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For more information or to obtain copies of this Report in any of the Nunavut's official languages, in paper or electronic format contact:

Elections Nunavut

Box 39

43 Sivulliq Ave.

Rankin Inlet, NU

X0C 0G0

 800.267.4394

 800.269.1125

 www.elections.nu.ca

 info@elections.nu.ca



June 15, 2012

Hon. Hunter Tootoo
Speaker of the Legislative Assembly of Nunavut
Box 1200
Iqaluit, NU
X0A 0H0

Dear Mr. Speaker:

I am honoured to submit to you my annual report for the fiscal year 2011-2012, in accordance with recently amended reporting requirements in subsection 196 of the *Nunavut Elections Act*.

I will, of course, be happy to discuss the contents of the report at the pleasure of the Assembly.

A handwritten signature in blue ink that reads 'S. Kusugak'.

Sandy Kusugak
Chief Electoral Officer

Introduction

In the past year Elections Nunavut has been instrumental in the development of three pieces of legislation: An Act Respecting Nunavut Elections c. 17, passed in June, *An Act Respecting the Constituencies of Nunavut c. 24*, enacted in October and a draft Plebiscites bill, expected to be tabled at the fall 2012 sitting of the Legislative Assembly.

Pursuant to the *An Act Respecting the Constituencies of Nunavut Elections Nunavut* has drawn up maps of the 22 constituencies that will prevail until 2022 and is pleased to be the third jurisdiction in Canada to provide the descriptions of the constituency boundaries in digital format.

The coming year will focus on implementation of these boundaries and preparation for the next general election.

The Chief Electoral Officer's report on the September 12th, 2011 By - Elections in Iqaluit West, Pangnirtung and Tununiq has been submitted previously.



Activities – April 2011- March 2012

Legislation

1. *An Act Respecting Nunavut Elections - c.17*

In June 2011 the Assembly passed *An Act Respecting Nunavut Elections*, a series of amendments based on recommendations from the 2008 general election.

Some important features of the *Act* are:

- clarification of residency rules. The *Act* specifies a 10-month limit on temporary absence except for full-time students
- intention is no longer relevant to determine residence
- place where a person's family lives is no longer relevant to determine residence of a voter
- an otherwise eligible person can become a candidate in a by-election where he/she is not resident
- recognition that the database of voters is a continuous list
- establishment of a boundaries commission every 10 years beginning in 2022, the year following the release of census data
- extension of the period to receive special ballots to 5 pm on election day
- poll clerks may be less than voting age
- extension of the limitation period of enforcement to 1 year
- grounds for voiding an election are harmonized

To see the entire *Act* go to

[http://www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+OF+NUNAVUT+\(ANNUAL+VOLUMES\)+PAGE&year=2011](http://www.justice.gov.nu.ca/apps/authoring/dspPage.aspx?page=STATUTES+OF+NUNAVUT+(ANNUAL+VOLUMES)+PAGE&year=2011) and look for Nunavut Elections, *An Act Respecting*.

2. **Nunavut Electoral Boundaries Legislation**

The 2011 Nunavut Electoral Boundaries Commission headed by Justice J.E. Richard, submitted their report to the Speaker of the Legislative Assembly of Nunavut on June 7. The Commission proposed the addition of three constituencies to bring the total to 22.

On receipt of the Report, Elections Nunavut prepared a Bill as required by the *Nunavut Elections Act*.



28. Upon receiving the report of a Boundaries Commission, the Chief Electoral Officer shall, when necessary, prepare for the Speaker a draft bill that, in accordance with the report of the Boundaries Commission,

- (a) specifies the number of constituencies;
- (b) divides Nunavut into constituencies;
- (c) describes the boundaries of each constituency; and
- (d) specifies the name of each constituency]

Act Respecting the Constituencies of Nunavut, which was assented to on October 31, 2011 set out the proposed name of each constituency in all official languages and for the first time provided the boundaries in digital format.

3. A New Plebiscites Act

As reported in the Chief Electoral Officer's Annual Report for 2010, a new *Plebiscites Act* is currently being drafted to

- modernize the plebiscite process;
- harmonize the plebiscite process with the election process established in the *Nunavut Elections Act*;
- allow local plebiscites as well as Nunavut-wide ones;
- provide for e-democracy initiatives in the future;
- adapt the Act to Nunavut; and
- use plain language.

This initiative also flows from Recommendation #4 of the Standing Committee *Ajauqtiit* Review of the Report of the Chief Electoral Officer of Nunavut: *Election of the First Legislative Assembly of Nunavut – 1999: A New Beginning*.

Currently, liquor plebiscites are held in accordance with the *Local Authorities Elections Act*. The Minister of Finance indicated that the issue of what process should govern liquor plebiscites would be dealt with in the review of *Liquor Act*, which is being conducted by the Government of Nunavut.

Over the past year the Chief Electoral Officer has met with Management and Services Board and full caucus to update them and consult with them on the provisions of the Bill. The Bill is expected to be tabled in the Assembly during the fall sitting.

4. Harmonization of Election Administration

Elections Nunavut has received clear directions to harmonize elections procedures and administration in relation to the *Local Authorities Election Act*. Work has begun on preparing the necessary materials and legislative instruments to achieve this goal.



This initiative flows from recommendations #8 and #9 of the Standing Committee *Ajauqtiit* Review of the Report of the Chief Electoral Officer of Nunavut: *Election of the First Legislative Assembly of Nunavut – 1999: A New Beginning*:
“Recommendation #8: That a central elections office be established in Nunavut, called Elections Nunavut

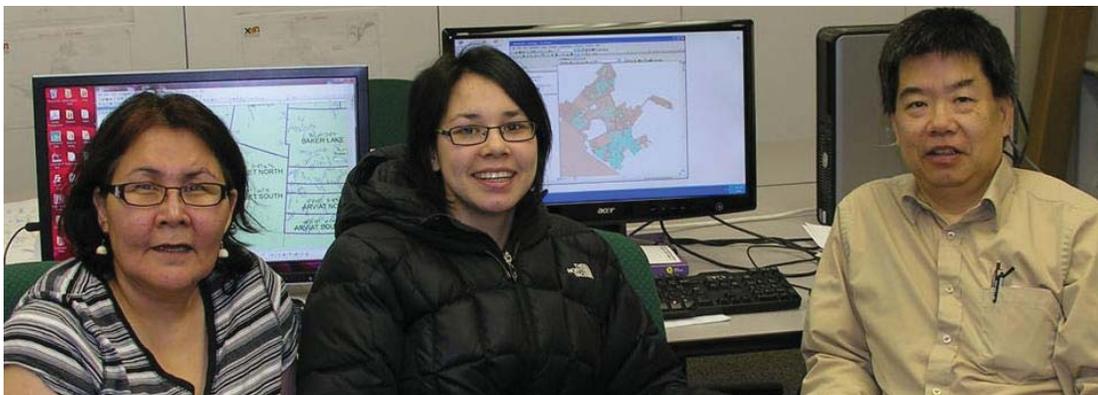
Administrative Activities

Human Resources

Staffing: As one of three staff persons was on parental leave for half the reporting period, the Chief Electoral Officer agreed to accept a GN employee for a 12-month transfer assignment.

Training initiatives: In keeping with its mandate as an independent office and respecting the weather and transportation limitations that exist in our territory, Elections Nunavut has developed the capacity to produce 90% of our materials in-house. Likewise, the office of the Chief Electoral Officer has a commitment to the development of strong modern workforce skills within our small staff. All permanent and casual staff are cross-trained so that basic functions can continue when core staff are absent.

That being the case, several workshops were held throughout the year to support workplace learning and effectiveness. Elections Nunavut’s GIS (Geographic Information Systems) consultant ran two week-long sessions to improve digital mapping skills and the IT (information technology) consultant conducted two workshops to enable staff to maintain the website.





Document development:

Enforcement Handbook: Elections Nunavut created an Enforcement Handbook that clearly delineates the roles of each of the parties in an enforcement situation. All forms and documents related to the public have been produced in all official languages. It is ready for print and will be disseminated to the RCMP, Integrity Commissioner and Public Prosecutions Canada prior to the next general election. The main document will be posted to Elections Nunavut's website.

Judicial Recount Manual: The Chief Electoral Officer has developed a Judicial Recount manual to clarify the procedure for all parties when a judicial recount is required and to provide the necessary forms for a judge to use at a recount. All forms and documents related to the public have been created in all official languages. The document will be printed and distributed to the Court prior to the next general election. Relevant parts of this Manual will be posted to the website.

Document Review: The process of reviewing and improving all documents continued through the reporting period and was accelerated by the passage of *An Act Respecting Nunavut Elections* a few months prior to the September 2011 by-elections in Iqaluit West, Pangnirtung and Tununiq.

Electronic infrastructure:

Website upgrade – www.elections.nu.ca

Elections Nunavut's website underwent a major overhaul during the past year. The 'back end' was changed; the 'front end' got a new look and as a result, posting documents to the site and making other changes became much simpler. The process of posting archived materials relating to elections since 1999 and plebiscites affecting Nunavut since 1980 has begun. As well the staff have been rescanning and reposting all financial returns as time permits.

Liquor Plebiscites and the Liquor Act Review

Liquor Plebiscites

Elections Nunavut administers liquor plebiscites on behalf of the Department of Finance on a cost-recovery basis, producing and disseminating neutral communications material as well as ballots. Ballot questions are devised by the Legislation Division, Department of Justice on the basis of a petition submitted to the Minister of Finance, by at least 20 eligible voters in the affected community. Over the past 12 months Elections Nunavut has administered 3 such plebiscites. At least 60% of the votes at a liquor plebiscite must be in favour in order to cause change.



September 19, 2011 Gjoa Haven

Voters were asked: Are you in favour of ending the current system of liquor prohibition in Gjoa Haven and establishing an Alcohol Education Committee?

The Alcohol Education Committee would decide:

- (a) who may possess, purchase or transport liquor in Gjoa Haven;
- (b) who may import liquor into Gjoa Haven; and
- (c) the amount of liquor that a person may possess, purchase or transport

in or import into Gjoa Haven?

Result: Yes – 176 38% No - 287 61% Rejected – 14

Turnout: 463 of 571 81%

Gjoa Haven will remain a liquor-prohibited community.

February 27, 2012 Kimmirut

Voters were asked: Are you in favour of ending the current liquor prohibition in Kimmirut and establishing an Alcohol Education Committee? The Kimmirut Alcohol Education Committee would decide:

- (a) who may possess, purchase or transport liquor in Kimmirut;
- (b) who may import liquor into Kimmirut; and
- (c) the amount of liquor that a person may possess, purchase or transport

in or import into Kimmirut?

Result: Yes - 95 67% No - 46 32% Rejected 1

Turnout: 142 of 227 62%

An Alcohol Education Committee will be established as a result of this vote.

February 27, 2012 Resolute

Question: Are you in favour of replacing the current system of liquor restriction in Resolute Bay with an unrestricted system, with no restriction on liquor, except for the general liquor laws that apply in Nunavut?

Result: Yes - 25 34% No - 48 66% Rejected 1

Turnout: 73 of 110 66%

The current system remains in place in Resolute

Liquor Act Review Committee submission: Elections Nunavut prepared a considerable submission to the Liquor Act Review Committee. A copy of this submission can be found in the documents section at www.elections.nu.ca



Coordination with other Electoral Agencies

Canadian Electoral Agencies: The Chief Electoral Officer participated in election day observer programs for the Federal and Ontario elections and upon invitation the post-mortem for the Federal election related to northern and rural electoral districts. In addition Elections Nunavut observed the inaugural briefing for the Federal Redistribution.

ACEP: In January, Elections Nunavut participated in the annual meeting of the Advisory Committee of Electoral Partners hosted by Elections Canada.

CERL: Elections Nunavut continues to be an active contributor to the Canadian Elections Resource Library.



Planned Activities 2012-2013

Election Preparation:

General election preparation is ongoing. Some specific initiatives are:

- GIS and Maps. Once the names of the 22 Nunavut constituencies have been confirmed by the Assembly at the fall sitting, Elections Nunavut will begin promotion of the new map and new constituency names in earnest. The office will continue to enter geo-code data to support reorienting addresses.
- Addressing. The Chief Electoral Officer will work with the hamlet councils of Arviat and Igloolik to define and publicize a system of house numbering – essential to the election process in the new constituencies.
- Videos. Staff at Elections Nunavut will create a series of short videos to support training initiatives and to familiarize first-time voters with the mechanics of voting
- Update of enforcement protocol: The Chief Electoral Officer will hold a seminar for the RCMP, Integrity Commissioner and Public Prosecutions Canada to familiarize them with the existing Enforcement Protocol and look for recommitment to the process.
- The Chief Electoral Officer will seek an agreement with the Nunavut Housing Corporation to acquire basic 'phone book' data to enable voter moves within the EN database.
- Elections Nunavut has prepared documents to be posted to the FANS (Financial Assistance for Nunavut Students) website, to inform adult students attending courses in or outside Nunavut of their right to vote by special ballot. The Chief Electoral Officer will meet with FANS to advocate for this process.
- The Chief Electoral Officer will meet with the Executive Director of the Disabilities Association to ensure that Elections Nunavut's effort to engage and inform the disabled community regarding voting opportunities is effective.
- Elections Nunavut will improve the audit process, asking the contracted firm to complete both a financial audit AND a compliance audit on each of the campaign returns.



General Administration Activities:

- The Chief Electoral Officer will complete and distribute a Disaster Recovery and Emergency Management Manual. The satellite communication failure experienced by Nunavut in October 2011 raised awareness of EN's lack of preparedness for such a failure on election day. Plans are now in place to offset the effects of this kind of disaster.
- Harmonization of Election Administration. Elections Nunavut will continue interviews and focus groups to sample public opinion on options for the administration of municipal elections and aims to have draft legislation ready for September 2013.
- Communications Manual. Elections Nunavut will have a communications manual in place prior to the general election.
- Media Guide. Elections Nunavut has begun work on a new media guide. It will be completed prior to the general election.
- Office Administration Guide. An adjunct to an Emergency Management Manual is an up-to-date Office Administration Guide. Such a Guide ensures that basic office procedures can carry on in case of staff absence. This Guide will be completed over the coming year.
- The Chief Electoral Officer will work with the Department of Finance to streamline the liquor plebiscite process

Changes in Electronic Environment

- Website. www.elections.nu.ca will be made 'mobile friendly' over the next year and will move to election mode when the writ is issued.
- GIS. Staff will enter data to geo-codes residential and non-residential buildings to support bulk address moves necessitated by creation of new constituencies.
- RENU (Register for Elections Nunavut). RENU is being enhanced to provide new processes to more effectively report on campaign and returning office activity.
- Elections Nunavut will investigate the cost-effectiveness of modifying its electronic financial return, changing it from CD-ROM to web-based format.
- An inquiry log will be created to better track and follow-up on communications with the public.



Matter for the Speaker's Attention

Lack of Civic Addressing

Reprinted below from 2010 Annual Report as this is still the most difficult administrative issue facing Elections Nunavut.

The Chief Electoral Officer has identified the lack of standardized, consistent civic addressing as a significant issue for Nunavut in previous reports. The issue has not gone away and is becoming increasingly problematic with each passing year.*

Many Nunavut agencies are finding they need civic addresses to properly provide services. However, to ensure the full exercise of Nunavummiuts' constitutionally protected political rights and for the proper administration of elections, civic addresses are essential. When a community is divided into more than one constituency, it becomes imperative for Elections Nunavut to have a proper physical address for each voter. As Nunavut's population increases and communities become geographically more complex, it is probable that the disorder resulting from the lack of civic addresses will consume ever more resources.

** See 2009 Annual Report of the Chief Electoral Officer page 8 and Report of the Chief Electoral Officer 2008-2009 page 63.*



Recommendations to Improve the *Nunavut Elections Act*

The Chief Electoral Officer proposes the following amendments to the *Nunavut Elections Act*:

1. Campaigning

The provisions in the Act on campaigning can be improved. There is no current definition of what it means to “campaign” in an election, although there are definitions of “campaign manager” and “campaign material”. It is therefore recommended that the Act provide for a definition of “campaigning” and use that definition wherever possible.

Proposed New Wording:

Section. 2:

“campaign” means to make public statements or issue campaign material in favour of, against, promoting or opposing a candidate in an election;

“election expense” means any amount paid or liability incurred during an election period to campaign in an election, including

- (a) *any contribution of services or goods, and*
- (b) *the costs of the financial agent and any campaign manager;*

Advertising contribution

175. (1) *The cost of the advertising shall be considered a contribution to a candidate where a person, with the knowledge and consent of the candidate, campaigns*

- (a) *through the facilities of a broadcaster;*
- (b) *in a newspaper, magazine or other periodical publication or other printed document; or*
- (c) *through the use of any billboard, sign or outdoor advertising medium.*

Influencing voters at a meeting

246. (5) *Any person who provides money, food, drink, gifts or prizes or other valuable consideration at a meeting of voters assembled for the purpose of campaigning in an election is guilty of an offence.*



Exemptions

246. (6) *This section does not apply to*

- (a) *a meal or non-alcoholic refreshments provided at a meeting of voters assembled for the purpose of campaigning in an election;*
- (b) *a meal or non-alcoholic refreshments provided to a candidate or the representative of a candidate at a polling station; or*
- (c) *a gift or prize provided at a meeting of voters if the total value of all gifts or prizes provided at that meeting does not exceed \$500.*

Wearing campaign material

252. (2) *Any person who uses, wears or displays or causes to be used, worn or displayed any flag, ribbon, label, badge or similar object in a polling station as campaign material is guilty of an offence.*

Broadcasts on election day or day before

255. (1) *Any person who broadcasts a speech or any entertainment or advertising program on election day or on the day immediately before election day, as campaign material, is guilty of an offence.*

2. Identifying the Source of Campaign Material

The *Act* currently has provisions on identifying the sponsor of campaign material. However, these provisions can be improved to deal with different forms of media and to provide more information about the sponsor of the material.

Generally speaking, the recommendation is that candidate be responsible for putting his or her name and contact information on the material. In the case of third party advertising, the person campaigning must give their name and the contact information for an individual responsible for the material. This approach contemplates that when corporations campaign, a responsible individual must be identified.

Because attempts have been made in other jurisdictions to make sponsorship information illegible to the reader, safeguards are recommended to ensure clarity of communication. Instructions issued by the Chief Electoral Officer can deal with the minor details of this issue.



Proposed New Wording:

Candidate campaigning

186. (1) Each candidate shall ensure that all of his or her campaign material include the name of and a working telephone number or email address for the candidate's campaign manager or financial agent.

Third party campaigning

(2) Any person who campaigns, other than with the knowledge and consent of the candidate, shall ensure that all his, her or its campaign material includes

(a) the name of the person who is campaigning.

(b) the name of and a working telephone number or email address of an individual who is responsible for the content of the campaign material.

Clarity of information

(3) The information required under subsections (1) and (2) must be communicated in a way that is as easy to read, hear or see as the majority of the substance of the message being communicated by the campaign material.

Minors

(4) If the person campaigning is a minor, the person referred to under paragraphs (2)(b) and (c) must be an adult who is responsible for the minor.

Instructions

(5) Every person campaigning shall comply with instructions from the Chief Electoral Officer on the form and manner of including and communicating the information required by this section.

Broadcast time

187. (1) Every broadcaster who operates a community or educational broadcasting service shall, subject to the conditions of its licence, any agreement with the Canadian Broadcasting Corporation and the regulations made under the Broadcasting Act (Canada),

(a) make broadcasting time available to all candidates in the constituencies in which it operates; and

(b) ensure that every candidate has approximately equal access to broadcasting time.

Identity of campaigner

(2) Every broadcaster who operates a community or educational broadcasting service shall not broadcast any campaign material that does not comply with section 186.



3. Election Officers Present at a Polling Place and During the Count of the Ballots

The Act provides for which election officers are expected to staff a polling place and does not allow certain other election personnel to be present during the counting of the ballots. Currently, both the returning officer and assistant returning officer may be present at the polling station, as well as registration clerks. However, these officials are excluded from the room during the count, even though they may be able to provide assistance.

It is therefore recommended that the Act be amended to allow other election personnel to be present during the counting of the ballots.

Proposed New Wording:

Election officers at a polling station

82. (1) *Each polling station must be staffed by a deputy returning officer, a poll clerk and a registration clerk.*

Other election officers

(2) *The Chief Electoral Officer and returning officer may assign such other election officers to staff a polling place as he or she considered necessary or appropriate.*

Who may be present at polling place

131. (2) *At each polling place, no person other than the following, subject to subsection (3), may remain in the room where the votes are to be counted:*

- (a) *an election officer and counsel for Elections Nunavut;*
- (b) *any observer with written authorization from the Chief Electoral Officer;*
- (c) *each candidate or a representative of each candidate;*
- (d) *any peace officer present at the polling place;*
- (e) *any two voters selected under subsection (3).*

Procedure for counting the votes

(3) *The deputy returning officer shall, in the presence of the candidates or their representatives or, should the candidates or their representatives not be present, in the presence of at least two voters selected by the deputy returning officer, make the count in accordance with the regulations.*



4. Marking Ballots

The Act was recently amended to provide that only two methods of marking a ballot should be allowed, namely only an “X” or a checkmark.

Experience with elections under the new rule indicates that a certain portion of voters in Nunavut continue to prefer to use other marks on their ballots, e.g. an “*” asterisk, a line or a solid or opaque circle. It is therefore recommended that the Act be amended to allow other ways of marking a ballot to avoid the unnecessary rejection of ballots. While it is practically impossible to describe all the possible marks that should be considered acceptable, care must be taken to avoid allowing marks that would indicate a voter’s identity or allowing a candidate to trace the authorship of a particular mark. Most jurisdictions issue guidelines for election officers and judges when considering whether a mark is acceptable.

Proposed New Wording:

Marking a ballot

112. (2) *The proper way to mark a ballot is to make a cross, checkmark or other mark clearly indicating the voter’s intention only within the circular space on the ballot adjacent to the candidate’s name, using the pencil provided or any other pen or pencil.*

Rejection of ballots

131. (5) *When counting the ballots, the deputy returning officer shall reject any ballot that was*

- (a) *not supplied by the Chief Electoral Officer;*
- (b) *not marked in favour of a candidate;*
- (c) *marked in favour of a person who is not a candidate;*
- (d) *marked for more than one candidate;*
- (e) *not marked in accordance with subsection 112(2);*
- (f) *marked in a place other than the circular space provided; or*
- (g) *marked in a way that might identify the voter.*

Guidelines

(8) The Chief Electoral Officer may issue guidelines for rejecting ballots and on what marks are acceptable or might identify the voter on ballots for the purposes of this Act.



5. Housekeeping Amendments

There are a number of minor amendments necessary to clean up minor issues with the Act.

- Adding missing punctuation at the end of s. 11(2).
- Amend s.46(1) to delete reference to “groups of voters” in the assigned responsibilities of registration clerks.
- Amend s. 51(1) to add the word “or” between the words “directly personally”.
- Clarify the use of the terms “polling station”, “other place for voting” and “polling place” throughout the Act.

The Chief Electoral Officer respectfully recommends that the following two amendments to the *Nunavut Elections Act* be considered in further detail, with input from the public:

6. Prohibited Campaigning

The Act does not explicitly provide who may campaign in an election. This recommendation addresses that issue.

In addition to the recommendations above, it is also recommended that the amendments to the Act respecting who is authorized to campaign in an election be considered by the public and the Legislative Assembly. Such amendments could provide a list of the persons and entities who are allowed to campaign in an election and a mechanism for ensuring that no unauthorized persons campaign illegally. Generally speaking, persons and entities that are resident in or operating legally in Nunavut would be able to campaign. Partnerships would not need to be specifically included because they are simply a group of individuals in a partnership relationship and do not register under the Partnership Act, unless they are an extra-territorial partnership. Persons and entities not resident in Nunavut or not operating legally in Nunavut would not be allowed to influence an election by campaigning. Violations to the campaign rules would be handled through the normal police complaint process.



Any consideration of such proposed amendments would have to include a legal analysis of whether they are a justifiable limitation on the right to freedom of expression guaranteed under s. 2(b) of the *Canadian Charter of Rights and Freedoms*. In other words, they would have to be justifiable under s. 1 of the *Charter* as reasonable limits prescribed by law that can be demonstrably justified in a free and democratic society. The case on law on the subject has generally been focussed on limits on the amount of spending by third parties and has held that such restrictions can be justified under s. 1 of the *Charter*. The most salient case is that of *Harper v. Canada (Attorney General)*, [2004] 1 S.C.R. 827, 2004 SCC 33, where the Supreme Court of Canada upheld restrictions on third party advertising in the *Canada Elections Act*.

The majority of the court held that: *The harm that Parliament seeks to address in this case is electoral unfairness. Given the difficulties in measuring this harm, at the stage of the justification analysis a reasoned apprehension that the absence of third party election advertising limits will lead to electoral unfairness is sufficient. Furthermore, on balance, the contextual factors favour a deferential approach to Parliament in determining whether such limits are demonstrably justified in a free and democratic society. While the right to political expression lies at the core of the guarantee of free expression and warrants a high degree of constitutional protection, there is nevertheless a danger that political advertising may manipulate or oppress the voter. Parliament had to balance the rights and privileges of all the participants in the electoral process. The difficulties of striking this balance are evident and, given the right of Parliament to choose Canada's electoral model and the nuances inherent in implementing this model, a court must approach the justification analysis with deference.*

With respect to limits on non-resident campaigning, British Columbia and Alberta do restrict election advertising by non-residents and have a registration process to enforce this prohibition. No such registration process is being recommended in this report. Saskatchewan restricts the making of contributions by non-resident persons and organizations.

The Chief Electoral Officer is submitting these amendments for discussion among Nunavummiut as to whether they are needed and justifiable for ensuring electoral fairness in Nunavut.



Proposed New Wording:

Campaigning in Election

Authorized campaigning

13.1 (1) No person or entity, other than the following classes of persons or entities, shall campaign in an election:

- (a) an individual resident in Nunavut;
- (b) a corporation incorporated in Nunavut;
- (c) a society incorporated under the Societies Act;
- (d) a co-operative association registered under the Co-operative Associations Act;
- (e) an extraterritorial corporation registered under the Business Corporations Act;
- (f) a trade union representing employees working in Nunavut.

No interference at work

(2) No person shall, at his or her place of work, influence or induce an employee, worker or person under his or her supervision or control to campaign in an election, unless campaigning is within the duties of that employee, worker or person.

Prohibition

(3) Despite subsection (1), no election officer or member of the staff of Elections Nunavut shall campaign in an election.

Illegal campaigning

249.1 (1) Any person who campaigns in an election contrary to section 13.1 is guilty of an offence.

7. Contributions from Non-residents

The Act currently prohibits contributions from individuals not resident in Nunavut and corporations not carrying on business in Nunavut. Given the suggested prohibition on campaigning proposed for debate in this report, we must also consider the provisions on who is allowed to make contributions to a candidate.



A business corporation that is not incorporated under the *Business Corporations Act* is supposed to register as an extra-territorial corporation under the *Business Corporations Act*. Failure to register is sanctioned under that Act, but does not currently preclude the making of a contribution under the *Nunavut Elections Act*. Should an unregistered extra-territorial corporation continue to be allowed to make contributions? In addition, does the current law limit contributions from other organizations carrying on business in Nunavut, e.g. societies, co-operatives and trade unions? And if so, should they be allowed to make contributions or not?

Six other jurisdictions – Canada, Quebec, Manitoba, Saskatchewan, Alberta and the Northwest Territories– prohibit contributions from outside the jurisdiction. Canada, Quebec, Nova Scotia and Manitoba also prohibit contributions from a corporation or a trade union, where only contributions from an elector (Quebec) or an individual (Canada, Nova Scotia and Manitoba) are allowed. In Quebec, since 2011, contributions are made directly to the Chief Electoral Officer, who remits them to the entity concerned after verifying that the contribution is in compliance with the law.

Given the lack of political parties and the modest resources available to candidates, it is not recommended that contributions from persons or entities within Nunavut be unduly restricted. The same entities that would be allowed to campaign should also be allowed to make contributions, with two exceptions. The first exception is that registered charities not be permitted to use their funds for contributions. The second is that corporations carrying on business in Nunavut should have obtained legal authority for carrying on this business., e.g. registration when required under the *Business Corporations Act*.

Proposed New Wording:

Prohibited contributions

168. (3) *No person other than the following shall make a contribution to a candidate:*

- (a) an individual resident in Nunavut;*
- (b) a corporation incorporated in Nunavut;*
- (c) a society incorporated under the Societies Act, unless it is a registered charity for income tax purposes;*
- (d) a co-operative association registered under the Co-operative Associations Act;*
- (e) an extraterritorial corporation registered under the Business Corporations Act;*
- (f) a trade union representing employees working in Nunavut.*



Prohibited contribution

173. *No financial agent shall knowingly accept a contribution from a person or entity not authorized under subsection 168(3).*

Illegal contributions

267. *(1) Any person who makes a contribution contrary to section 168 is guilty of an offence.*

Offence

*(3) A financial agent is guilty of an offence if he or she
(a.1) accepts a contribution contrary to section 168, 171 or 173;*



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Legislative Assembly of Nunavut
Assemblée législative du Nunavut

Office of the Chief Electoral Officer
BUDGET REPORT FOR THE PERIOD ended March 30, 2012
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FISCAL YEAR 2011-12

Summary

	Budget	Spent	Balance
Permanent Salaries	389,000.00	546,520.00	(157,520.00)
Casual Wages	25,000.00	19,971.00	5,029.00
Subtotal	414,000.00	566,491.00	(152,491.00)

Nunavut Elections

Travel	80,000.00	50,005.00	29,995.00
Materials & Supplies	50,000.00	38,019.00	11,981.00
Purchased Services	80,000.00	70,225.00	9,775.00
Contract Services	300,000.00	144,784.00	155,216.00
Fees and Payments	40,000.00	974.00	39,026.00
Other Expenses	-	26,028.00	(26,028.00)
Tangible Assets	-	1,103.00	(1,103.00)
Computer hardware & Software	-	6,993.00	(6,993.00)
Subtotal	550,000.00	338,131.00	211,869.00

Boundaries Commission

Casual Wages	-	29,098.00	(29,098.00)
Travel	-	7,314.00	(7,314.00)
Materials & Supplies	-	535.00	(535.00)
Purchased Services	-	3,336.00	(3,336.00)
Contract Services	-	32,735.00	(32,735.00)
Fees and Payments	-	3,565.00	(3,565.00)
Other Expenses	-	250.00	(250.00)
Tangible Assets	-	194.00	(194.00)
Computer Hardware & Software	-	368.00	(368.00)
Subtotal	-	77,395.00	(77,395.00)

Nunavut By-Elections

Casual Wages	-	6,708.00	(6,708.00)
Travel	-	4,985.00	(4,985.00)
Materials & Supplies	-	8,556.00	(8,556.00)
Purchased Services	-	49,891.00	(49,891.00)
Contract Services	-	103,223.00	(103,223.00)
Fees & Payments	-	-	-
Other Expenses	-	18.00	(18.00)
Tangible Assets	-	1,731.00	(1,731.00)
Computer Hardware & Software	-	-	-
Subtotal	-	175,112.00	(175,112.00)

Total Elections Nunavut	964,000.00	1,157,129.00	(193,129.00)
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Liquor Plebiscites ¹

Casual Wages	-	971.00	(971.00)
Travel	-	66.00	(66.00)
Materials & Supplies	-	-	-
Purchased Services	-	2,939.00	(2,939.00)
Contract Services	-	5,815.00	(5,815.00)
Fees & Payments	-	250.00	(250.00)
Other Expenses	-	-	-
Total Plebiscites	-	10,041.00	(10,041.00)

*1: Plebiscite expenses are summarized by Elections Nunavut for disclosure purposes only.

Plebiscite expenses are incurred by Elections Nunavut on behalf of the Department of Finance and subsequently reimbursed by Department of Finance.