

# BILL

No. 203 of 2006-07

## An Act to provide for the Election of Saskatchewan Nominees for Appointment to the Senate of Canada

(Assented to \_\_\_\_\_)

### Preamble

WHEREAS as an interim measure until Senate reform is achieved any person summoned to fill a vacancy in the Senate should to be chosen from among persons whose names have been submitted by the government of the province to which the vacancy relates; and

WHEREAS the persons whose names are submitted to the Queen's Privy Council for Canada for appointment to the Senate for Saskatchewan should be determined by the people of Saskatchewan by democratic election.

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

### Short title

1 *The Senate Nominee Election Act.*

### Interpretation

2(1) In this Act:

- (a) “**candidate**” means a person:
  - (i) who is nominated as a candidate;
  - (ii) who is nominated by a registered political party; or
  - (iii) who, on or after the date of issue of a writ for an election pursuant to this Act, declares himself or herself to be an independent candidate and complies with the nomination requirements;
- (b) “**registered political party**” means a political party that is registered either provincially or federally;
- (c) “**Senate nominee**” means a person who has participated as a candidate in an election pursuant to this Act and whose name appears on the list of current senator nominees;

- (2) For the purposes of this Act, a document that is required to be filed with the Chief Electoral Officer is filed when it is actually received by the Chief Electoral Officer;
- (3) Except as provided in this Act, words and phrases used in this Act have the meanings given to them in *The Election Act, 1996*.

**Purpose**

**3** This Act provides a mechanism for the election and selection of a maximum of four individuals to be considered for appointment to the Senate of Canada for Saskatchewan.

**Submission to Privy Council and Senate nominee list expiry**

**4(1)** Following each election that is held pursuant to this Act, the Government of Saskatchewan shall submit the name of names of the Senate nominees to the Queen's Privy Council for Canada as persons who may be summoned to the Senate of Canada for the purpose of filling vacancies relating to Saskatchewan.

- (2) A person remains as a Senate nominee until the earliest of:
- (a) the day the person is appointed to the Senate of Canada;
  - (b) the day the person resigns as a Senate nominee by submitting a resignation in writing to the Minister responsible for this Act;
  - (c) the date for the return to the writ of election for each election held pursuant to this Act;
  - (d) the day the person takes an oath or makes a declaration or acknowledgement of allegiance, obedience, or adherence to a foreign power, or does an act whereby the person becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power;
  - (e) the day the person is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter;
  - (f) the day the person is convicted of treason or convicted of a felony or of any infamous crime;
  - (g) the day the person no longer meets the qualifications for appointment to the Senate of Canada pursuant to section 23 the *Constitution Act, 1867*;
  - (h) the day the person ceases to be eligible to be nominated as a candidate pursuant to section 8.

**Authorization to commence election**

**5(1)** An election pursuant to this Act is to be commenced by the Lieutenant Governor in Council issuing an order for a writ of election in the prescribed form that is addressed to the Chief Electoral Officer and prescribing the date of the return to the writ for persons to be elected and setting a date for nomination day.

- (2) An election pursuant to this Act must be held in conjunction with a general election pursuant to *The Election Act, 1996*.

(3) The order issued pursuant to subsection (1) shall be made not later than three days after the issue of the writ of election of a general election pursuant to *The Election Act, 1996* and request that:

- (a) nomination day be the same day as nomination day for the general election pursuant to *The Election Act, 1996*; and
- (b) polling day, if voting is necessary, shall be the same day as the day on which voting is to take place for the general election pursuant to *The Election Act, 1996*.

#### **Issue of writ**

**6** On receipt of a writ of election pursuant to section 5, the Chief Electoral Officer shall endorse on it the date on which the Chief Electoral Officer received it and shall:

- (a) advise each returning officer that a writ for senate nominee elections has been issued; and
- (b) transmit a copy of the writ for senate nominee elections to each returning officer.

#### **Eligibility as election officials**

**7** A member of the Senate of Canada may not be appointed as an election official for the purpose of conducting an election pursuant to this Act.

#### **Eligibility for nomination**

**8** A person is eligible to be nominated as a candidate in an election pursuant to this Act if:

- (a) on the day the nomination paper is filed, the person:
  - (i) meets the qualifications set out in section 23 of the *Constitution Act, 1867*;
  - (ii) is not a member of the House of Commons;
- (b) the person is not a candidate for a constituency in the general election being held pursuant to *The Election Act, 1996*;
- (c) the person is not prohibited from being a candidate for election pursuant to *The Election Act, 1996*;
- (d) the person is not prohibited from being a candidate for election pursuant to this Act or pursuant to any provisions of *The Election Act, 1996*, as those provisions apply to this Act; and
- (e) the person is and has been ordinarily resident in Saskatchewan for at least six months immediately preceding nomination day.

**Nomination of candidates**

9(1) At any time following publication of the proclamation for an election pursuant to this Act prior to 2 p.m. of the date fixed for the closing of nominations, 500 or more electors may nominate a person eligible to be a candidate as a candidate by signing a nomination paper in the prescribed form and filing it with the Chief Electoral Officer.

(2) The signatures of the electors nominating a candidate shall be witnessed by another elector who shall complete the required affidavit prior to the filing of the nomination papers.

**Official agents of candidates**

10(1) Each person being nominated as a candidate shall appoint an elector to be the person's official agent on the person's nomination and shall include the name, address and telephone number of the person so appointed in the appropriate place on the nomination form.

(2) The duties of an official agent are those prescribed by the candidate.

(3) The official agent shall not perform the duties of the chief financial officer unless the official agent is the candidate's chief financial officer.

(4) If it becomes necessary to appoint a new official agent, the candidate shall immediately notify the Chief Electoral Officer in writing of the name, address and telephone number of the person so appointed.

**Filing nomination papers**

11(1) A nomination paper is not valid unless:

(a) it states an address within Saskatchewan at which documents may be served and notices given respecting the candidate;

(b) it contains the appointment, name, address and telephone number of the official agent of the person being nominated;

(c) it states that the person being nominated:

(i) is eligible pursuant to section 8 for nomination; and

(ii) consents to the person's nomination;

(d) it states whether the person being nominated is an independent candidate or is the officially endorsed candidate of a registered political party;

(e) it is accompanied with an affidavit in the prescribed form of each elector who witnessed the signatures of the electors nominating the candidate;

(f) it is accompanied with a deposit equal to the deposit requirements of *The Election Act, 1996*;

(g) it is signed by the candidate; and

(h) it is filed with the Chief Electoral Officer prior to 2 p.m. on the date fixed for the closing of nominations.

(2) If the person being nominated is the candidate of a registered political party, the person shall, at the time of filing the person's nomination paper, file a certificate in the prescribed form stating that the person is a candidate for that registered political party.

(3) On the filing of a valid nomination paper, the Chief Electoral Officer shall give a receipt in the prescribed form, which is proof of receipt of the deposit and of the filing of the nomination paper.

#### **Deposit of candidate**

**12(1)** The Chief Electoral Officer shall not accept a deposit tendered pursuant to clause 11(1)(f) unless it consists of:

- (a) Bank of Canada notes;
- (b) a certified cheque or certified bill of exchange;
- (c) a bank or postal money order; or
- (d) a combination of any of those forms.

(2) The deposit shall be refunded to the candidate if the candidate:

- (a) receives a sufficient number of votes in order to qualify for the list of Senate nominees for Saskatchewan;
- (b) obtains a number of votes equal to at least one-half of the total number of votes obtained by the candidate whose name is last on the list of Senate nominees for Saskatchewan; or
- (c) withdraws within 48 hours after the filing of the candidate's nomination paper.

(3) If a candidate dies after being nominated and prior to the closing of the polling places on polling day, the deposit shall be refunded to the candidate's personal representative.

(4) A deposit that is not refunded pursuant to this section shall be retained by the Office of the Chief Electoral Officer to defray the cost of senate nominee elections.

#### **Information to be provided to candidate**

**13** The Chief Electoral Officer, on filing the nomination paper of a candidate, shall provide to the candidate the name, address and telephone number of each returning officer.

#### **Election by acclamation**

**14** If only one candidate is nominated by the closing of nominations the Chief Electoral Officer shall declare that candidate elected by acclamation and declare that candidate's name as being the list of Senate nominees for Saskatchewan.

**Withdrawal of candidate**

15(1) At any time after the filing of a candidate's nomination paper but not later than 96 hours before the opening of the polls on polling day, a candidate may withdraw by filing with the Chief Electoral Officer a declaration to that effect signed by the candidate and having the candidate's signature witnessed.

(2) If a candidate withdraws after the ballots are printed and there remain 2 or more candidates:

(a) the Chief Electoral Officer shall advise each returning officer of the withdrawal; and

(b) if there is sufficient time, the returning officer shall prepare a notice of withdrawal and distribute a copy to each deputy returning officer, who shall post it in a conspicuous location in the deputy returning officer's polling place.

(3) When there is insufficient time to prepare and distribute a notice of withdrawal pursuant to subsection (3), the Chief Electoral Officer, when advising the returning officers of the withdrawal, shall instruct each of them to cause a notice of the withdrawal to be prepared by hand, and each deputy returning officer shall post the notice in a conspicuous location in the deputy returning officer's polling place.

**Death of candidate**

16 If a candidate dies after being nominated and prior to the closing of the polling places on polling day, any votes cast for that candidate shall not be counted.

**Close of nominations**

17(1) At 2 p.m. on the date fixed for the closing of nominations, the Chief Electoral Officer shall, at the place fixed for the filing of nominations:

(a) declare the nominations closed;

(b) announce the names of all officially nominated candidates;

(c) announce the name, address and telephone number of each candidate's official agent; and

(d) announce the polling date and the place, date and time at which the official results of the election will be announced.

(2) On complying with subsection (1), the Chief Electoral Officer shall, as soon as possible:

(a) make available a list of the candidates to each candidate or each candidate's official agent; and

(b) publish in the prescribed form the names and addresses of the candidates' official agents in one or more newspapers of general circulation.

**Contents of ballots**

- 18(1) Every ballot used in an election shall contain a brief explanatory note stating that a maximum of four candidates may be voted for.
- (2) The name of each candidate shall be printed on each ballot together with:
- (a) the name of the registered political party for which the candidate is the candidate; or
  - (b) the word “Independent” if the candidate is not a candidate for a registered political party.
- (3) The names of the candidates shall be printed on the ballot in alphabetical order by surname, with each candidate’s given name, initials or nickname, or any combination of them following their respective surnames, and without the addition of any titles, degrees prefixes or suffixes.

**Printing of ballots**

- 19(1) The Chief Electoral Officer shall print the ballots for use in the election.
- (2) The printer shall deliver to the Chief Electoral Officer with the ballots a completed and executed affidavit of printer in the prescribed form.
- (3) The Chief Electoral Officer shall provide each returning officer with a sufficient quantity of ballots and shall maintain a record of the number provided.
- (4) Each returning officer shall maintain a record of the quantity of ballots provided to the deputy returning officers.

**Conduct of official tabulation**

- 20(1) Each returning officer shall, within four days after the vote has taken place, submit to the Chief Electoral Officer the statement of official results prepared by the returning officer.
- (2) The Chief Electoral Officer shall add together the results of the counts set out in the statement of official results prepared by the returning officers in order to determine the number of votes each candidate received.
- (3) The Chief Electoral Officer shall give written notice to each candidate or each candidate’s official agent of the place, date and hour of commencement of the addition referred to in subsection (2).
- (4) If it appears on the addition of the votes that two or more candidates received the same number of votes, and if it is necessary for determining which candidate is elected, the Chief Electoral Officer shall:
- (a) write the names of those candidates separately on blank sheets of paper of equal size and of the same colour and texture;
  - (b) fold the sheets of paper in a uniform manner so that the names are concealed;

- (c) deposit them in a receptacle and direct a person to draw one of the sheets; and
  - (d) declare the candidate whose name appears on the drawn sheet to have one more vote than the other candidate or candidates, as the case may be.
- (5) The drawn sheet shall be sealed in an envelope marked with the words “Declared Vote” and kept separate from the other ballots.
- (6) On completing the addition, the Chief Electoral Officer shall provide to each candidate or each candidate’s official agent a certificate and return in the prescribed form indicating the number of votes for each candidate and the name of the candidate or candidates whose names will appear on the senate nominee list for Saskatchewan.
- (7) On complying with subsection (6), the Chief Electoral Officer shall prepare the tabulation of official results.

**Announcement of official results**

**21(1)** The Chief Electoral Officer shall attend at the place, date and time stated in the election proclamation to announce the official results of the election pursuant to this Act and declare which candidates names and in what order the names will appear on the Senate nominee list for Saskatchewan.

(2) The Chief Electoral Officer shall establish the list of senate nominees by referring to the number of votes received by candidates in the current election.

(3) Subject to section 14, the candidate with the highest number of votes shall be declared to be the first name on the list and the candidate with the next highest number of votes shall be the next name on the list and so on until a maximum of four names appear on the list.

(4) The Chief Electoral Officer shall retain the statements of official results and the tabulation of official results for a period of 10 days after announcing the official results of the election pursuant to this Act to allow for possible appeals or applications for a recount of the votes.

**Disclaimer**

**22(1)** A person whose name appears on the senate nominee list for Saskatchewan established pursuant to this Act may, by filing a disclaimer in the prescribed form with the Chief Electoral Officer, request:

- (a) that the person’s name not be submitted to the Queen’s Privy Council for Canada; or
  - (b) that, if the person’s name has been submitted, the submission of the person’s name be withdrawn.
- (2) The filing of a disclaimer pursuant to subsection (1) does not affect any application for an appeal or recount by another candidate or the right of that other candidate to have their name included in the list of senate nominees for Saskatchewan.



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**Regulations**

**23** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting forms, notices and oaths to be used for the purpose of an election pursuant to this Act;
- (c) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;
- (d) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or appropriate to carry out the intent of this Act.

**Application of *The Election Act, 1996***

**24** The Lieutenant Governor in Council may make regulations prescribing those provisions of *The Election Act, 1996* and *The Election Act, 1996* regulations that apply or do not apply for the purposes of this Act and indicating, if necessary, to what extent they apply or do not apply.

**Publication of election proclamation**

**25(1)** The Chief Electoral Officer shall, as soon as possible following the making of the order referred to in section 4, publish the proclamation in the prescribed form in respect of each constituency:

- (a) the place, dates and hours for consideration of applications for revisions to the voter register;
- (b) the place and hours fixed for the nomination of candidates and the date fixed for the closing of nominations;
- (c) the place, dates and hours fixed for voting at an advance poll if voting is necessary;
- (d) the date of polling day and the hours at which the polling places will open and close if voting is necessary;
- (e) the place, date and time for announcing the results of the official tabulation, that date being the 10<sup>th</sup> day after polling day; and
- (f) the name, address and telephone number of the returning officer.

(2) The proclamation referred to in subsection (1), a map of the constituency indicating the numbered polling divisions and a list of the locations of the polling places shall be published by:

- (a) posting a copy of each in the office of the returning officer; and
- (b) publishing a copy of each in one or more newspapers of general circulation in the constituency.

(3) A returning officer may post additional copies of the proclamation, map and list of locations at any other places in the constituency where the returning officer considers they will be reasonably safe from damage and will serve to provide information to the public.

(4) If the information as published is or becomes inaccurate for any reason, the Chief Electoral Officer shall:

(a) publish details of the correction in the newspapers in which the proclamation was published pursuant to subsection (2); and

(b) immediately provide to all candidates or their official agents written details of the correction.

### **Voting procedure**

**26(1)** The deputy returning officer shall, without inquiring or ascertaining for whom a voter intends to vote, instruct the voter to:

(a) proceed to one of the polling booths and there, with the marker provided, mark the voter's ballot by placing an "X" in the space opposite the name of the candidate or candidates of the voter's choice;

(b) refold the ballot so that the initials, the words "Senate Nominee Election" and the year of the election on the back of the ballot and the number on the back of the counterfoil can be seen without unfolding it; and

(c) hand the folded ballot to the deputy returning officer.

(2) An elector may not vote for more than the number of persons to be elected.

(3) The deputy returning officer, without unfolding the ballot, shall in full view of the voter and all present:

(a) ascertain that it is the same ballot that the deputy returning officer provided to the voter by examining the initials and the number on the counterfoil;

(b) remove and tear up the counterfoil; and

(c) place the ballot in the ballot box.

### **Where ballot to be rejected**

**27** Despite any provision of *The Election Act, 1996*, for the purposes of this Act, the deputy returning officer shall reject and place in a rejected ballot envelope any ballot that contains votes for more than four candidates.

### **Coming into force**

**28** This Act comes into force on assent.

THIRD SESSION

**Twenty-fifth Legislature**

SASKATCHEWAN

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**B I L L**

No. 203 of 2006-07

An Act to provide for the Election of Saskatchewan Nominees for  
Appointment to the Senate of Canada

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Received and read the

First time

Second time

Third time

And Passed

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Mr. Jason Dearborn

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