

Table of Contents

Background 2

Proposal 3

Impact on Costs..... 4

Proposed 'Vote-by-Mail' Procedures..... 4

Voting Package..... 5

Impact on Voter Turnout 7

Impact on Electors 7

Trust of Electors 8

Impact on Candidates 8

Impact on Municipalities 9

Required infrastructure 9

Why Not Use Remote Internet Voting? 9

Appendices..... 10

Appendix A: Typical Schedule for a By-Election Conducted By Mail 11

Appendix B: Proposed Rules for a Vote-By-Mail Process 12

Proposal for an Alternative ‘Vote-by-Mail’ Method of Voting

Background

Between New Brunswick’s province-wide general municipal, district education council and regional health authority elections held every four years, numerous smaller by-elections, first elections and plebiscites are required to be held to fill municipal council vacancies or to respond to requests by the Minister of Environment and Local Government for plebiscites in Local Service Districts (LSD) prior to municipal restructuring.

Between each set of general elections, Elections N.B. has attempted to hold electoral events twice a year in October and May for cost and resource efficiencies, but on occasion has also been required to schedule additional electoral events to conduct LSD plebiscites and First Elections. A summary of the electoral events held between each set of general elections and their costs conducted since 2001 follows:

| | 2001-2004 | 2004-2008 | 2008-2012 | 2012-2016 | 2016-2020 |
|---|------------------|------------------|------------------|------------------|-------------------------------|
| Cost of Elections | N/A | \$402,858 | \$1,255,364 | \$2,413,095 | \$1,485,118 + FY 2019-2020 |
| Electoral events held between general elections | 14 | 12 | 11 | 11 | 6 |
| Total council seats to fill or plebiscite questions to answer between general elections | 54 | 100 | 103 | 156 | 103 |
| LSD plebiscites held | 0 | 5 | 3 | 19 | 4 |
| First Elections held | 0 | 1 | 1 | 5 | 1 |
| Municipal By-Elections | 54 | 84 | 82 | 88 | 70 |
| Total held | 54 | 90 | 86 | 112 | 75 |
| Number of municipalities requiring 2 by-elections | 11 | 10 | 14 | 12 | 14 |
| Number of municipalities requiring 3 by-elections | 2 | 4 | 5 | 7 | 3 |
| Number of municipalities requiring 4 by-elections | 0 | 2 | 2 | 1 | 1 |
| Number of municipalities requiring 5 by-elections | 0 | 1 | 0 | 0 | 0 |

Plebiscites ordered by a municipality that are held in conjunction with general elections are paid out of the Consolidated Fund. Plebiscites are rarely ordered by a municipality between general elections because under subsection 48(2) of the *Municipal Elections Act*, all costs and expenses of such plebiscites are paid by the municipality.

- According to corporate memory, prior to 2015 only one such municipality—ordered plebiscite occurred, held in Saint John, in 2007 to determine if the city should move to a ward system.
- In 2015, the village of Atholville ordered a plebiscite to determine support to amalgamate with the nearby LSD, Lac Baker, Clair, Baker-Brook, Saint-François de Madawaska, St. Hilaire ordered plebiscites to determine support to create one regional municipality including the nearby LSDs, and Sussex , Sussex Corner ordered plebiscites to determine support to amalgamate.

As required by the *Municipal Elections Act*, municipal returning officers are responsible to administer all electoral events in their regions. They must open returning offices, staff them, train workers, open polling stations, and conduct the election using the same procedures whether they are administering a general election involving multiple municipalities and thousands of electors or a single plebiscite involving 50 electors.

As an example of the infrastructure and costs required to be put in place the following example is illustrative:

- The municipal returning officer for M01- Restigouche was required to administer a First Election in Atholville on June 29, 2015. This included renting office space, connecting phones, computers and cell phones, staffing it for 6 weeks, renting polling stations, training and staffing poll workers, visiting special care and nursing homes. Centrally, other functions such as designing the election, publishing legislated notices, printing ballots, printing and mailing Voter Information Cards and shipping all materials also occurred. Following the First Election, the returning office was packed up and the temporary location turned back over to the Campbellton Masonic Lodge.
 - In total, \$53,247 was spent to administer the First Election, in which 1,592 ballots were cast out of 3,066 eligible electors.
- Seven weeks later, the same municipal returning officer for M01- Restigouche was required to re-open a returning office in the same location to administer a First Election in Eel River Crossing on September 28, 2015. The same infrastructure required for the June election had to be put in place again, with its associated costs, to collect the vote.
 - In total, \$53,318 was spent to administer the First Election, in which 897 ballots were cast out of 1,614 eligible electors.
 - Eel River Crossing is located less than one kilometre from Atholville and both First Elections could have been administered at the same time in June with only the incremental costs of three extra polling stations and workers, extra ballots and Voter Information Cards, estimated to be less than \$6,500.

Proposal

As a means to both reduce costs and reduce the resources needed to conduct frequent and small election events, Elections N.B. recommends a proposed 'vote-by-mail' solution as an economical, reliable and voter-friendly method of conducting by-elections, first elections and plebiscites during the four year period between province-wide general elections.

A 'vote-by-mail' solution is not recommended for use in general elections, because of the complexity of offering electors their choice of Anglophone or Francophone school district ballots and their choice of Horizon or Vitalité Health Region ballots, where such a decision must be made.

A similar 'vote-by-mail' solution has been used successfully in St. John's, NL to elect councils since 2001, and is used in over 100 Ontario municipalities. In British Columbia, 'vote-by-mail' has been used successfully to conduct the 2011 province-wide HST referendum, the 2015 Metro Vancouver Transportation and Transit Plebiscite, and the 2018 province-wide electoral reform referendum. Elections N.B. already uses a limited 'vote-by-mail' procedure for special ballots whereby individual electors can request a ballot be sent to them and they then return it by mail, but this process is done only upon request.

Impact on Costs

Over the fiscal years from 2008-9 through to 2018-19, annual by-election, First Election and plebiscite costs totalled \$ 5,153,577, averaging \$ 468,507 per fiscal year. If the infrastructure had been in place to support a 'vote-by-mail' solution, and if the same electoral events were administered by 'vote-by-mail' solution, the estimated total costs were calculated to be \$1,445,195, averaging \$131,381 per fiscal year. Overall, a 72% savings could have been realized, as detailed below:

| FY | Actual Costs | Estimated Vote-by-mail costs | Savings | % Savings |
|--------------|--------------------|------------------------------|--------------------|--------------|
| 2008-2009 | \$101,847 | \$91,301 | \$10,546 | 10.4% |
| 2009-2010 | \$361,280 | \$88,301 | \$272,979 | 75.6% |
| 2010-2011 | \$569,723 | \$150,248 | \$419,475 | 73.6% |
| 2011-2012 | \$222,514 | \$82,688 | \$139,826 | 62.8% |
| 2012-2013 | \$232,624 | \$47,697 | \$184,927 | 79.5% |
| 2013-2014 | \$695,633 | \$151,524 | \$544,109 | 78.2% |
| 2014-2015 | \$1,113,536 | \$265,936 | \$847,600 | 76.1% |
| 2015-2016 | \$371,302 | \$159,942 | \$211,360 | 56.9% |
| 2016-2017 | \$331,713 | \$84,665 | \$247,048 | 74.5% |
| 2017-2018 | \$378,750 | \$94,544 | \$284,206 | 75.0% |
| 2018-2019 | \$774,655 | \$228,351 | \$546,305 | 70.5% |
| 2019-2020 | TBC | TBC | TBC | TBC |
| TOTAL | \$5,153,577 | \$1,445,195 | \$3,708,382 | 72.0% |

Proposed 'Vote-by-Mail' Procedures

A proposed 'vote-by-mail' solution would be set out in a regulation and detail procedures whereby:

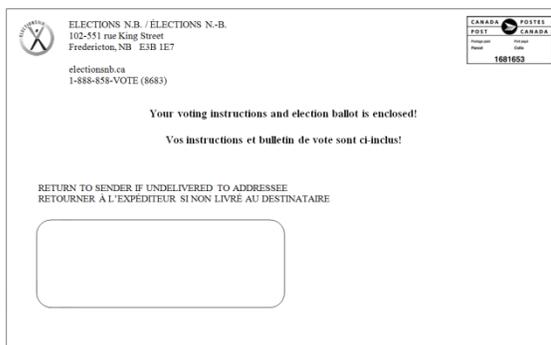
- Elections N.B. would open a call centre to accept requests to be added as an elector or corrections to existing elector information by telephone six weeks prior to the deadline to return ballots;
- Elections N.B. would begin radio, print, and social media advertisements in the municipality with a by-election or plebiscite to advise and educate electors;
- Elections N.B. would receive nomination papers from candidates until five weeks prior to the deadline to return ballots in order to provide candidates sufficient time to campaign;
- Four weeks prior to the deadline to return ballots, all registered electors would be sent a voting package consisting of:
 - An outer envelope;
 - Instructions as to how to vote by mail;
 - A postage-paid return envelope;
 - A certificate containing a declaration signed by the elector voting and space to submit a 'shared secret' being their birthdate or driver's license number;
 - A secrecy envelope in which the marked ballot will be placed; and
 - A ballot.
- Electors who did not receive a voting package could request a voting package by telephone until two weeks prior to the deadline to return ballots;
- Persons eligible to become an elector on or before the last date and time when return envelopes must be received by Elections N.B could request a voting package and simultaneously provide requisite information to be added to the list of electors when the return envelope and certificate is returned;
- As return envelopes are received, each will be logged and recorded as being received. Electors could contact Elections N.B. by telephone to know if their particular return envelope was

received. If an elector indicates he or she had not receive the voting package but records indicated one had been mailed, the original voting package could be flagged for cancellation, and not be accepted for counting should it be returned. Instead, a replacement voting package would be sent to the elector, and its return envelope with its contents would be accepted for counting.

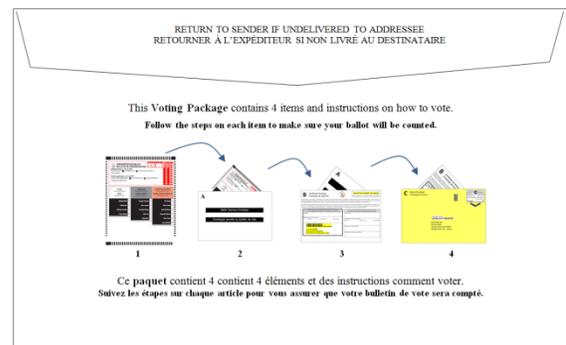
- By a particular date, the return envelope and its contents must be received at Elections N.B. to be considered. While the proposal at present assumes all completed return envelopes are directly mailed to Elections N.B. in Fredericton, it could be modified to also permit Service New Brunswick locations to act as a drop off point, where the collected packages would then be sent using internal mail to Elections N.B. in Fredericton, although this would require building in additional time, and process requirements;
- As each return envelope is received, Elections N.B. officials would record its return. Assuming it had not been cancelled by the elector, staff would then process its contents (which would contain a signed and completed certificate and an unmarked secrecy envelope which encloses only the completed ballot);
- Each properly signed and completed certificate would be examined to ensure the required information to vote is present. If an eligible elector has applied to be added to the list of electors, this addition would be first verified and completed;
- All secrecy envelopes containing ballots would be left sealed and be placed into a ballot box;
- Following the deadline to return ballots, Elections N.B. officials would begin the counting process, opening the secrecy envelopes and tabulating the ballots;
- Candidates or their scrutineer would be permitted to observe the processing and counting activities at the central facility. The Municipal Electoral Officer would appoint independent observers to monitor the counting process if no candidate representatives are present. As an added level of transparency, counting and processing activities could also be live-streamed on the internet so that anyone could watch as activities occur.
- Once all ballots are counted, the Municipal Electoral Officer would declare the results of the election or plebiscite being held.

Voting Package

Illustrations of a possible voting package’s contents are shown below:



Voting Package Front



Voting Package Rear

Impact on Voter Turnout

Voter turnout in electoral events varies considerably regardless if it is a general election, by-election or plebiscite. In recent years, Elections N.B. has introduced more convenient voting at returning offices, and advance polls, with little impact on the overall historical turnout, simply seeing a displacement of where electors go to cast their vote. The primary factor in determining turnout is not the means of how electors may vote, but rather the local interest in the event, whether it is relating to a particular issue or popular candidate.

In St. Johns, N.L., when 'vote-by-mail' was introduced in 2001, the city's election turnout increased by 5%, but over the last 4 city-wide elections, it has since returned to the same level of the 1990s.

| Election | Turnout | Method |
|----------|---------|------------------|
| 1990 | 33% | Polling stations |
| 1993 | 53% | Polling stations |
| 1997 | 55% | Polling stations |

| Election | Turnout | Method |
|------------------|-------------------------|---------|
| 2001 | 60.00% | Mail in |
| 2001 By-Election | 42.90% | Mail in |
| 2005 | 49.30% | Mail in |
| 2009 | 52.50% | Mail in |
| 2013 | <i>Estimated 52.10%</i> | Mail in |
| 2017 | 56.70% | Mail in |

During the B.C. HST referendum by mail in 2011, 49.4% of the province's 3.2 million electors voted. This compares very similarly to the B.C. general election in 2009, where 51.0% of the province's electors voted. During the B.C. 2015 Metro Vancouver Transportation and Transit Plebiscite, 51.1% of the region's 1.5 million electors voted, and during the B.C. Referendum on Electoral Reform, 42.6% of the province's 3.2 million electors voted.

Impact on Electors

The proposed 'vote-by-mail' solution could be accessed by each elector in the province, depending on if an electoral event were held in his or her area of residence. With sufficient simple instructions educating the elector as to how to vote, and radio, print, and social media advertisements (including information as to what cost savings are being experienced in the initial implementation), no elector will lose their right to vote. In fact, voting by mail may be more convenient for many electors.

Electors with disabilities would continue to be able to have a friend assist them in marking the ballot, but they would not be able to access the audio-vote technology now routinely deployed in returning offices. Electors with disabilities would gain the benefit of simply being able to send their return voting package in the mail, rather than having to travel to a particular polling station or returning office.

Electors living in nursing homes or special care homes would be mailed a voting package as would any other elector. These residents would still have the ability to have a 'friend' of the elector assist them in marking the ballot should they wish to have assistance. Family members or another treatment centre resident could do this and simply complete the appropriate section of the certificate form. Electors in shelters or with no permanent addresses could still apply for registration and request a ballot by phone, and use a local shelter address as their mailing address, as is done today. Some education and advertisement would need to be done in the local area to ensure organizations supporting elderly or transient electors could provide complete and correct information and assistance as needed.

In B.C., some arguments were made that youth do not know how to send conventional paper mail. Like the voting process in general, simple instructions with pictures, and a free no-cost business return envelope will remove this potential barrier. Rural and urban electors alike have access to any mailbox to deposit their return envelope.

Trust of Electors

Some electors may not trust Canada Post to deliver their return envelopes to Elections N.B., so a possible modification may be to permit electors to drop them off in person at Service New Brunswick locations. Some electors may still wish to vote at a polling station, as this is often a very social activity, but for the reasons noted above, any cost savings that would be gained from this proposal rely on the process being held entirely by mail.

Some electors may not trust that the Elections N.B. employees hired to process and tabulate their returned ballots would do so in the prescribed fashion to maintain the secrecy of their vote, but electors already trust that their vote is being tabulated properly in polling stations in their absence. The proposal provides for the ability to have candidates, their scrutineers or a proxy observe the ballot processing to ensure it is done in an open and transparent fashion. Additionally, live-streaming to the internet of the counting process could also be employed to enhance this level of transparency.

That said, there may not be a trust deficiency among electors. As an example, in the 2015 B.C. Metro Vancouver Transportation and Transit Plebiscite, Elections B.C. set up a program whereby concerned members of the public could apply to act as observers to the ballot processing. Over the duration of the entire program, only two requests were made, one by a CBC reporter to produce a story on the plebiscite, and a second by a citizen interested to simply see how the process worked, rather than out of a desire to ensure procedures were being followed correctly.

Impact on Candidates

Candidates would still continue to obtain their nomination papers from either the internet or their local town hall (Elections N.B. routinely supplies nomination kits to each municipality's clerk in advance of by-elections). Nomination papers could be mailed, faxed, or scanned and emailed or uploaded to the Municipal Electoral Officer. During the election period, provisions to permit candidates to purchase the appropriate list of electors would still exist, and candidates would be able to send scrutineers to observe the ballot processing and counting. That said, all ballot processing and counting would be done in Fredericton, regardless of where the candidate is running for election. Where candidates or their scrutineers are unable to travel to Fredericton, the proposal would have the Municipal Electoral Officer appoint independent scrutineers to oversee the ballot processing as proxies and broadcast the proceedings online.

Candidates will continue to be permitted to begin campaigning at any time for by-elections; there is no need to wait until the Notice of Election. The nomination deadline would give five full weeks prior to the deadline when electors would need to return their ballots, which is actually longer than the three weeks currently provided for in current municipal by-election periods.

The change that would be most visible from the candidate's perspective is that in the traditional polling station model, scrutineers can attend the polling stations and obtain lists of which electors have voted and presumably contact their supporters if they haven't yet voted. In practice, however, this is rarely, if

ever, done in by-elections, and typically only in larger municipalities for a few candidates in general elections. This information would not be available in a 'vote-by-mail' process due to the logistical and privacy issues in sending this information across the province. There is a potential that a secure candidate portal could be developed in the future, but detailed analyses of privacy and security must first be done.

Impact on Municipalities

Individual municipalities wishing to conduct a municipality-ordered plebiscite between general elections would also be able to utilize this alternative method of voting. Elections NB could easily conduct an electoral event and charge back to the municipality the appropriate cost per voter, with minimal administrative overhead costs, unlike the current system. The reduction in administration costs saves the costs to N.B. taxpayers as a whole, and may allow more flexibility in planning policy changes at the municipal level.

Required infrastructure

To allow a 'vote-by-mail' solution to work effectively, it is critical to be able to identify, for each elector, if their voting package has been mailed to them, returned as undeliverable, returned properly for counting, requested a second time (cancelling the first voting package), etc.

The proposed solution would be to license software currently in use by a company who provides this service to those Ontario municipalities using 'vote-by-mail'. Alternatively, Elections N.B. could develop a custom software application to track voting packages; however, a rough estimate of the programming work that would be required is approximately \$650,000.

At the Elections N.B. warehouse, some equipment would need to be purchased, including automatic envelope opening machines and vibrating tables to process incoming return envelopes. No costing has been attempted for this equipment.

Should a proposed 'vote-by-mail' proposal be approved in principle, Elections N.B. would seek funding to develop the required detailed technical analysis and system architecture plan as well as seek advice from Elections B.C. on processes so that implementation could proceed as efficiently as possible. Elections N.B. has no available budget to otherwise pay for this preparatory work.

Once complete, Elections N.B. would negotiate service contracts and seek funding from government to purchase the required equipment in advance of the first scheduled electoral event.

Why Not Use Remote Internet Voting?

An alternative to a 'vote-by-mail' process is remote Internet voting, where electors could vote unsupervised from their personal computer or mobile device. At this time, Elections N.B. does not advocate the use of internet voting in the province, pending the results of trials in other electoral jurisdictions, and the resolution of a number of other technical and security challenges that must be determined. The current plan to move to a chip-enabled N.B. driver's license, like the B.C. provincial services card, would help in allaying some concerns, but not all.

As recently as 2017, the New Brunswick Commission on Electoral Reform recommended that *“The government not proceed with electronic voting at this time, due to concerns related to security, confidentiality and privacy.”* and that *“the government consider electronic voting once these concerns have been addressed beginning with a pilot project.”*

Appendices

To provide the most complete information with this briefing note, a number of appendices are included:

Appendix A: Typical Schedule for a By-Election Conducted By Mail;

Appendix B: Proposed Rules for Vote-By-Mail;

Appendix A: Typical Schedule for a By-Election Conducted By Mail

By-elections are normally conducted now twice a year in May and October. A proposed 'vote-by-mail' schedule for a by-election held in May 2019 would have been as follows:

| Sunday | Monday | Tuesday | Wednesday | Thursday | Friday | Saturday |
|-------------|--|--|-------------|--|---|---|
| February 10 | February 11 | February 12 Deadline for receipt of plebiscite questions 1 | February 13 | February 14 | February 15 | February 16 |
| February 17 | February 18 | February 19 | February 20 | February 21 | February 22 | February 23 |
| February 24 | February 25 | February 26 | February 27 | February 28 | March 1 | March 2 |
| March 3 | March 4 | March 5 | March 6 | March 7 | March 8 Deadline to resign seat to run in by-election 2 | March 9 |
| March 10 | March 11 | March 12 | March 13 | March 14 | March 15 | March 16 Notice of Election published |
| March 17 | March 18 Call centre opens Voting packages may be requested | March 19 | March 20 | March 21 | March 22 | March 23 |
| March 24 | March 25 | March 26 | March 27 | March 28 | March 29 Deadline for candidate nominations | March 30 |
| March 31 | April 1 Deadline to withdraw as candidate 3 | April 2 Data sent to print voting packages | April 3 | April 4 | April 5 | April 6 |
| April 7 | April 8 Initial mailing of voting packages | April 9 | April 10 | April 11 | April 12 | April 13 |
| April 14 | April 15 | April 16 | April 17 | April 18 | April 19 Deadline to request voting package | April 20 |
| April 21 | April 22 | April 23 | April 24 | April 25 | April 26 | April 27 |
| April 28 | April 29 | April 30 | May 1 | May 2 | May 3 Deadline to receive return envelopes | May 4 |
| May 5 | May 6 Ballot counting begins | May 7 | May 8 | May 9 | May 10 | May 11 |
| May 12 | May 13 Election results announced | May 14 | May 15 | May 16 | May 17 | May 18 |
| May 19 | May 20 | May 21 | May 22 | May 23 Deadline to request a recount 4 | May 24 | May 25 |

1 Deadline for receipt of plebiscite questions is 45 days prior to nomination day. (*Municipal Elections Act, ss.46(4)*)

2 Deadline to resign seat to run in a by-election is 21 days prior to nomination day. (*Local Governance Act, ss.55(3)*)

3 Deadline to withdraw as a candidate is 3 days after nomination day. (*Municipal Elections Act, ss.17(4)*)

4 Deadline to request a recount is 10 days after Election Day. (*Municipal Elections Act, ss.41.1(1)*)

Appendix B: Proposed Rules for a Vote-By-Mail Process

NOTE: The actual wording of a vote-by-mail regulation would be adjusted during the drafting process. This proposed wording outlines procedures based upon the British Columbia Referendum Act, HST Referendum Regulation, with changes made to relate to New Brunswick. Some sections dealing with candidates and their representatives have been modeled after provisions found in the City of St. John's vote-by-mail by-law #1441.

Definitions

1. The following definitions should be provided:

"ballot" means a ballot paper, in the form prescribed by the Municipal Electoral Officer, that sets out the various candidates or plebiscite question to be voted on;

"close of voting" means the last date and time when return envelopes may be received by Elections N.B. as specified in the Notice of Election;

"communities to be polled" means the municipalities, rural communities, local service districts, or other grouping defined by statute or regulation, containing the electors eligible to vote under this regulation;

"election officer" includes all officials defined in the *Municipal Elections Act* and includes any other person appointed by the Municipal Electoral Officer having any duty to perform under this regulation;

"electoral event" means an election, by-election, or plebiscite which is to be conducted using the procedures outlined in this regulation;

"Elections N.B." means the office of the chief electoral officer under section 5 of the *Elections Act*;

"elector" has the same meaning as in the *Elections Act*;

"plebiscite question" means a question provided to electors of a designated municipality, rural community, or local service district in the province under this regulation;

"registered elector" means, in relation to an eligible elector, an elector who is listed at a current address on the register of electors established under section 20.1 of the *Elections Act*;

"resident" has the same meaning as defined in section 14 of the *Municipal Elections Act*;

"residential address" means the civic address at which a person is resident;

"voting package" means the set of materials sent to a registered elector in order to participate in the election or by-election being administered by this regulation.

Conduct of Electoral Event

2. The Municipal Electoral Officer shall be responsible for:

- a. maintaining an electronic tracking system to record which voting packages have been sent out, cancelled and replaced, and returned to Elections N.B. in order to ensure that only one ballot per registered elector is accepted for counting in an electoral event;
- b. arranging the preparation of the voting packages and other materials required for the conduct of the electoral event;
- c. appointing election officers, issuing guidelines and instructions; and
- d. conducting the electoral event.

3. An electoral event must be conducted by the distribution by mail of a voting package:

- a. to each registered elector in the communities to be polled, and
- b. to each person resident in the communities to be polled who is not yet a registered elector but:
 - i. is eligible to vote under section 13 of the *Municipal Elections Act*, on or before the last date and time when return envelopes must be received by Elections N.B., and

- ii. applies to Elections N.B. requesting a voting package in accordance with the section titled “How to Apply for a Voting Package”.

4. When the Municipal Electoral Officer conducts an electoral event using these procedures, he must give a Notice of Election containing as appropriate:

- a. the communities to be polled;
- b. a list of offices to be filled,
- c. the date and time fixed for the close of nominations,
- d. any questions to be submitted to a plebiscite,
- e. the date when voting packages will be distributed to electors,
- f. the date when electors may begin to request a voting package,
- g. how to request a voting package,
- h. the last date when electors may request a voting package,
- i. the last date and time when return envelopes may be received by Elections N.B.,
- j. the date when the electoral event results will be announced,
- k. any other information the Municipal Electoral Officer may add to assist with the conduct of the electoral event.

5. If, during the electoral event, it transpires that insufficient time has been allowed for the execution of any of these procedures, such as a service disruption by Canada Post or a contractor, the Municipal Electoral Officer must have the ability to extend the deadline for any date specified in the Notice of Election. Subsection 47 of the *Municipal Elections Act* must continue to be applicable.

6. To ensure prompt delivery of all return envelopes to the appropriate location, a separate postal box shall be secured and shall remain separate from any and all other postal addresses utilized by Elections N.B.

Close of Nominations

7. If these procedures are used in a by-election or first election, candidates may deposit a nomination paper with the Municipal Electoral Officer at any time between the giving of the Notice of Election and the date and time fixed for the close of nominations. This may be done by sending it by facsimile machine, scanning and email, or by mailing the nomination paper directly to Elections N.B.

8. The date fixed for the close of nominations should be not less than 14 days prior to the deadline date when voting packages may be requested by a registered elector. The time fixed for the close of nominations should be 4:30 p.m., the normal office closing time, to permit the government mail delivery service to deliver any necessary mail.

9. After nominations close, the Municipal Electoral Officer shall ensure that a list of the nominated candidates and their particulars are posted to the Elections N.B. website.

10. The procedures must allow a nominated candidate to withdraw at any time not later than three days following the date fixed for the close of nominations by filing with the Municipal Electoral Officer a declaration in writing to that effect, signed by the candidate, and attested by the signatures of two qualified electors in the community to be polled in which the candidate has been nominated. Any votes cast for a candidate who has so withdrawn are null and void.

Submission of Plebiscite Question

11. When a plebiscite is to be held using these procedures, a certified copy of the question must be provided to the Municipal Electoral Officer in both official languages 45 days prior to the date fixed for close of nominations, as is currently required under subsection 46(4) of the *Municipal Elections Act*.

Close of Voting

12. For a ballot to be considered, the return envelope and its contents must:
- a. be mailed or delivered to Elections N.B., and
 - b. be received by Elections N.B. not later than the date and time fixed for the close of voting.

How to Become a Registered Elector

13. The procedure in this section is simply a modified form of the existing procedure outlined in subsection 36(3) of the *Municipal Elections Act*.

14. If a person is an eligible elector but is not a registered elector, the person may become a registered elector by completing an application to be added to the voters list and a declaration of qualification to vote in a form prescribed by the Municipal Electoral Officer and providing either:

- a. the person's drivers license number (which combined with data already received regularly from Public Safety) would enable Elections NB to meet the threshold of comparing the person's name and civic address as provided with the digital data. The declaration form would require the person's signature stating that they are a Canadian citizen and have or will have lived in the province for 40 days and were otherwise qualified to vote on or before the last date and time when return envelopes must be received by Elections N.B. If a match is found, the elector would be added as a registered elector; or
- b. a photocopy of one or more identification documents, excluding financial or credit cards, that between them show the person's name, current civic address and signature. The photocopy would enable Elections N.B. to view the person's name and civic address and signature on the identification documents. The declaration form would require the person's signature stating that they are a Canadian citizen and have or will have lived in the province for 40 days and are otherwise qualified to vote on or before the last date and time when return envelopes must be received by Elections N.B. When the required information is provided, the elector would be added as a registered elector.

15. The application to be added to the voters list and a declaration of qualification to vote may be provided in paper form, by facsimile machine, or by electronic submission (scan and email), but would normally be included in the return envelope.

How to Update Elector Registration Information

16. The procedures must allow that if a registered elector:
- a. has changed the place where he or she is resident, or
 - b. has changed his or her name,

the elector may apply to update his or her registration information in conjunction with voting in the electoral event by completing the change form provided on the certificate envelope.

How to Apply for a Voting Package

17. An eligible elector may apply to become a registered elector and apply for a voting package simultaneously.

18. A registered elector who did not receive a voting package may apply to Elections N.B. to request the voting package by telephone.

19. A request for a voting package may be made at any time between:

- a. the date when electors may begin to request a voting package, and
- b. the last date when electors may request a voting package.

20. When a request for a voting package is made, the election officer shall first determine if a voting package has already been mailed to the elector. Where a decision is made to send the registered elector a subsequent voting package for any reason, any previously sent voting package shall be cancelled in the electronic tracking system, such that any cancelled return envelopes will not be considered.

21. Subject to the section titled “How to arrange for replacement of a spoiled ballot”, an individual may not apply for more than one voting package.

What is to be Included in a Voting Package

22. A voting package for the electoral event must include all of the following:

- a. an outer envelope for shipping the voting package to the registered elector;
- b. instructions advising the elector on the procedure for marking the ballot and how the secrecy envelope and certificate envelope are to be used;
- c. a postage-paid return envelope;
- d. a certificate envelope;
- e. a secrecy envelope for the marked ballot; and
- f. a ballot.

23. If the Municipal Electoral Officer considers it advisable for the purpose of conducting the electoral event, the voting package may provide additional information for the registered elector respecting voting in the electoral event.

24. Certificate envelopes will be as prescribed by the Municipal Electoral Officer, and contain the following information:

- a. a space in which to record the full name, civic address of the eligible elector who is voting;
- b. a space to provide change of name and/or change of civic address information,
- c. a space for collection of driver’s license number information for persons applying to become a registered elector simultaneously with voting,
- d. a space in which to record the signature and date of birth of the eligible elector who is voting;
- e. instructions to a person assisting a registered elector to vote, a space to provide the name and signature of the person assisting a registered elector to vote, and a declaration in the form prescribed by the Municipal Electoral Officer;
- f. a printed declaration in the form prescribed by the Municipal Electoral Officer, to be signed by the registered elector who is voting;
- g. If the Municipal Electoral Officer considers it advisable for the purpose of conducting the electoral event, certificate envelopes may request further information from the registered elector who is voting and may provide additional information for the registered elector respecting voting in the electoral event.

How to vote using the voting package

25. To vote using a voting package, a registered elector must do the following:

- a. mark the ballot in the designated area next to the desired candidate, or plebiscite response by filling in or making a cross or tick in the designated area;
- b. place the ballot in the secrecy envelope provided;
- c. seal the secrecy envelope;
- d. complete the certificate envelope by:
 - i. providing the registered elector's full name, civic address and date of birth, and
 - ii. signing the declaration printed on the certificate envelope for this purpose;
- e. place the secrecy envelope in the certificate envelope provided;
- f. seal the certificate envelope;
- g. place the certificate envelope in the return envelope provided;
- h. seal the return envelope;
- i. deliver the sealed return envelope containing the voting materials referred to in the previous paragraphs to Elections N.B. at the official address printed on the return envelope, so that it is received by the date and time specified in the Notice of Election.

26. Each registered elector wishing to vote has the responsibility of completing their ballot in accordance with the proposed regulation, and returning it to Elections N.B. in the manner noted above.

How to arrange for replacement of a spoiled ballot

27. A registered elector who spoils a ballot before it is returned to Elections N.B. may request a replacement voting package.

28. If a replacement voting package is issued under this section, the election officer responsible must
- a. instruct the registered elector on what is to be done with the spoiled ballot, and
 - b. make a notation of the replacement in the record maintained for that purpose.

Individuals needing assistance

29. A registered elector who:

- a. is unable to vote, or request a voting package, because of physical disability or difficulty with reading or writing, or
- b. requires the assistance of a translator to read the ballot and the instructions for voting;

may be assisted by another individual using the same procedures as outlined in section 38 of the *Municipal Elections Act*.

30. If a registered elector requires assistance to vote, the elector may be assisted by another person chosen by the elector, which person shall take an oath in the form prescribed by the Municipal Electoral Officer on the certificate envelope to mark the elector's ballot paper in accordance with the elector's directions, and to keep secret the vote of such elector.

31. A person other than an election officer may assist only one voter to vote in an electoral event.

32. A person who is assisting a registered elector must:
- a. preserve the secrecy of the ballot;
 - b. mark the ballot in accordance with the directions of the elector, and
 - c. refrain from attempting in any manner to influence the elector as to how the elector should vote.

33. If a registered elector requiring assistance to vote is unable to sign the declaration on the certificate envelope, the person assisting the elector must sign and provide the information required on the certificate envelope.

34. A person must not provide assistance as a translator to an elector unless the person is able to make the translation and makes it to the best of his or her abilities.

35. For certainty, an individual is not considered to have voted or to have applied for a voting package by providing assistance to a registered elector under this section.

Review of voting packages returned as undeliverable

36. All voting packages will be imprinted with "RETURN TO SENDER IF UNDELIVERED TO ADDRESSEE". All voting packages that are returned to Elections N.B. by Canada Post as undeliverable for whatever reason are to be dealt with by the election officer responsible as follows:

- a. on receipt, the election officer must log its return in the record maintained for that purpose;
- b. retain the unopened voting package in a receptacle designated for that purpose; and
- c. the voting package must remain unopened and its contents must not be considered in the electoral event.

Initial review of returned envelopes for an electoral event

37. A return envelope that is received past the last date and time when voting packages may be received by Elections N.B. is to be dealt with by the election officer responsible as follows:

- a. on receipt, the election officer must record the date of receipt on the return envelope;
- b. retain the return envelope and its contents in a receptacle designated for that purpose; and
- c. the return envelope must remain unopened and its contents must not be considered in the electoral event.

38. A return envelope that is received by Elections N.B. prior to the last date and time when voting packages may be received by Elections N.B. is to be dealt with by the election officer responsible as follows:

- a. on receipt, the election officer must open the return envelope;
- b. the certificate envelope must be considered in accordance with the section titled "Consideration of certificate envelopes", to determine whether the certificate envelope must remain unopened and its contents must not be considered in the electoral event.

Consideration of certificate envelopes

39. All certificate envelopes to be considered are to be dealt with by the election officer responsible as follows:

- a. the election officer must log its return in the record maintained for that purpose;
- b. because registered electors may request more than one voting package in an election whereby the previous voting package is cancelled, the election officer must review the records of cancelled voting packages maintained for that purpose;
- c. if it is determined that the certificate envelope and its contents were previously cancelled, the election officer must:
 - i. log its return in the record maintained for that purpose; and
 - ii. retain the certificate envelope and its contents in a receptacle designated for that purpose; and
 - iii. the certificate envelope must remain unopened and its contents must not be considered in the electoral event.

- d. if it is determined that the certificate envelope is signed by a person applying to become a registered elector simultaneously with returning his or her ballot, the information provided must be reviewed to determine if the person may be added as a registered elector. The election officer must:
 - i. log its return in the record maintained for that purpose; and
 - ii. process the certificate envelope in accordance with the section “Consideration of certificate envelopes with a request for registration”.
- e. if it is determined that the certificate envelope and its contents were not previously cancelled, and that the certificate envelope does not appear to be signed by a person applying to become a registered elector the election officer must consider the information contained on the certificate to determine whether the secrecy envelope and any ballot in it should be considered on the count for the electoral event.

40. If the certificate includes the registered elector’s date of birth and has been properly signed by that registered elector, it shall be considered as completed. The election officer must:

- a. compare the completed certificate envelope with information from the register of electors to determine whether the secrecy envelope and any ballot in it should be considered on the count for the electoral event.
- b. when the information on a completed certificate envelope does not match the information held on the register of electors and any attempt to verify or correct the discrepancy cannot resolve the difference:
 - i. the certificate envelope must be marked as having been dealt with under this provision;
 - ii. log this in the record maintained for that purpose; and
 - iii. retain the certificate envelope and its contents in a receptacle designated for that purpose; and
 - iv. the certificate envelope must remain unopened and its contents must not be considered in the electoral event.
- c. when the information on a completed certificate envelope matches the information held on the register of electors, the certificate envelope must be opened in accordance with the section “Opening of completed certificate envelopes”.

Consideration of certificate envelopes with a request for registration

41. All certificate envelopes including a request by a person applying to become a registered elector simultaneously with returning his or her ballot are to be dealt with by the election officer responsible as follows:

- a. review the completed declaration on the certificate envelope;
- b. compare the completed certificate envelope with driver’s licence information supplied to Elections N.B. by Public Safety;
- c. if required, open the completed certificate envelope to review any photocopies of identification that may be included;

42. When not enough information has been provided to add the person as a registered elector, and any attempt to verify or correct the discrepancy cannot be resolved, the election officer must:

- a. not add the person as a registered elector;
- b. log this in the record maintained for that purpose;
- c. mark the certificate envelope as having been dealt with under this provision; and

- d. not open the certificate envelope and its contents must not be considered in the electoral event.

43. When sufficient information has been provided to add the person as a registered elector, the election officer must:

- a. add the person as a registered elector;
- b. open the certificate envelope in accordance with the section "Opening of completed certificate envelopes".

Opening of completed certificate envelopes

44. Completed certificate envelopes must be opened one at a time and dealt with by the election officer responsible as follows:

- a. If a completed certificate envelope contains more than one secrecy envelope,
 - i. the secrecy envelopes must be resealed in the certificate envelope,
 - ii. log this in the record maintained for that purpose;
 - iii. the certificate envelope must be marked as having been dealt with under this provision, and
 - iv. the certificate envelope must not be reopened and the secrecy envelopes must remain unopened and their contents must not be considered in the electoral event.
- b. If a completed certificate envelope contains a ballot but no secrecy envelope, the election officer responsible must place the ballot with other ballots to be counted, taking care to conceal any marking on the ballot from other individuals present;
- c. If a secrecy envelope is uniquely marked, or otherwise uniquely dealt with, in such a manner that the voter could reasonably be identified, the election officer responsible must open the secrecy envelope, remove the ballot and place it with other ballots to be counted, taking care to conceal any marking on the secrecy envelope and ballot from other individuals present;
- d. if not otherwise dealt with under paragraphs (a) to (c), a secrecy envelope must be removed from its completed certificate envelope and placed with other secrecy envelopes to be opened and ballots to be counted.

Opening of secrecy envelopes

45. Secrecy envelopes to be opened are to be opened one at a time and dealt with as follows:

- a. if a secrecy envelope contains more than one ballot,
 - i. the ballots must be resealed in the secrecy envelope,
 - ii. the secrecy envelope must be marked as having been dealt with under this provision, and
 - iii. the secrecy envelope must not be reopened and the ballots in it must not be considered or counted;
- b. if a secrecy envelope contains only one ballot, the ballot must be placed with other ballots to be counted, taking care to conceal any marking on the ballot from other individuals present.

Counting the votes – criteria for accepting or rejecting a ballot

46. The Municipal Electoral Officer may issue instructions to any election officer with respect to the conduct of the electoral event and the procedures to be followed, and shall ensure that instructions relating to the nomination procedure for candidates, voting procedures and the counting of ballot papers are published on the website of Elections New Brunswick at least sixty days before the Notice of Election for electoral event is published.

47. The instructions issued for the counting of ballots will vary depending on whether the count is done by hand or by using a tabulation machine. The instructions that would be posted would generally mirror those instructions currently posted online for the nomination procedure for candidates, voting procedures and the counting of ballot papers.

Who may be present at the counting proceedings

48. Subject to the following paragraph, the only individuals who may be present at a place where counting proceedings are being conducted are

- a. election officers;
- b. one candidate representative appointed by each candidate;
- c. candidates, and
- d. individuals authorized to be present by the Municipal Electoral Officer.

49. Notwithstanding the previous paragraph, the Municipal Electoral Officer may restrict the number of candidates or candidate representatives at a place where counting proceedings are being conducted at any one time, by appointing one or more independent observers to monitor the counting process.

50. The Municipal Electoral Officer may provide a live video broadcast of the counting proceedings on the internet if appropriate technical capabilities exist.

51. Unless authorized by the Municipal Electoral Officer, no cellphones or similar electronic communications equipment shall be used in the counting areas at any time during the counting of ballots.

52. Candidates and candidate representatives present at a place where counting proceedings are being conducted shall be subject to the following rules. They:

- a. will conduct themselves in a professional manner;
- b. will not interfere with the activities of the election officers;
- c. will address all questions to the election officer supervising the counting proceedings and will comply with their directions;
- d. will be provided with an identification badge and must wear it at all times while in the counting area;
- e. may not handle any ballots or election materials;
- f. will keep secret the names of any candidates for whom, or the answer to any plebiscite question for which, any voter has marked his or her ballot paper at the electoral event, and that they will otherwise carry out the requirements of the *Municipal Elections Act* relating to candidate representatives;
- g. must acknowledge, in writing, their agreement to observe the above noted rules.
- h. acknowledge that failure to observe the above stated rules shall result in the them being removed from the counting area.

Results of the electoral event

53. Following the deadline when voting packages must be received by Elections N.B. to be considered in the count, counting of the votes may begin.

54. Sections 41, 41.1 and 42 of the *Municipal Elections Act*, changing references from municipal returning officer to Municipal Electoral Officer would permit the results of the electoral event to be compiled and declared under this proposed vote-by-mail procedure. Recount procedures where

candidates are involved would remain the same, as would the actions to be taken in the event of a tie between two candidates, except that the Municipal Electoral Officer would do the initial recount.

55. The Municipal Electoral Officer must report the results of the electoral event on the date indicated in the Notice of Election.

Electoral event materials to be retained

56. Section 43 of the *Municipal Elections Act*, referring to the care and custody of election materials used in the electoral event are adopted, with suitable modifications to apply to this vote-by-mail procedure. All election materials may be destroyed after thirty days unless they may be involved in a recount in which case they may be destroyed thirty days after the recount.

Application of *Municipal Elections Act* Provisions

57. The *Municipal Elections Act* procedures relating to the overall conduct of an election are applicable, and only those procedures dealing with polling stations, opening of municipal returning offices, and those procedures not required or applicable to a vote-by-mail procedure would not be applicable.

Offences

58. Offences in the *Municipal Elections Act* are applicable, although slight alterations may need to be done to ensure they apply equally to the vote-by-mail procedures.

59. Due to the time required to investigate an offence under this proposed procedure, the time limit for commencing proceedings respecting an offence under this proposed regulation should be one year after the facts on which the information is based first came to the knowledge of the Municipal Electoral Officer. A document purporting to have been issued by the Municipal Electoral Officer, certifying the day on which the Municipal Electoral Officer became aware of the facts on which the alleged offence is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.