chief financial officer of a registered political party should be used to reduce or eliminate the respective campaign debts. At present, there is no explicit requirement to do so.

Circumstances exist where a candidate's reimbursement funds (i.e. funds from the public treasury) for election expenses in the 1999 general election may not have been used by the official agent to pay outstanding liabilities of a candidate's campaign. This matter was referred to the Winnipeg Police Services and charges were laid against the official agent.

The appointment of a person to the position of official agent as required by *The Elections Finances Act* [s.10 (3.3)] and *The Elections Act* [s.53], along with the official agent's duties described in *The Elections Finances Act* [s.10 (4)], has the effect that the official agent acts on behalf of the candidate and is responsible for the finances of a candidate. *The Elections Finances Act* [s.55 (1)] requires that financial claims against a candidate be forwarded to the candidate's official agent. Subsection 55 (3) of *The Elections Finances Act* states that, with few exceptions, only the official agent may pay financial claims. Furthermore, *The Elections Finances Act* [s. 77] requires that the candidate's election expenses be reimbursed to the official agent. Similar provisions exist with respect to the chief financial officer of a registered political party. These requirements exist to ensure that the official agent is responsible for the financial affairs of a candidate's campaign. It follows that the candidate's election expenses reimbursement would be used to reduce or eliminate the debts of a candidate's campaign. However, *The Elections Finances Act* should state explicitly that reimbursement funds are to be used for that purpose.

It may be sufficient to clarify that the official agent must deposit reimbursement funds to the candidate's campaign account and to require that the funds be used to eliminate the campaign debts of a candidate. In addition, it should be an offence to do otherwise.

Another option would be to pay reimbursement funds to the candidate and require that the candidate use the funds to eliminate the candidate's campaign debts. The candidate continues to have responsibilities under *The Elections Finances Act* after an official agent has filed the financial return. The candidate often assumes responsibility for settling any remaining debts if the campaign does not have sufficient funds. The candidate must also report on a yearly basis the details of any loan balance or deficit and must maintain campaign records for at least five years. In any event, a reimbursement for election expenses should be deposited into an account in a financial institution maintained for the purpose of a candidate's campaign.

Recommendation: That *The Elections Finances Act* state explicitly that the reimbursement funds payable to a candidate's campaign for election expenses be used to eliminate a candidate's campaign debts. In addition, failure to do so should be an offence under *The Elections Finances Act*. The reimbursement may be made payable to the official agent as is currently required. As an alternative, it may be better to have the reimbursement payment made to the candidate for deposit into an account in a financial institution maintained for the purpose of a candidate's campaign.

14. Expense documentation filed with candidate's audited statement – [no references in *The Elections Finances Act*]

Background: Typically, when reviewing candidates' audited statements, it is necessary to request further documentation for some, if not all, of the amounts reported on the statements.

During the 2000 Kirkfield Park and Tuxedo by-elections, candidates' campaigns were requested in advance of the filing deadline to provide copies of receipts and vouchers for all expenses (election and non-election) at the same time as filing a candidate's audited statement (Form 922).

It was anticipated that filing supporting documentation for all expenses at the time of filing Form 922 would result in more efficient and timely reviews of financial returns. In those cases where receipts for all expenses were filed at the time of filing a financial statement, the result was a more timely and efficient review of a financial statement. Federal candidates must file all documents evidencing expenses set out in the candidates' returns including bank statements, deposit slips and cancelled cheques. *The Elections Finances Act* for Manitoba should contain provisions similar to the *Canada Elections Act*.

Recommendation: That an official agent file with a candidate's audited statement documents (or copies) evidencing all expenses reported on the statement including invoices, vouchers, bank statements, deposit slips and cancelled cheques.

Administrative Issues

1. Requirement to File Certificate with Minister of Finance - [s.71(1); s.72(1); s.73.1(2); s.73.1(5); s.74(1)]

Background: In order to pay a reimbursement of election expenses of a qualified candidate or registered political party, *The Elections Finances Act* requires the Chief Electoral Officer to file a certificate with the Minister of Finance. The certificate is authorization to process the reimbursement payment. In 1999 there was a fundamental change to the Department of Finance payment system for all departments and agencies of the government. The system of centrally processing all voucher payments, including reimbursement payments, was replaced by de-centralized processing. This change has meant that there is no longer the requirement to file documentation centrally for each payment and, instead, the documentation must be kept by the office processing the payment. The requirement in *The Elections Finances Act* to file a certificate with the Minister of Finance is no longer required.

Recommendation: That *The Elections Finances Act* be changed so that there is no requirement to file a certificate with the Minister of Finance authorizing a reimbursement payment.

2. Registration of Party Logo - [s.15; s.18(2); s.19(2)]

Background: A recent Bill to amend *The Elections Finances Act* contained provisions to register logos. It was decided at the Committee stage of the Bill that *The Elections Finances Act* should not have such provisions and most, but not all, references to registered logos were removed. The remaining references to logos in *The Elections Finances Act* cause confusion. Since *The Elections Finances Act* does not permit logos to be registered, the remaining references should be removed.

Recommendation: That references to logos in *The Elections Finances Act* be removed.

3. Incorrect References - [s.72(3) (a) and s.73.1(1) & (2)]

Background: Section 72(3) (a) of *The Elections Finances Act* refers to a candidate's reimbursement paid being subject to subsections 73(1) and sections 75 and 76. This list should also include reference to section 77 since this section, similar to the previous sections, modifies the reimbursement payment in some way.

Section 73.1(1) of *The Elections Finances Act* authorizes the payment of an election expense reimbursement to a qualified political party that has provided required information. This includes "...a return regarding contributions under section 62..." There is no such return required for a party election statement but there is with a party's annual statement. The reference in this section is incorrect and should be removed.

Recommendation: That in clause 72(3)(a) of *The Elections Finances Act* a reference to section 77 should be added and “...and a return regarding contributions under s.62...” should be deleted from subsections 73.1(1) and (2).

4. Fund raising function references – [s.38]

Background: Subsection 38(2) of *The Elections Finances Act* should state that it is subject to subsection 38(3). This ‘subject to’ wording is necessary to clarify the intention that subsection 38(2) does not apply where a ticket price is less than \$15.

Recommendation: That subsection 38(2) of *The Elections Finances Act* state that it is subject to subsection 38(3).

OTHER ACTS RELEVANT TO THE CONDUCT OF ELECTIONS

Referendum regulations - *The Balanced Budget, Debt Repayment and Taxpayer Protection Amendment and Consequential Amendments Act* ('*The Balanced Budget Act*') and *The Manitoba Hydro Act*.

Background: *The Balanced Budget Act* states that a referendum must be held for certain tax increases as outlined in subsection 10(1). This subsection reads as follows:

Referendum required for tax changes -
[10(1)]. *Subject to subsection (2), the government shall not present to the Legislative Assembly a bill to increase the rate of any tax imposed by an Act or part of an Act listed below, unless the government first puts the question of the advisability of proceeding with such a bill to the voters of Manitoba in a referendum, and a majority of the persons who vote in the referendum authorize the government to proceed with the changes:*
(a) *The Health and Post Secondary Education Tax Levy Act;*
(b) *The Income Tax Act;*
(c) *The Retail Sales Tax Act;*
(d) *Part I of The Revenue Act.*

The Manitoba Hydro Act states that a referendum must be held before the Legislative Assembly can present a bill to privatize the corporation and is outlined in subsection 15.3(1). This subsection reads as follows:

No privatization without referendum -
[15.3(1)]. *The government shall not present to the Legislative Assembly a bill to authorize or effect a privatization of the corporation unless the government first puts the question of the advisability of the privatization to the voters of Manitoba in a referendum, and the privatization is approved by a majority of the votes cast in the referendum.*

Both Acts instruct the Chief Electoral Officer to conduct and manage the referendum in the same manner as an election under *The Elections Act* with any necessary modifications. These instructions are in subsections 11(1) of *The Balanced Budget Act* and 15.3(2) of *The Manitoba Hydro Act*.

In order to be ready to conduct a referendum, preparations have been based on a careful review and modification of *The Elections Act*. Many provisions of *The Elections Act* are readily transferable to a referendum. However, some provisions of *The Elections Act* are not readily transferable and, in some cases, *The Elections Act* does not contemplate certain consequences of referendums. Subsection 11(3) of *The Balanced*

Budget Act and subsection 15.3(4) of *The Manitoba Hydro Act* address this requirement by providing for regulations to be made. The Acts also allow for the possibility that the subject of campaign finance be included in either a Referendum Act or regulations. These subsections read as follows:

The Balanced Budget Act:

Regulations re procedures -

[11(3)]. *The Lieutenant Governor in Council may make any regulations that the Lieutenant Governor in Council considers necessary respecting the referendum process to give effect to subsection 10(1), including, without limiting the generality of the foregoing,*

(a) governing the preparation of a Voters List;

(b) governing the expenses, if any, that may be incurred, and the contributions, if any, that may be made, and by whom, in connection with a referendum;

(c) where greater certainty is required, modifying to the extent necessary the provisions of The Elections Act to make them applicable to the requirements of a referendum.

The Manitoba Hydro Act:

Regulations re procedures -

[15.3(4)]. *The Lieutenant Governor in Council may make any regulations that the Lieutenant Governor in Council considers necessary respecting the referendum process to give effect to this section, including, without limitation, regulations*

(a) governing the preparation of a Voters List;

(b) governing the expenses that may be incurred and the contributions that may be made, and by whom, in connection with a referendum, including placing limits on such expenses and contributions and establishing registration and reporting requirements for persons or organizations who make such contributions or incur such expenses;

(c) where greater certainty is required, modifying to the extent necessary the provisions of The Elections Act to make them applicable to the requirements of a referendum.

The following questions need to be addressed in either an Act or regulation:

- How and when, precisely, is the referendum question established?
- What is the duration of the referendum period given that no nomination period exists?
- Are there to be referendum committees? How are they to be established, registered and/or regulated? May referendum committees appoint scrutineers to be present at the polls?
- Would there be unique referendum recount rules?
- Who may apply for a recount?
- May referendums and elections be held simultaneously?
- Does the same tariff for payment of officers apply?
- Are there to be "referendum" offences?

General elections also have campaign finance provisions for such participants as candidates and political parties. Referendums should contain similar provisions for campaign finances.

In general, campaign finance provisions are concerned with money and other resources, and the impact they have on the electoral process and public policy. People with access to abundant resources have a significant advantage over people who do not. A key to campaign finance laws involves minimizing resource differences. Legislation often contains provisions for public financial support; spending limits and accepting contributions; public disclosure of finances; and for participants to register and have an agent. In addition to these, provisions must exist for the independent administration and enforcement of such laws.

In Manitoba, *The Elections Finances Act* contains campaign finance provisions for candidates, constituency associations and registered political parties. Such provisions are related primarily to elections. The third party provisions have been passed but have not been proclaimed. Court challenges in other jurisdictions have raised questions about the constitutionality of laws that impose spending limits on third parties. The third party provisions in *The Elections Finances Act*, related primarily to public disclosure, have not been challenged successfully in other jurisdictions and should be considered as a model for referendum campaign finance provisions.

Groups and individuals participating in a referendum (i.e. referendum committees) should be required to display an authorization on sponsored advertisements. As with elections, voters in referendums have a right to know who is participating and attempting to sway their vote.

In addition, referendum committees should be required to appoint a financial agent and register with the Chief Electoral Officer if there is financial activity above a threshold amount.

Undoubtedly, additional issues could arise.

Referendum legislation exists in several Canadian electoral jurisdictions. Québec has all pertinent subjects included in its *Referendum Act*. Alberta, British Columbia and Saskatchewan have a minimal number of subjects included in their respective

legislation and deal with most matters by regulation. Canada deals with most subjects in its legislation. Ontario has taxpayer protection legislation similar to Manitoba.

Over time there has been momentum towards the increased possible use of referendums. *The Balanced Budget, Debt Repayment and Taxpayer Protection Act* and *The Manitoba Hydro Act*, respectively, received *Royal Assent* on November 3, 1995 and on July 6, 2001. The November 27, 2002 Speech from the Throne, indicated that a new referendum requirement will be introduced in the Legislature this session to ensure that the Manitoba Public Insurance Corporation cannot be sold without the consent of Manitoba citizens. As reasons grow for the possible use of referendums, so to does the need to have rules clearly articulated by all Members via the Legislative Assembly.

In the interim, Regulations should be articulated under the existing referendum legislation.

Recommendation: That a Referendum Act be developed. The Act should deal with the administrative conduct of referendums and campaign finance provisions.

The Controverted Elections Act – [all sections]

Background: Certain court procedures outlined in *The Controverted Elections Act* have expired and the language is antiquated. In addition, *The Controverted Elections Act* should be reviewed to ensure that it corresponds to any amendments made to *The Elections Act* in recent years.

Recommendation: That all sections of *The Controverted Elections Act* be reviewed and revised. Consideration should be given to incorporating a revised version into *The Elections Act* (as was done in the *Canada Elections Act*). The amendments should take into account new court procedures and the current provisions in *The Elections Act*.

The Electoral Divisions Act - [s. 10(2)]

Background: Elections present significant, often unpredictable, challenges. The 37th General Election was no exception. Elections Manitoba staff and Returning Officers needed to ensure that it could be run on either the old or new electoral boundaries. Working under two possible sets of maps meant pre-election training of additional Returning Officers and Assistant Returning Officers, some of whom would not be needed depending on which boundaries were used. This duplication resulted in extra pre-writ costs. In the end, an amended version of *The Electoral Divisions Act* received *Royal Assent* on April 27, 1999. The new boundaries came into effect at the call of the 37th Provincial General Election.

The Electoral Divisions Boundaries Commission anticipated this issue, among others, as part of its report in December 1998, stating:

“.... the Legislative Assembly may also wish to consider formally defining in [*The Electoral Divisions Act*] the timing of the implementation of the report of the Boundaries Commission as is the case, for example, in the federal legislation.”

Recommendation: That the Legislative Assembly consider formally defining in *The Electoral Divisions Act* the timing to implement the report of the Boundaries Commission.

The Legislative Assembly Act

Background: Over the past few elections, Elections Manitoba has received suggestions that a set date for elections should be implemented. In addition, submissions have been made to support various systems of proportional representation.

The representatives of two registered political parties also brought forward similar suggestions during post election meetings of the Ad Hoc Committee on *The Elections Act*, held in Spring 2000.

In 2000, legislation in British Columbia was passed to set the election date every four years, to the second Monday in May. Once this legislation is proclaimed, voters in that province will know, in advance, the date of their next election.

At the time of writing, the subject of proportional representation is being reviewed in several jurisdictions.

In British Columbia, on September 20, 2002, the government retained Gordon Gibson as a consultant to develop guidelines on how the Citizens' Assembly on electoral reform should be set up and operate. His recommendations are to be delivered to the BC government by December 15, 2002. It is anticipated that a Citizens' Assembly on Electoral Reform will be appointed to assess all possible models for electing MLAs, including preferential ballots; proportional representation; and the current first-past-the-post system. It is also anticipated that the Citizens' Assembly will be given a mandate to hold public hearings throughout BC. Should the Citizens' Assembly recommend changes to the current electoral system, that option would be put to a province-wide referendum in conjunction with the next BC general election.

In Prince Edward Island, the Legislative Assembly commissioned a report on proportional representation. The report was tabled in the PEI Legislature in Spring 2002. The report reviewed various types of proportional representation systems currently being used in Belgium, Germany, Switzerland, France, Ireland, New Zealand, Malta and Iceland. The report outlined three possible proportional representation scenarios for consideration. At the time of writing, the Speech from the Throne in the PEI Legislature indicated that an independent, non- partisan electoral review commission would be set up to study proportional representation. Public hearings will be held across the province.

In Québec, both the National Assembly and the Government of Québec have established commissions to hold public hearings, province-wide, on various electoral subjects, including proportional representation. Reports from these commissions are expected in February 2003.

The Law Commission of Canada has begun public consultations on electoral reform. The Commission is studying alternatives to the current voting system. One of the alternatives is proportional representation.

Recommendation: The above matters are not dealt with by *The Elections Act* or *The Elections Finances Act* but, rather, *The Legislative Assembly Act* . At this point, they are referred to the Legislative Assembly for consideration.