ELECTIONS BC
A non-partisan Office of the Legislature

Report of the Chief Electoral Officer on the Recall Process in British Columbia

November 2003

National Library of Canada Cataloguing in Publication Data

British Columbia. Chief Electoral Officer.

Report of the Chief Electoral Officer on the recall process in British Columbia

Includes bibliographical references: p.

ISBN 0-7726-5065-9

1. Recall - British Columbia. 2. Referendum - British Columbia. 3. Election law - British Columbia.

I. Elections British Columbia.

JL426.B74 2003 324.6'8'09711 C2003-960223-0

ELECTIONS BC
Province of British Columbia

Mailing Address:
PO Box 9275 Stn Prov Govt
Victoria BC V8W 9J6

Location:
333 Quebec Street, Victoria

Phone: (250) 387-5305
Toll-free 1-800-661-8683 / TTY 1-888-456-5448
Facsimile: (250) 387-3578

Email: electionsbc@gems3.gov.bc.ca
Web site: www.elections.bc.ca

November 17, 2003

Honourable Claude Richmond
Speaker of the Legislative Assembly
Province of British Columbia
Parliament Buildings
Victoria, British Columbia
V8V 1X4

Honourable Speaker:

I have the honour to transmit herewith to the Legislative Assembly of British Columbia a report on the recall process in British Columbia.

Respectfully submitted,

Harry Neufeld
Chief Electoral Officer

Contents

A message from the Chief Electoral Officer

In 1995 the *Recall and Initiative Act* became law, giving voters in British Columbia the power to remove their Member of the Legislative Assembly from office between elections.

To date, Elections BC has issued 20 recall petitions, nine of which were administered in the first eight months after I became Chief Electoral Officer in November 2002.

Of the 20 recall petitions, two were submitted with enough signatures for verification. Only one proceeded through the full signature verification process. All 20 petitions failed.

In the course of administering recall, Elections BC has become aware of a number of problems with the current recall process and legislation. In May 2003, I initiated a review of the recall portion of the *Recall and Initiative Act*. My aim was to identify and examine specific problems with the legislation and provide recommendations that, if implemented, would address these issues effectively.

As part of this review process I felt it important to take into account input from those involved in and affected by recall. I invited all 18 participants – proponents and MLAs – involved in the nine recall petitions during the current Parliament to provide their comments and suggestions. I also invited representatives of the five political parties on the Election Advisory Committee to identify issues from their perspective.

I thank all those who took the time to respond to this invitation and provide feedback. (A list of respondents is provided in Appendix E of this report.) It is worth noting that none of those who engaged in the input process supported the status quo. On the contrary, respondents indicated clearly that the existing recall process needs significant change. Their views are reflected in this report.

I would like to take this opportunity to acknowledge the hard work and commitment of my staff involved in the review process and production of this report. I also must acknowledge the dedication and contributions of all my colleagues at Elections BC who have administered the recall process since its inception.

Harry Neufeld
Chief Electoral Officer
November 2003

Executive summary

The purpose of this report is to provide legislators with a review of the recall portion of the *Recall and Initiative Act* and to highlight those aspects of the recall process that the province's electoral agency believes must be addressed.

There are three main parts to this report. Part 1 includes an introduction to the recall process, the summary of results of all 20 recall petitions, an overview of the expenses Elections BC has incurred in administering recall events, and a review of investigations, compliance and enforcement of the Act.

Part 2 is an evaluation of British Columbia's current recall legislation with recommendations for amendments. The foremost consideration in framing the proposed recommendations was the voter; priority was given to ensuring the recall process is accessible, transparent, and fair to both voters and authorized participants. Further, it was important to ensure that the administration of the recommendations would be effective and cost efficient. The recommendations are intended to clarify certain rules and procedures, define the roles of participants, improve recall administration efficiencies, and ensure greater public confidence in the process.

Part 3 explores the variety of ways other jurisdictions around the world use recall, with primary focus on the United States, which has had the longest and most extensive use of recall. Some alternative approaches to recall are also explored.

Appendices to the report include the results and financial disclosure reports of the nine recall petitions during the current Parliament, a brief history of the recall mechanism, and further recommendations for legislative amendments.

The current *Recall and Initiative Act* contains some important features that effectively address shortcomings evident in some other jurisdictions that use recall, and these should be retained. California's recent recall experience demonstrates the importance of rigorous campaign financing laws, including prohibition of paid canvassers, clear spending limits, and financial disclosure requirements.

However, considerable problems exist and significant changes need to be made if the legislation is to be substantially retained in its current form. Most important, using a recall petition as a complete electoral process to remove a Member of the Legislative Assembly is clearly inappropriate. Recall is a mechanism for voters to *un-elect* a duly elected MLA. But any petition process lacks the formality, rigor and safeguards necessary for such a consequence. The outcome of a recall petition should be a recall vote, by way of a special election or recall referendum vote.

There is a general lack of knowledge among the general public and participants about the recall process. Further resources dedicated to public awareness campaigns to inform voters and participants of their rights and responsibilities could alleviate some of the problems associated with the petition process.

The *Recall and Initiative Act* does not give the Chief Electoral Officer the authority to make Regulations in relation to recall. This is inconsistent with the principle of impartial administration of electoral processes and creates the risk and perception of political interference in matters that may personally affect MLAs. Similar to the *Election Act*, the Chief Electoral Officer should have regulatory authority with respect to the *Recall and Initiative Act*.

Other important issues include the need to recognize and define the role of MLAs and their supporters, sometimes referred to as "observers", on which the legislation is silent. Clarification is required regarding recall participants' access to private and rental property, which has been a source of confusion and contention among recall participants and landlords, and a challenge for Elections BC in dealing with disputes. There have been suggestions that the legislation should stipulate specific grounds for recalling an MLA. Limiting the grounds for recall would fundamentally alter the nature of the recall process, electorally and administratively, and legislators must fully and carefully consider the issue should such provisions be contemplated.

Having provided voters in British Columbia with the right to recall their elected representatives, government must now reflect on the province's experience and put into effect changes to ensure that voters can employ this right effectively and appropriately. These changes may be in the form of amendments to existing legislation, or they may involve adopting a different model.

1 Recall in British Columbia

Overview of the recall process

Recall is an electoral device that allows voters to petition for the removal of a Member of the Legislative Assembly from office between elections.

Currently, any registered voter in British Columbia can apply for a petition to recall their MLA. The voter must submit a completed application form to Elections BC with a processing fee of $50. The application must include a statement of up to 200 words why, in the opinion of the voter, the Member should be recalled. A Member cannot be subject to recall during the first 18 months following their election.

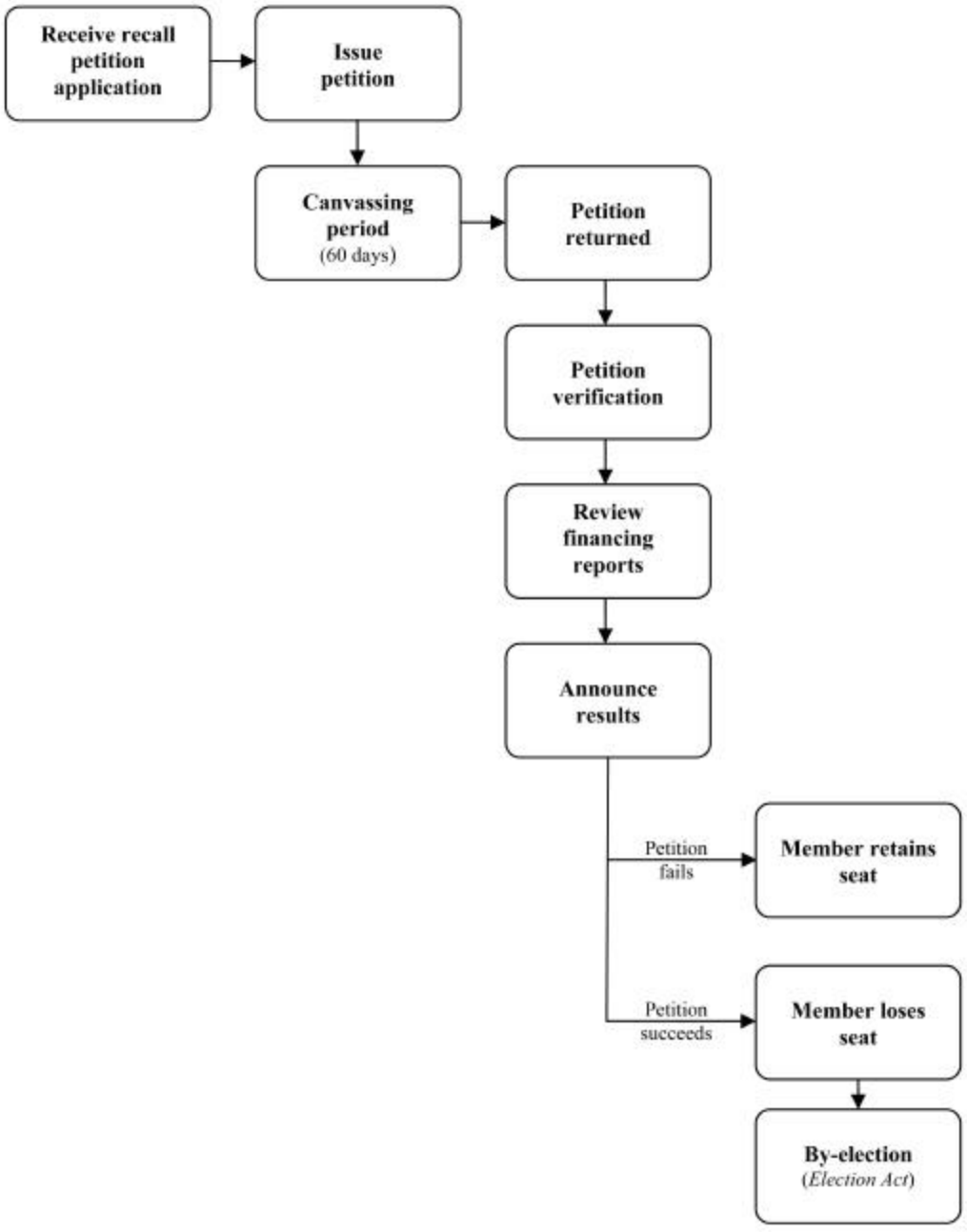
If the voter meets the application requirements, the applicant (called a "proponent") will receive a petition within seven days. The proponent then has 60 days to collect signatures from more than 40 percent of the voters who were registered to vote in the Member's electoral district in the last election – and who are currently registered as voters in British Columbia. Volunteers (called "canvassers") may help the proponent collect signatures.

When the proponent has submitted all the signed petition sheets, Elections BC has 42 days to verify that enough valid signatures have been collected. Within 28 days after Elections BC has received the petition, financial agents must file a recall financing report. If enough valid signatures are on the petition and the proponent has complied with the financing rules, the Member ceases to hold office and a by-election must be called within 90 days. A recalled Member can run as a candidate in the by-election.

Role of Elections BC

Elections BC is the non-partisan administrator of the recall process. Elections BC is the usual name for the Office of the Chief Electoral Officer. The Chief Electoral Officer (CEO) is an Officer of the Legislature and is responsible for the administration of the *Election Act* and the *Recall and Initiative Act*, as well as the conduct of referenda under the *Referendum Act* and the *Constitutional Amendment Approval Act*.

The recall process



Elections BC ensures that the recall process is conducted in a fair and impartial manner. In performing their duties, staff at Elections BC are constantly aware of the need to ensure impartiality, accessibility and transparency. Public confidence in the administration of all aspects of the electoral process, including recall, is essential in maintaining a healthy democracy.

Recall petitions – summary of results

Elections BC has issued 20 recall petitions since the *Recall and Initiative Act* came into force in February 1995.

No recall petition applications were submitted prior to the May 28, 1996, provincial election. The Act prohibits applications for a recall petition during the 18 months following general voting day for the election of a Member. Therefore, recall applications following the 1996 general election could not be made until November 28, 1997. Elections BC issued the province's first recall petitions on December 5, 1997 for the electoral districts of Prince George North and Skeena.

During the 36th Parliament, Elections BC issued 11 recall petitions between 1997 and 2001. Nine petitions have been issued to date during the current Parliament. Of the 20 recall petitions issued, four were submitted to Elections BC, two proceeded to verification, and one continued through the full verification process. All 20 petitions failed. See Table 1 for a summary of the recall petitions.

Table 1 Summary of recall petitions

Proponent	Electoral District	MLA	Party Affiliation	Issue Date	Due Date	Registered Canvassers	Submitted Date	Signatures Required	Valid Signatures	Result
2003										
Alec Robert Zuke	Vancouver-Burrard	Lorne Mayencourt	LIB	2-Apr	2-Jun	76	Not submitted	14,961		Failed
Eric Simons	Vancouver-Point Grey	Gordon Campbell	LIB	13-Mar	12-May	154	Not submitted	14,623		Failed
Sybil Rowe	Victoria-Beacon Hill	Jeff Bray	LIB	28-Feb	29-Apr	147	Not submitted	14,711		Failed
Birthe Wilson-Achtner	Nelson-Creston	Blair Suffredine	LIB	27-Feb	28-Apr	394	Not submitted	11,695		Failed
Joylaine Orr	Columbia River-Revelstoke	Wendy McMahon	LIB	26-Feb	28-Apr	193	Not submitted	8,068		Failed
John Olsen	Alberni-Qualicum	Gillian Trumper	LIB	24-Feb	25-Apr	58	Not submitted	13,215		Failed
Elizabeth Fox	Nanaimo-Parksville	Judith Reid	LIB	20-Feb	22-Apr	177	Not submitted	14,857		Failed
George C. Addison	Nanaimo	Mike Hunter	LIB	21-Feb	22-Apr	186	Not submitted	12,566		Failed
2002										
John Bayne	Delta South	Val Roddick	LIB	26-Nov	27-Jan	175	27-Jan	11,949	9,999	Failed
1999										
Mark R. Francoli	Port Coquitlam	Michael Farnworth	NDP	20-May	19-Jul	10	19-Jul	17,417		Failed
1998										
Bob Viergever	Prince George North	Paul Ramsey	NDP	7-Oct	7-Dec	72	Not submitted	8,908		Failed
Robert Saint Amour	Comox Valley	Evelyn Gillespie	NDP	28-Jul	28-Sep	0	Not submitted	17,048		Failed
Mark Robinson	Parksville-Qualicum	Paul Reitsma	LIB	15-Apr	15-Jun	193	15-Jun	17,020		Failed*
Robert Saint Amour	Comox Valley	Evelyn Gillespie	NDP	12-Feb	14-Apr	60	Not submitted	17,048		Failed
Walter Bueckert	Fort Langley-Aldergrove	Rich Coleman	LIB	27-Jan	30-Mar	0	Not submitted	13,409		Failed
James Loughery	Prince George North	Paul Ramsey	NDP	16-Jan	17-Mar	0	Not submitted	8,908		Failed
Robert D. Bradley	Vancouver-Point Grey	Gordon Campbell	LIB	13-Jan	16-Mar	0	Not submitted	14,643		Failed
1997										
John How	Skeena	Helmut Giesbrecht	NDP	12-Dec	10-Feb	1	Not submitted	7,558		Failed
G. Lorne Sexton	Skeena	Helmut Giesbrecht	NDP	5-Dec	3-Feb	152	Not submitted	7,558		Failed
Pertti Harkonen	Prince George North	Paul Ramsey	NDP	5-Dec	3-Feb	190	3-Feb	8,908		Failed

*The petition to recall Paul Reitsma, MLA for Parksville-Qualicum, failed as a result of the MLA's resignation during verification.

Recall administration expenses

Elections BC has no control over the timing and frequency of several kinds of electoral events. These events include by-elections, referendums, initiative votes and recall petitions.

The funding process for electoral events has evolved in the last two years. Before 2001, Elections BC's projected expenditures related to recall and other electoral events were included in a voted appropriation as part of the government budgeting and estimates process. In 2001, the Select Standing Committee on Finance and Government Services was established with a mandate to oversee the budget approval process for all statutory offices of the Legislature. The Committee recommended that funding for recall petitions and other electoral events not be included in Elections BC's voted operating appropriation. If events such as recall petitions occurred, the Chief Electoral Officer was instructed to apply for additional funding through the Committee.

Consequently, when Elections BC received applications for recall petitions, the Chief Electoral Officer wrote to the Chair of the Committee and provided a cost estimate for administering one or more simultaneous recalls. As the office received more applications for recall petitions and approved them in principle, the Chief Electoral Officer sent additional letters to the Committee Chair advising of the funding requirements.

In May 2003, the Chief Electoral Officer met with the Committee and outlined the office's experience with administering recall and the amount of funding required. The Committee issued a report in June 2003 recommending that $310,000 be paid out of the Consolidated Revenue Fund to cover recall costs occurring in the fiscal year 2003/04.

It should be noted that although the number of recall petitions actually issued and returned affects the costs of administering the *Recall and Initiative Act*, Elections BC must incur recall-related costs even if no applications for recall petitions are received. The infrastructure necessary to administer the recall process must be in place at all times to ensure that Elections BC can meet the requirements of the legislation.

In order to manage the recall process, Elections BC must maintain the Recall and Initiative Verification System (RIVERS) on a continuous basis. This includes purchasing software licenses, maintaining special equipment and software, and making system enhancements as required. Furthermore, as voters register or change their names, the office must continuously update and maintain a signature database of registered voters.

Elections BC must develop and maintain detailed project plans and put advertising plans in place before a petition application is received. Guides and forms for recall participants must be developed, updated and stocked on a continuous basis.

All of these activities result in expenditures, even if no recall petitions are issued. The total additional expenses Elections BC incurred in fiscal years 2002/03 and 2003/04 specifically for the administration of the nine recall petitions during the current Parliament are as follows:

	$
Advertising and public information	72,809
Data entry	1,925
Information systems	66,511
Legal services	4,071
Office supplies, equipment, courier and postage	2,755
Project management	83,711
Salaries and benefits	321,597
Travel	575
Total	$553,954

Investigations, compliance and enforcement

During a recall petition, Elections BC receives numerous complaints and inquiries from proponents, MLAs, canvassers and members of the public. Elections BC spends considerable time following-up and investigating complaints, which diverts resources from other projects and activities. To date, none of the complaints and ensuing investigations has resulted in charges being laid under the *Recall and Initiative Act.*

In September 1998, allegations of unreported expenses and contributions in the Skeena, Comox Valley and Prince George North recall campaigns appeared in the media. On September 18, 1998, the Chief Electoral Officer appointed forensic accountant Ron Parks to investigate the financial activities and records of the authorized participants in all three recall campaigns.

On March 18, 1999, the Chief Electoral Officer released the findings of the investigation. The investigation identified reporting errors by all participants in the three recall campaigns and identified recall activities by individuals and organizations other than the authorized participants. Most errors identified in the financing reports were minor in nature and not subject to penalties. However, the Chief Electoral Officer required authorized participants to submit supplementary financing reports to ensure full disclosure of contributions and expenses.

Elections BC provided copies of the draft report to the RCMP and a special prosecutor appointed by the Criminal Justice Branch of the Ministry of the

Attorney General. The Chief Electoral Officer was subsequently advised that the Criminal Justice Branch would not commence criminal investigations or prosecutions.

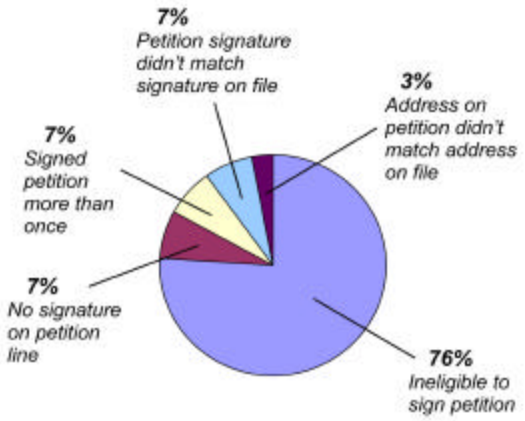
The forensic accountant, Mr. Parks, and the special prosecutor both indicated that portions of the *Recall and Initiative Act* were unclear or subject to misinterpretation. They also indicated that the unique and untested nature of the legislation may have contributed to the errors and misunderstandings. Accordingly, the Chief Electoral Officer took steps to ensure better understanding of and compliance with the Act. The Parks report also included recommendations to address issues identified during the investigation and to improve the Act. These recommendations are reflected in Part 2 and Appendix C of this report.

The *Recall and Initiative Act* and Regulations establish who may sign a recall petition, criteria for acceptance of a petition line during the verification process, and offences and penalties for signing a petition when not entitled to do so or for signing more than once.

The 2002 Delta South recall petition was the first petition returned to Elections BC that continued through the full signature verification process. Twenty-four percent of the completed lines on the petition were disqualified, the majority because the person who signed the petition was ineligible.

The following figure shows the percentage breakdown of the reasons for disqualifying petition lines in the Delta South recall petition:

There was no evidence of obviously fictitious names, nor was there evidence of



any deliberate attempts to subvert the process by falsifying signatures or multiple signing. Although there were reports of an individual who claimed to have signed the petition 100 times, there was no factual evidence found to support that claim.

Of the ineligible persons who signed the petition, 68 percent identified themselves as residents of Delta South but were not registered voters. People who signed the petition were not able to immediately verify their registration status because the proponent had not provided the canvassers with the voters list. The proponent and canvassers might have avoided this problem if they had used the supplied voters list to screen potential signatories.

Twenty-six percent of the ineligible persons who signed the petition were registered voters but were not registered in Delta South at the time of the general election. A further six percent did not provide sufficient information on the petition to permit confirmation of their registration status.

The signatures disqualified for not matching the signature on file represented less than two percent of the total petition lines. The reasons the signatures did not match included situations where there were two family members with the same name and address (e.g., father/son) but only one individual was a registered voter and the other appeared to have signed the petition. Also, signatures may deteriorate substantially due to age, illness or other factors. Some people printed their names instead of using their usual signature on the petition.

Less than two percent of the total petition lines were disqualified because it appeared the persons had signed the petition more than once. Twenty-five percent of these apparent duplicates were inadvertent, clearly the result of the signatories' attempts to correct errors on the petition sheets. A number of other duplicates appeared to be possible attempts to correct an error, but they did not appear on consecutive lines on a petition sheet. Fourteen percent were improperly categorized as duplicates because operators applied the incorrect rejection code during the verification process. Sixty-one percent of the instances of apparent double signing were by voters over 70 years of age.

It should be noted that the petition sheets and cover pages issued by Elections BC did not contain a statement that it is an offence to sign a petition more than once. There was no media advertising outlining the rules for recall petitions during the Delta South recall campaign.

The difficulties encountered with the Delta South petition appear to be largely a result of the petition process itself. The public views the signing of petitions as a casual way of expressing an opinion. People do not approach petition signing with the same gravity as casting a ballot. Similarly, the signature gathering process does not have the same rigour as a voting process. During a recall petition period, much of the signature collection occurs on sidewalks, in parking lots and other public areas, increasing the sense of informality. Petition signatures are gathered over a long time period, and some double signing occurred because people forgot they had already signed the petition or assumed that it was a different petition from the

one they had signed previously. In some instances, literacy and proficiency with written English were contributing factors in wrongful signing.

The penalties for wrongful signing are significant, with a fine of up to $10,000 and/or a sentence of up to two years upon conviction. Prosecutions under the *Recall and Initiative Act* are criminal prosecutions. They do not proceed unless they meet the standards applied to all such prosecutions, which include a substantial likelihood of conviction and a determination that the prosecution would be in the public interest.

Given the general lack of understanding of the recall petition rules, the circumstances surrounding the instances of wrongful signing, and the fact that these infractions did not result in the illegitimate recall of the MLA, prosecutions were not sought.

It is clear, however, that voter education and appropriate use of the voters list by proponents and canvassers are critical factors for preventing wrongful signing. The recall petition cover sheet has been amended to make it clear that individuals may sign a petition only once, and Elections BC now conducts media advertising in an electoral district when a recall campaign is underway to ensure that voters are aware of the rules.

2 Evaluating B.C.'s recall legislation

Twenty recall petitions later – what have we learned?

In June 1992, the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills was assigned the task of providing specific recommendations to the Legislative Assembly regarding the establishment of recall and initiative legislation.[1]

In its report, the Select Standing Committee noted that recall is "alien to our parliamentary system of government and posed special problems if it was to be integrated effectively into our legislative system." It found that the concept of recall was highly complex and required careful consideration to the practical challenges of implementing recall in British Columbia.

The unique and practical challenges of recall were highlighted during the formation of the legislation. Following the introduction of Bill 36, the *Recall and Initiative Act*, debate in the Legislative Assembly pointed to the variety of ways other jurisdictions use recall and the complexities of determining a suitable recall process for British Columbia.

The *Recall and Initiative Act* received Royal Assent in July 1994 and came into force in February 1995 following further consultation and the establishment of Regulations. The Act was subsequently amended in September 1995 to contain similar financing and communications provisions to those in the *Election Act*. It was amended again in 2002 to remove spending limits for recall advertising sponsors, remove the requirement to publish recall opinion survey methodology and amend provisions regarding contributions to recall campaigns.

In March 1998, the B.C. Civil Liberties Association filed a constitutional challenge in the British Columbia Supreme Court. The group asserted that the recall legislation infringes a citizen's right to vote under Section 3 of the *Charter of Rights and Freedoms* because a recall petition is not a secret ballot and the votes of those not signing a petition are not counted. However, the challenge was withdrawn in June 1999. The Association reconsidered a legal challenge in May 2003, but ruled it out because of limited resources.

Since the *Recall and Initiative Act* came into force Elections BC has issued 20 recall petitions. While few were returned and none were successful, much experience has been gained by all participants involved in the process. Elections BC has learned there are important features of the Act that effectively address shortcomings evident in some other jurisdictions, and these should be retained. These include the prohibition of paid canvassers, spending limits, financial

disclosure laws, and the limited role of organizations in recall campaigns. However, it is clear that significant problems exist and changes need to be made to the process to realize the legislative goal of providing a fair and effective mechanism for recall.

Identifying the problems – opportunities for improvement

In the course of conducting 20 recall petitions, Elections BC has identified a number of difficulties with the current recall petition process, legislation and Regulations. Some issues are administrative in nature and may be remedied by minor legislative amendments, while others are matters of public policy.

Appendix C contains recommendations for minor or technical amendments. Recommendations that affect matters of public policy or involve a significant change in the existing recall process are discussed below. The recommendations reflect the experience of Elections BC and feedback from the various stakeholders in the recall process. Legislators may decide to adopt an alternate model of recall. However, if the recall process is to continue substantially in its present form, the issues identified in the following pages should be addressed.

1 Separate recall and initiative legislation

Combining the recall and initiative processes into one Act has resulted in considerable confusion by the public, with frequent references to “recall initiatives”.

Although both processes were the result of the referendum in 1991 and are vehicles of direct democracy, there is no compelling reason to combine them in a single Act. While some sections in the Act apply to both processes, the mechanisms are distinct and have their own administrative, financing, and communications sections. The result is confusion for participants and difficulty for staff in separating the two administrative processes.

Bill 59, the *Election Statutes Amendment Act, 2002*, underscored the challenge of working with the combined legislation. The Act amended the recall provisions of the *Recall and Initiative Act*, but exacerbated the confusion and inconsistencies by not making parallel amendments to initiative provisions.

Recommendation: *Separate the recall and initiative processes into two distinct Acts.*

2 Limit recall to a fixed period between general elections

Currently the legislation prohibits applications for recall petitions during the 18 months following general voting day.[2] The Select Standing Committee recommended giving MLAs a period of time to learn the duties of the position and demonstrate their abilities, during which they would not be subject to recall. In addition, the Committee felt such a limitation would discourage the phenomenon of a "sore loser" sponsoring a recall immediately following an election, simply in an effort to overturn the results.

Most jurisdictions in the United States have a similar limitation period at the beginning of an elected official's term, as well as a restriction towards the end of that term. At the time the Act was being established, the Select Standing Committee was unable to consider an end-of-term limitation period due to the variable duration of each Parliament in British Columbia. However, the *Constitution (Fixed Election Dates) Amendment Act*, *2001*, established fixed election dates, thereby removing that obstacle.

Currently, a recall petition may be approved right up to the day before the next provincial election. Issuing recall petitions towards the end of an MLA's term is of questionable value given the length of a recall petition cycle and the proximity to an election. It would also divert Elections BC's limited resources at a time when the organization needs to focus on preparing for the election.

It may be reasonable to prohibit recalls for a period of one year prior to a provincial general election. The 18-month limitation period following an election could be reduced to an equal length of one year, providing voters with a two year window to exercise recall. Shortening the 18-month restriction would also address the concern raised by most proponents, as well as voters and MLAs, that the restriction is unreasonably long and prohibitive.

Recommendation: *Limit the period of time during which an application for a recall petition may be made to a fixed period between general elections.*

3 Do not use a recall petition as an electoral process

Under the *Recall and Initiative Act*, a successful recall petition triggers the removal of a Member of the Legislative Assembly. If the Chief Electoral Officer determines that a recall petition has a sufficient number of valid signatures and meets the requirements of the Act, the Member ceases to hold office and the seat becomes vacant.[3] A by-election must be called within 90 days.

Recall is a mechanism for voters to *un-elect* a duly elected Member of the Legislative Assembly before their normal term of office expires. However, any petition process will inherently lack the formality, rigor and safeguards appropriate to such a serious consequence. Treating a petition as an electoral process poses considerable administrative challenges and also raises questions as to the integrity

of the recall process. Voters' confidence in an electoral process is critical to the legitimacy of its outcome.

Interestingly, the 1991 referendum on the question of recall asked specifically if voters should have the right to *vote* for the removal of an MLA between elections.[4] However, such a vote is not part of the recall process in British Columbia; the province is the only jurisdiction in the world where a recall petition triggers the removal of an elected official. In the United States, a special recall election determines the recall; the petition only establishes if there is enough support to hold an election on the question of whether or not to recall an elected official.

Elections employ rigorous and well-understood procedures. These include secret ballots and the opportunity for recount and appeal, provisions absent in the existing recall petition process. If a petition process is used, the outcome should be a vote on recall, by way of a special election or referendum vote. All voters would then have the opportunity to participate in the process that determines the recall of their duly elected Member.

It is possible to contain costs by combining a recall vote with a by-election, while bringing the necessary elements of formality and control to the process. Please see Part 3 of this report for more information regarding the combined ballot approach and the use of recall in other jurisdictions.

Recommendation: *Amend the Act so a successful recall petition triggers a recall vote rather than the automatic recall of an MLA.*

4 Remove the requirement that petitions be made public

Current provisions require making a recall petition available for public inspection.[5] By requiring public disclosure of recall petitions, the equivalent of secrecy of the ballot is lost.

This can have an intimidating effect during recall campaigns as signatories may fear reprisals, effectively discouraging some voters from participating in the process. Moreover, voters feel it is their fundamental right to participate in an electoral process while having the secrecy of their vote protected.

The Select Standing Committee recommended that everyone should have full access to the information on recall petitions. The Committee believed that making petitions available for public inspection would promote self-policing since interested individuals would thus be able to determine whether non-existent people living at non-existent addresses had signed the petition. Any questionable signatures could then be drawn to Election BC's attention for further scrutiny. However, under the current legislation, the Chief Electoral Officer determines the sufficiency of a recall petition, not the public. Moreover, a recall petition is not

made available for public inspection until after the Chief Electoral Officer verifies it.

***Recommendation**: Remove the requirement making recall petitions available for public inspection. Signatories of recall petitions should also be protected from reprisals by making it an offence to disclose the names of individuals who signed, or did not sign, a petition.*

5 Allow all registered voters in an electoral district to sign a petition

Under the current legislation, a petition must be signed by more than 40 percent of the individuals who were registered voters in the electoral district at the time the Member was elected, and who are currently registered voters in any electoral district.[6]

In the United States, common practice permits all currently registered voters represented by the elected official subject to recall the opportunity to participate and sign the recall petition. British Columbia appears to be the only jurisdiction with such eligibility restrictions.

The eligibility criteria stem from the Select Standing Committee's view that a recall is a "reconsideration" by the voters of an electoral district of the choice they made in the last election. The Committee believed only those who may have participated in the earlier decision should have the opportunity to reassess their choice of elected representative. However, members of the Committee, as well as current and former Members of the Legislative Assembly, have noted that recall is also about increasing the accountability of elected officials to their constituents.

Constituents are represented by an MLA, and the MLA is accountable to the constituents, whether they were registered at the last election or not. All eligible voters may participate in a by-election that follows a successful recall petition; equally, all eligible voters should have the opportunity to sign a recall petition. Furthermore, a Member represents current residents of the electoral district. Former residents should have no say in who represents the people living in an electoral district in which they themselves no longer reside.

It has been suggested that it would be more appropriate to permit only current residents of the MLA's electoral district who are registered voters at the time the recall petition is issued to sign a recall petition, as the current constituents of the Member are most affected by the recall campaign and its outcome.

This change would also address existing anomalies in the legislation whereby a person may be eligible to be a proponent, but be ineligible to sign the petition because the person was not a registered voter in the electoral district at the last election.

In addition to enhancing constituent representation, using the voters list for those currently registered in an electoral district to establish eligibility for signing a recall petition makes the 40 percent threshold for a successful recall petition more functional. Currently, the legislation requires that a petition be signed by more than 40 percent of the voters who were registered to vote at the last election of the Member.

This is another aspect of the current legislation that is a source of considerable contention among participants, voters, and the media – the dynamic nature of the voters list and the basis for calculating the 40 percent threshold requirement. The combination of high mobility in many electoral districts and the inclusion of individuals who have died or otherwise been removed from the voters list since the last election in the calculation of the threshold has, in the view of many proponents, effectively raised the threshold of signatures necessary for a successful petition.

Recommendation: *Allow all registered voters the right to sign a recall petition in the electoral district in which they currently reside*.

6 Allow canvassers to remove signatures from a petition

Regulations stipulate that a canvasser must not remove, cross out or interfere with a signature on a petition.[7] The restriction prevents a canvasser from striking through a line that contains errors that are corrected on a second line, resulting in the appearance that a voter has signed the petition twice. Additional resources must then be used to investigate each of these cases during the petition verification process.

Recommendation: *Permit canvassers to cross out a signature on a recall petition.*

7 Define and clarify roles of participants

The legislation is silent on the role and conduct of MLAs and their supporters in the recall petition process.

As the individual subject to recall, an MLA is an authorized participant and has the right to run a campaign to challenge the proponent's reasons as to why the MLA should be recalled. The MLA is permitted an expense limit equal to that of the proponent and both participants must file financial disclosure reports.

In recent recall campaigns, it became common practice for an MLA's supporters to "observe" canvassers during the signature collection period. Observing was often interpreted as "scrutinizing," similar to what occurs during voting procedures in an election. However, without guidelines in the legislation regarding such roles, the result has been tension and a source of potential conflict among participants.

Elections BC has received numerous complaints from proponents that MLA supporters intimidated and interfered with voters who wanted to sign a petition. While MLAs have also accused proponents of violating intimidation provisions, MLA supporters are not required to register or comply with specific provisions regarding their conduct, although canvassers are. The Act prescribes the duties of proponents and canvassers as well as significant penalties if they do not abide by them. No such provisions currently exist for MLAs and their supporters during a recall campaign.

Some proponents and MLAs have made efforts to provide their own guidelines for how supporters should conduct themselves during a recall campaign, underscoring the need for clearly defined roles.

The problem also becomes apparent during the petition verification stage of the recall process. Two recall petitions were submitted with sufficient signatures to proceed through the full verification process: the 1998 recall petition in Parksville-Qualicum and the 2002 recall petition in Delta South. Supporters of the proponent and MLA assumed they would have the same observer role as scrutineers during an election. Under the *Election Act*, a candidate's supporters may be appointed as scrutineers to observe the voting procedures as well as the counting of the vote. This is to ensure an election is a transparent process and the counting is consistent and fair.

Although the *Recall and Initiative Act* does not recognize “scrutineers” in the recall process, in the interest of fairness and openness the Chief Electoral Officer has permitted participants or their supporters to be present during the verification process. However, unlike the *Election Act*, the *Recall and Initiative Act* does not contain provisions governing the appointment, role and conduct of these observers.

The expectation that either the proponent or Member would challenge the results of the verification in court if the outcome were close created a tremendous amount of tension among participants and Elections BC staff. Observers on both sides during the Delta South verification process were disruptive, publicly predicted the outcome during the verification process and routinely challenged decisions made by Elections BC staff. To help address this matter, Elections BC has produced an informational brochure and video outlining the verification process for participants and their supporters.

Recommendation: *The Act should recognize the roles of MLAs and their supporters during a recall petition process. As supporters of the proponent (canvassers) are required to register with Elections BC, the supporters of the MLA should also be required to register. As well, the Chief Electoral Officer should have the authority to establish, by Regulation, the duties and standards of conduct of authorized participants and their supporters during the recall process.*

8 Provide access to rental properties

The *Recall and Initiative Act* and the *Election Act* are both silent with respect to access to commercial and rental properties for the purposes of campaigning or canvassing.

The *Residential Tenancy Act* establishes that "a landlord must not impose restrictions respecting access to residential property by candidates, or their authorized representatives, who are seeking election to a federal, provincial, regional, municipal or school board office, and who are canvassing electors or distributing election material."

Proponents, canvassers, MLAs and their supporters have sometimes interpreted the *Residential Tenancy Act* as applying to the recall petition process as well. However, the Act makes no reference to participants or the *Recall and Initiative Act*. This has been a great source of confusion and contention between recall participants and landlords and a challenge for Elections BC in responding to complaints of denied access and trespassing.

Issues have also arisen with respect to private commercial properties, such as malls. Proponents, canvassers, MLAs and their supporters have sometimes assumed that they were free to undertake their recall-related activities at such locations. As commercial premises are private property, the owners have the right to permit or deny access as they choose. However, Elections BC has received numerous complaints alleging harassment and impeding activity with respect to commercial properties.

Recommendation: *Given that recall is an electoral process, amending the Residential Tenancy Act to include access to residential rental property for recall purposes would be appropriate.*

9 Cancel a recall petition if Member's seat becomes vacant

If a Member resigns or dies after the Chief Electoral Officer grants approval in principle for a recall petition, there is no provision in the Act that permits the Chief Electoral Officer to end the recall petition process.

Recommendation: *Establish that the Chief Electoral Officer shall cancel a recall petition if the MLA subject to recall resigns or dies after approval in principle is granted and before the petition verification process is complete.*

10 Prohibit petition applications following a by-election due to recall

The Act permits only one election resulting from a successful recall petition to be held in an electoral district between general elections.[8] However, no one is prohibited from applying for a recall petition following a by-election as a result of

a successful recall, nor does the Chief Electoral Officer have the authority to refuse to issue such a petition.

Recommendation: *Prohibit applications for recall petitions if a by-election resulting from a successful recall petition has been held in the electoral district since the last general election.*

11 Clarify the requirement for submitting recall petitions

Section 23 requires that a proponent return a recall petition to the Chief Electoral Officer within 60 days after the date on which it was issued. The section could be interpreted as requiring proponents to return the petition to the Chief Electoral Officer within 60 days even if it doesn't contain the required number of signatures. However, section 125(7) implies that submitting a petition is not necessary because it states that a proponent must file a recall financing report "even if the recall petition is not submitted to the chief electoral officer in accordance with section 23".

No offence or penalty provisions currently exist in the Act for failing to return a recall petition. Most proponents are aware of this anomaly and, knowing they have not collected the required number of signatures, have simply chosen not to submit the completed petition sheets to Elections BC. Some proponents have indicated that they are reluctant to return petition sheets because the petition sheets must be made available for public inspection.

Given the nature of voter information collected on a recall petition, it is vital that petitions are dealt with in a way that protects voters' privacy. (See recommendation 4, *Remove the requirement that petitions be made public*.)

Nevertheless, considerable public funds are expended in administering the recall process, and it is in the public interest to ensure that such expenditures are only made in relation to serious recall efforts. By making it clear that the petition must be submitted, and establishing administrative penalties for failure to comply, the potential for frivolous recall applications may be minimized.

Recommendation: *Clarify the requirement for submitting a recall petition to the Chief Electoral Officer and establish an administrative penalty for failure to comply.*

12 Prohibit late filing of recall financing reports

Once a recall petition is submitted, the Chief Electoral Officer has up to 42 days to determine whether it meets the requirements of the Act. However, if a petition has enough valid signatures, it is not possible to determine the final outcome of the

recall petition until the Chief Electoral Officer has established that the proponent has complied with the financing provisions of the Act.

Proponents must file their financing reports within 28 days after the end of the recall petition period. However, the Act permits the filing of reports 30 days later upon payment of a late filing fee, and a subsequent application for court relief may further extend the period of time before the recall participant must file a financing report.[9] As it is in the public interest to have a timely conclusion to electoral events, proponents should not be permitted to unduly delay the submission of their financing reports.

Recommendation: *Remove the provision for late filing of recall financing reports to ensure timely reporting, and prohibit late filing except through application for court relief.*

13 Prohibit concurrent recall petitions in an electoral district

The Act does not limit the number of recall petitions that may be issued in an electoral district; there may be numerous concurrent petitions against one MLA. Since each recall petition has a separate expense limit, concurrent petitions could be used to effectively increase the expense limits for proponents or MLAs. Though recall expenses, including advertising, related to the second recall campaign would be subject to the expense limit for the second petition, the initial campaign may benefit from the expenditures, allowing the participants of the two campaigns to strategically direct their expenditures.

Recommendation: *Prohibit concurrent recall petitions in an electoral district.*

14 Require disclosure of all recall-related contributions

A potential recall proponent could collect contributions intended for recall from the public and then not apply for a recall petition. The funds would not have to be disclosed or returned to the contributors and could be used for any purpose. No recall financing report is required if no application for a recall petition is made. This may result in spurious fundraising campaigns.

Recommendation: *Require individuals to file a financing report disclosing all recall-related contributions within 30 days of receiving them if no application for a recall petition is made. Any surplus funds should be submitted to the Chief Electoral Officer for payment to the Consolidated Revenue Fund if no application for a recall petition is submitted within the ensuing 60 days.*

15 Recognize the role of political parties and other organizations

Political parties and organizations such as RecallBC have participated in numerous recall campaigns, providing advice and resources to authorized participants. These organizations have registered as recall advertising sponsors, but they clearly have

a larger role, which makes it difficult to distinguish their activities from those of the participants.

Recommendation: *Define roles for political parties and other organizations, perhaps as registered pro/con groups with specific guidelines and financial reporting responsibilities*.

16 Provide flexibility regarding the verification of petitions

The Act and Regulations currently refer to verifying the signatures on recall petitions. However, it has been the experience of Elections BC that the majority of petition lines rejected during verification are rejected due to reasons other than signatures not matching with what Elections BC has on file. Moreover, the verification of signatures is inexact unless conducted by handwriting experts. A preferable system would be to verify the registration status of signatories and then conduct random-sample direct contact with individuals to determine the validity of the petition.

Recommendation: *Amend the Act and Regulations to provide flexibility with respect to the method of verifying a petition.*

17 Require recall advertising sponsors to be independent

Under current provisions, recall advertising sponsors do not need to be independent of the proponent or MLA. The title heading for section 147 reads "Independent sponsors must file disclosure reports." However, the *Interpretation Act* stipulates that section headings are not part of the enactment. There is no other reference, implied or otherwise, to the independence of registered advertising sponsors. The Act does not restrict registered advertising sponsors from being intimately involved in recall campaigns.

There is concern that recall advertising sponsors may not, in fact, be independent and that the spirit and intent of the legislation is not being met. Since there is no spending limit for registered advertising sponsors, it is important for them to be independent of recall campaigns. If they are involved in the campaign, there is an opportunity for the registered sponsor to conduct advertising in a manner that allows the proponent or MLA to circumvent the recall expense limit. Furthermore, although the advertising itself may be independent of the authorized participant's campaign, there is a perception of collusion when the advertising sponsor also provides administrative assistance or campaign services.

Recommendation: *Require recall advertising sponsors to be independent of the proponent and the MLA and any campaigns supporting them.*

18 Establish appropriate administrative penalties

Part 9 of the *Recall and Initiative Act* establishes offences and associated penalties. The penalties established in the Act are considerable. However, the offences must be prosecuted as criminal proceedings, and penalties are at the discretion of the court to the maximums established in the Act. There is no provision for administrative penalties other than for exceeding the recall expenses limit or the late filing of a recall financing report.[10]

Given the nature of the potential offences, most are unlikely to proceed to prosecution due to the high standard of proof required and the significance of the offences in the context of other matters before the courts. Therefore, offences under the Act are not practically enforceable, which could potentially increase the likelihood of these offences actually occurring.

Recommendation: *Prescribe administrative penalties for those offences that are unlikely to proceed to prosecution. The presence of administrative penalties would provide appropriate deterrence and enhance enforcement of the legislation.*

19 Give the Chief Electoral Officer regulatory authority

The *Election Act* provides the Chief Electoral Officer the authority to make Regulations in relation to the Act. This enhances the impartial administration of the electoral process and protects it from the risk or perception of political interference.

The *Recall and Initiative Act* does not provide regulatory authority for the Chief Electoral Officer in relation to the recall process. The Act prescribes that Regulations may be made by the Lieutenant Governor in Council on the recommendation of the Minister after consultation with the Chief Electoral Officer.[11] This is inconsistent with the principle of impartial administration of electoral processes. Additionally, it creates the risk and perception of political interference in matters that may affect Members of the Legislative Assembly personally.

Recommendation: *Give the Chief Electoral Officer the authority to make Regulations in relation to the recall process.*

20 Increase public awareness of the recall process

There is a lack of knowledge among the general public, advertising sponsors, proponents and MLAs with respect to the *Recall and Initiative Act*.

Many of the problems associated with the recall petition process could be alleviated if further resources were made available for public awareness campaigns to inform voters of their rights and responsibilities if they wish to participate in the process.

Under the *Election Act*, the Chief Electoral Officer is required to provide information to the public regarding voter registration and other electoral processes under that Act. The public awareness campaigns Elections BC has conducted during elections have proven to be an essential and effective tool for advancing awareness and understanding of the electoral process. There are currently no parallel provisions in the *Recall and Initiative Act* authorizing the Chief Electoral Officer to conduct public education on the recall process.

Recommendation: *Include provisions similar to the Election Act authorizing the Chief Electoral Officer to provide information to the public regarding the recall process.*

3 Is there another way?

The recall process in other jurisdictions

United States

The United States has had the longest and most extensive use of recall. Eighteen states have adopted recall for state level elected officials through constitutional or statutory provisions. They are Alaska, Arizona, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Washington, and Wisconsin.[12]

The District of Columbia, although not a state, also provides for recall. Virginia has a form of recall but is not included as a recall state; though Virginia's process requires a recall petition, it involves a recall trial rather than a recall election.[13] Hawaii, the most recent state to consider recall at the state level, introduced a Bill in the House of Representatives in early 2003.[14] Recall is used much more frequently at the local level of government than at the state level in the United States – 36 states permit the recall of local officials.[15] While procedures and rules vary widely among states, the main features are the same. The following is a summary of their common elements and differences and a discussion of key issues.

The recall election

All 18 states use a multi-step recall process. First, a recall petition is issued requiring a certain number of valid signatures. Second, if the petition is successful, a recall election will be called on the question of whether or not to remove the elected official. Third, if the majority of the voters vote for recall, a by-election will be held to replace the individual. The recall petition does not trigger the removal of the elected official; the petition triggers a recall election. Recall elections are conducted in a manner similar to a normal election. By comparison, in British Columbia a successful recall petition automatically triggers the recall of the Member and their seat becomes vacant. A by-election is then called to fill the vacancy. No other jurisdiction in the world uses the process currently in place in British Columbia.

Combined ballot

Five states combine the recall election and the by-election into a single electoral event, or a combined ballot. There are two types of combined ballot procedures used in the U.S.

In the first approach, a successful recall petition triggers a simultaneous vote on recall and the election of a replacement. The ballot asks voters two questions: first, whether or not to recall the individual, and second, who will replace them – the second question subject to the outcome of the first. This procedure is used in California, Colorado and Wisconsin.

A variation of this approach is used in Arizona and Nevada. A successful recall petition triggers a special election, and the individual subject to recall is automatically placed on the ballot. The individual is not immediately recalled and continues their duties of office until the outcome of the special election.[16] There is no separate question on whether or not to recall the individual, effectively combining the issue of recall and replacement into one ballot. Oregon initially adopted this procedure until an Oregon Supreme Court decision in 1914 ruled that the two questions of recall and replacement must be considered separately. Oregon subsequently changed its procedures to provide voters with a separate recall election followed by a by-election, adopting a three-part recall process.[17]

According to critics of the combined ballot, the reasons to recall an elected official could become overshadowed by the election campaign for a successor. A separate vote on recall could focus voters' attention on the individual's record rather than on those seeking their position. However, the disadvantages of a separate vote are increased administration costs and a potentially lower voter turnout.[18]

Recall petition restrictions

Restrictions range widely as to when someone may apply for a recall petition. California, Minnesota and Washington permit the recall process to be initiated the day an elected official takes office. However, most states prohibit recall in the first two to six months after an elected official takes office, with six months being the most common. Most states also restrict petitions during a period preceding the end of an individual's term.

Several states limit the number of times someone may be subject to recall. Arizona, Idaho, Oregon, Montana and Nevada allow a second attempt to recall an elected official during their term of office if the petitioners reimburse the state for the cost of the previous recall attempt. Kansas, North Dakota and Wisconsin permit only one recall attempt per term.

Recall petition requirements

The number of signatures required for a successful petition varies widely from ten percent of eligible voters for statewide officials in Montana to 40 percent in Kansas. The most common threshold requirement is 25 percent.

Most states base the threshold percentage on the total number of votes cast for all candidates in the last election for the office subject to recall. Some states base the

percentage on the number of actual votes cast for the particular individual in the last election. Typically, all registered voters are eligible to sign a recall petition for state officials in the district in which they are currently registered.

All states require a statement of up to 200 words outlining the reasons for recall to accompany an application for a recall petition. The elected official subject to recall usually has the option to file a statement of response of up to 200 words. Three states, Alaska, Kansas and Minnesota, require a $100 deposit, which is refundable if the petition is successful. Petitioners have from 60 days in Wisconsin to 270 days in Washington to garner enough signatures. Among the 18 states, 90 days is the most common period allowed for gathering signatures.

Verification procedures

If the number of signatures on a recall petition exceeds a specific threshold, several states verify the petition by investigating a representative random sample of the signatures to determine sufficiency. California, North Dakota, Oregon and Washington are among the states that allow petitions to be verified through statistical sampling. In North Dakota, the Secretary of State determines the validity of the signatures by verifying a representative random sampling of the signatures contained in a petition by use of questionnaires, post cards, telephone calls, personal interviews, or other accepted information-gathering techniques.

If a petition does not have the requisite number of signatures, at least five states allow the petition to be amended; sponsors are given an extra number of days, usually five, to collect additional signatures. Sponsors may also appeal the decision to the state Supreme Court if the petition is rejected.

Results of a successful recall petition

Once a petition is deemed successful, all 18 states require a recall election on the question of whether or not to remove the elected official. If recalled, a by-election will be held to replace the individual. As noted earlier, some states combine the recall election and the by-election on a single ballot. Typically, the individual subject to recall is automatically placed on the ballot for the by-election, unless they resign within a certain number of days. Four states, including California and Michigan, prohibit the elected official from being on the ballot. Similar to regular elections, most states have provisions for contesting the results of a recall election.

Oregon now administers all elections through vote-by-mail and is the first state to allow recall elections at the state level to be conducted by mail. Although Oregon has not held a recall election for state officials since instituting vote-by-mail, some vote-by-mail recall elections have occurred at the county or district level.

Frequency of use

Historically, recall in the U.S. has occurred most frequently at the local level. Research indicates that more than three-fourths of all recall elections in the United States are at the city council or school board level.[20] Recall has seldom been used to remove state officials; although often attempted, most recall campaigns fail or never actually get off the ground. In California, one of the most active recall states, there have been 32 attempts to recall governors. The recall of Governor Gray Davis in 2003 was the first successful recall of a governor in that state. Only one other governor has ever been recalled in U.S. history, and that instance occurred in North Dakota in 1921. Of the 117 efforts to recall other California state officials, only seven made it to a ballot – four succeeded. Of the 18 states with recall provisions, only a handful of state legislators have been recalled.[21]

Switzerland

In Switzerland, six of the 26 cantons have recall provisions for their cantonal parliament. In all six cantons a prescribed number of eligible voters must sign a recall petition in order for it to be successful. The number necessary and the time allotted for collecting signatures vary according to each canton. In Schaffhausen, a petitioner needs to gather 1,000 signatures. Ticino is the most restrictive, requiring 15,000 signatures to be collected within 60 days.

When the petition is submitted, signatures are verified as to each voter's eligibility. Petitions with insufficient signatures are returned to the sponsor, who may collect additional signatures within a specified time. Once the petition has the requisite number of signatures, a recall election must be scheduled.

Although part of cantonal law since the 1850s, recall has been rarely employed and an elected official has yet to be removed.[22]

Philippines

The Republic of the Philippines has had recall for all locally elected officials since 1991. The process may be initiated upon petition of at least 25 percent of the total number of registered voters at the last election for the local elected official's office.[23] No limitations exist as to the grounds for a recall. Once submitted, a petition is published in a public place for up to 20 days for the purpose of verifying the authenticity and genuineness of the petition and the requisite percentage of signatures. If the petition is deemed successful, an election is called and the individual subject to the recall is automatically placed on the ballot among other registered candidates. If the individual subject to recall receives the highest number of votes, they continue their term of office. Elected officials may be subject to a recall only once during their term, and no recall can take place within

one year from their first day in office or within one year immediately preceding a regular local election. The term for all locally elected officials is three years.

Venezuela

The Republic of Venezuela rewrote its Constitution in 1999, providing recall provisions for all elected officials, including the president, state governor, national assembly representatives, and city mayors. Regulations with specific rules and procedures for the recall process were established in September 2003.

Voters may submit a petition calling for a recall referendum on an elected official following the midpoint of their term for which they were elected. A petition requires valid signatures from at least 20 percent of the registered voters which the individual represents. Petitioners have four days to collect signatures, the dates of which are established by the National Electoral Council, the organization responsible for administering the recall process. Voters who sign a petition must include their full name, national identity card number, date of birth, and fingerprint. The National Electoral Council then has 30 days to verify the data of the voters on the petition.

Should the Council determine the petition to be successful, a recall referendum must be held within 97 days. An individual may be recalled if the number of referendum votes for recall is the same or greater than the number of votes the individual received in their election, provided that at least 25 percent of the total number of registered voters the individual represents vote in the recall referendum. If a recall referendum is held and the individual's mandate is revoked, immediate action is taken to fill the vacancy in accordance with established laws. During the term for which the individual was elected, no more than one petition for a recall referendum may be made.[24]

Limiting grounds for recall

In the United States, seven states – Alaska, Georgia, Kansas, Minnesota, Montana, Rhode Island, and Washington – restrict the use of recall.[25] A recall petition may be issued only if a proponent alleges that an elected official has committed particular acts, such as malfeasance, nonfeasance, misconduct, or incompetence.[26] Specific grounds and procedures for determining sufficiency vary among the states. However, the other eleven states with recall have no limitations, and an elected official may be recalled for any reason; the question as to whether or not to recall an elected official is determined solely by the voters.

There have been suggestions that British Columbia's *Recall and Initiative Act* should stipulate specific grounds for recalling a Member of the Legislative Assembly. There are a number of issues and concerns surrounding such limitations.

Currently, there are no legislative criteria as to why an MLA may be recalled in British Columbia. The Act requires only that an application for a recall petition contain a statement not exceeding 200 words setting out why, in the proponent's opinion, the recall of the Member is warranted. The Chief Electoral Officer does not assess the applicant's reasons and does not have authority to refuse to issue a petition on the basis of those reasons. Following approval in principle of the application, the Chief Electoral Officer issues a signature sheet and cover sheet to the proponent. The cover sheet contains the proponent's statement, identifies the MLA subject to recall and identifies the proponent and proponent's financial agent. The cover sheet must always accompany the signature sheet and is meant to ensure voters have the opportunity to assess the reasons for the proposed recall as they consider signing the petition.

The question of limiting the grounds for recall turns on whether recall is intended to be a political process or a judicial process. Currently, the recall legislation prescribes a political process whereby a proponent may be issued a petition on any grounds. The question as to whether or not the reasons outlined in the proponent's statement warrant the removal of an MLA is resolved solely by the electorate through a public petition process, followed by a by-election involving all voters in the electoral district. Prescribing specific reasons for recall would require a quasi-judicial process to determine the sufficiency of the reasons stated in an application for a recall petition. Determination would be based on law and subject to review by the courts.

Interestingly, British Columbia's *Constitution Act* has always contained provisions for removal of an MLA if the Member commits certain acts. Section 25 of the *Constitution Act* restricts and prohibits MLAs from accepting money directly or indirectly from government. If a Member alleges that another Member has

contravened section 25, the alleging Member must table a notice of motion in the Legislative Assembly setting out the particulars of the allegation. The Member must also move that the matter be referred to a committee to inquire into and consider the matter and report its findings to the Legislative Assembly. If the committee reports that the Member has contravened section 25 and the Legislative Assembly adopts the report, the Member ceases to hold office and the MLA's seat becomes vacant.

Additionally, a Member automatically ceases to be an MLA if the Member commits certain acts, including sitting or voting as a member of the House of Commons of Canada, failing to attend the Legislative Assembly during a whole session, taking an oath or making a declaration of allegiance to a foreign state or power, or being convicted of an indictable offence that may only be prosecuted by way of indictment. If there is a vacancy in the Legislative Assembly as a result of these provisions, a by-election must be called within six months.

The *Members' Conflict of Interest Act* may also serve as a means of removing an MLA who has breached certain responsibilities of office. The Act stipulates that a Member must not be involved in a decision during the course of public duties with the knowledge that there is an opportunity to further the Member's private interests.

The *Members' Conflict of Interest Act* allows members of the public who have reasonable and probable grounds to believe there has been a contravention of the Act or of section 25 of the *Constitution Act*, to request that the commissioner give an opinion respecting the alleged contravention. The commissioner may conduct a public inquiry into the allegations and make recommendations to the Legislative Assembly as to the appropriate penalty, including that the Member's seat become vacant.

In the United States, the majority of states use recall as a political process. State courts have played a large part in determining whether recall is a political or legal process, holding that recall is political in nature and that it is appropriate for the people to decide the truth and sufficiency of the grounds asserted for removal.[27] Several states, particularly the most frequent users of recall such as California, Colorado and Michigan, have subsequently amended their constitutions to stipulate explicitly that the reasons stated for a recall petition are not reviewable by the courts and that the electorate shall be the sole judge as to their sufficiency.

The primary reason for introducing recall in British Columbia was to enhance MLAs' accountability to their constituents. Accountability is highly subjective and cannot easily be articulated into a prescribed set of actions or reasons. The decision the Legislative Assembly made when it passed the current Act was to let

the voters decide whether the reasons for recall stated on the petition cover sheet were warranted. Additionally, legislators recognized that it would be difficult to define an authority for assessing the "validity" of an applicant's reason for requesting a recall petition.

In its report inquiring into recall, the Select Standing Committee noted, "We do not think that it would be possible to delineate a set of proscribed grounds relating to a Member of the Legislative Assembly's behaviour, as distinct from his or her policy decisions, with any prospect of success. Moreover, there would be serious difficulties in determining the person or institution that would determine if a statutory ground had been satisfied." The committee went on to say, "The recall procedure alleges certain misconduct on the part of the elected official. However, recall may not require that these allegations be proven; therefore, it is primarily a political, rather than judicial procedure."[28]

Alternative models

Part 2 of this report discussed the difficulties with the current recall petition process and legislation and presented recommendations for legislative amendments if the existing recall process is to be retained. The following section discusses alternative models that legislators may wish to consider if they decide to replace rather than amend the existing *Recall and Initiative Act*.

These alternatives are based on practices in the vast majority of other jurisdictions that have recall legislation. The two models described in this section build on British Columbia's experience as well as the experience of other jurisdictions. Each model offers a number of alternative procedures to address difficulties with the current legislation, improve efficiencies in the process and increase administrative fairness. The explanations of the processes are brief and intended only to outline key elements.

Three step model – petition, recall referendum and by-election

This alternative retains the public petition process, but a successful petition would trigger a recall referendum instead of resulting in the immediate removal of a Member of the Legislative Assembly, as is currently the case in British Columbia.

The first step would begin with the recall petition and canvassing for signatures. A successful recall petition with a sufficient number of valid signatures would trigger the second step, a recall referendum. If a majority voted to recall the Member, the Member's seat would become vacant and a by-election called to elect a replacement.

The application

Any voter wishing to recall their Member of the Legislative Assembly would provide Elections BC with a completed application. The application would require a statement as to why, in the applicant's opinion, the Member should be recalled.

In order to provide MLAs time to learn the duties of the position and demonstrate their abilities, voters would be prohibited from applying for a recall petition during a specified period following the Member's election and preceding the next election.

The recall petition

The proponent would receive a petition bearing a cover sheet with their statement of reasons for recall. This would provide voters with the opportunity to inform themselves as to why the proponent believes recall to be warranted. Volunteer canvassers could help the proponent collect signatures.

Submitting the petition and verification

The proponent would be required to submit the petition to Elections BC within a specific time period allotted for gathering signatures. If the petition was not returned within the required time, the petition would fail.

Elections BC would then verify the petition. If the verification process determined that the petition contained enough valid petition lines and if the proponent met the financing requirements, a recall referendum would be called for the electoral district.

The recall referendum

The recall referendum would be conducted under rules and procedures similar to those in the *Election Act*. Voters would be provided with a ballot with a neutrally worded question asking whether or not the Member should be recalled.

Results of a recall referendum – the by-election

If a majority of voters chose to recall the Member, the Member would cease to hold office and a by-election would be called to fill the vacancy. The by-election would be administered under the current provisions of the *Election Act*.

Two step model – petition and a combined ballot

As with the three step model, this alternative begins with a public petition process; a successful petition would trigger a recall election and not the automatic recall of

an MLA. The second step, however, would combine a recall referendum and a by-election on a single ballot.

The recall election

If Elections BC determined that the petition contained enough valid petition lines and if the proponent met the financing requirements, a recall election would be called.

The recall election would combine the question of whether or not to recall the MLA and the question of who should succeed them on a single ballot. A majority vote on the first question would determine if the Member was recalled. Voters would also be asked who, from a list of candidates, should succeed the recalled Member. The second question would be null and void if the first question failed.

A recall election with a combined ballot would contain costs as it involves a single ballot and only one electoral event. As well, the two step model might also result in higher participation among voters than the three step model, which requires voters to cast ballots in two separate electoral events.

Appendices

A Recall petition results

Petition to recall Val Roddick - MLA for Delta South

Recall petition	RP-DLS-2002-001
Proponent's name	John Bayne
Member's name	Val Roddick
Member's political affiliation	LIB
Issuance date	November 26, 2002
Return date	January 27, 2003
Number of registered canvassers	175

Proponent's opinion why the recall of the Member is warranted:

Delta South MLA Val Roddick has failed to represent the wishes of her constituents and should be recalled.

Status of petition:

The recall petition to recall Val Roddick, MLA for Delta South, failed to meet the required signature threshold. The Delta South recall petition was the first instance of a recall petition proceeding through the full verification process. For more information regarding disqualified petition lines please see *Investigations, compliance and enforcement* in Part 1 of this report.

Reconciliation of Delta South recall petition results:

	Signatures
Petition lines with information	13,171
Signatures not in ink	3
Total petition lines to be verified	13,168
Disqualified signatures	
No signature on petition line	215
Signature crossed out or defaced	1
Address not shown	4
Address did not match voter registration	91
Signature did not match voter registration	233
Ineligible voter	2,395
Duplicate signatures	230
Total disqualified signatures	3,169
Signatures accepted	9,999
Signatures needed to succeed	11,949

Petition to recall Gillian Trumper - MLA for Alberni-Qualicum

Recall petition	RP-ALQ-2003-001
Proponent's name	John Olsen
Member's name	Gillian Trumper
Member's political affiliation	LIB
Issuance date	February 24, 2003
Return date	April 25, 2003
Number of registered canvassers	58

Proponent's opinion why the recall of the Member is warranted:

I believe Gillian Trumper, MLA, should be recalled because she actively supports the policies and programmes of the Liberal government of British Columbia. Without a mandate and after winning an unrepresentative and distorted majority in the Legislature, the Liberal government has embarked on a programme designed to dismantle the social benefits built by generations of British Columbia citizens.

Status of petition:

The proponent withdrew on March 5, 2003, and therefore the petition failed. In Alberni-Qualicum, 33,033 voters were registered to vote on May 16, 2001. As a result, 13,215 or more signatures were required on the recall petition.

Petition to recall Mike Hunter - MLA for Nanaimo

Recall petition	RP-NAN-2003-002
Proponent's name	George Charles Addison
Member's name	Mike Hunter
Member's political affiliation	LIB
Issuance date	February 21, 2003
Return date	April 22, 2003
Number of registered canvassers	186

Proponent's opinion why the recall of the Member is warranted:

Mike Hunter, MLA Nanaimo, is being recalled because he actively supports the policies of the BC Liberal Government to cut public and social service programs built by generations of British Columbia citizens. He is not representing his constituents or protecting the public interest.

He must be recalled.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Nanaimo, 31,412 voters were registered to vote on May 16, 2001. As a result, 12,566 or more signatures were required on the recall petition.

Petition to recall Judith Reid - MLA for Nanaimo-Parksville

Recall petition	RP-NAP-2003-003
Proponent's name	Elizabeth Fox
Member's name	Judith Reid
Member's political affiliation	LIB
Issuance date	February 20, 2003
Return date	April 22, 2003
Number of registered canvassers	177

Proponent's opinion why the recall of the Member is warranted:

Judith Reid, MLA Nanaimo-Parksville, is being recalled because she actively supports the policies of the BC Liberal Government to cut public and social service programs built by generations of British Columbia citizens. She is not representing her constituents or protecting the public interest.

She must be recalled.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Nanaimo-Parksville, 37,139 voters were registered to vote on May 16, 2001. As a result, 14,857 or more signatures were required on the recall petition.

Petition to recall Wendy McMahon - MLA for Columbia River-Revelstoke

Recall petition	RP-CLR-2003-004
Proponent's name	Joylaine Orr
Member's name	Wendy McMahon
Member's political affiliation	LIB
Issuance date	February 26, 2003
Return date	April 28, 2003
Number of registered canvassers	193

Proponent's opinion why the recall of the Member is warranted:

I support the recall of Wendy McMahon, MLA for Columbia River-Revelstoke because she has failed in her duty to represent the views of her constituents.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Columbia River-Revelstoke, 20,166 voters were registered to vote on May 16, 2001. As a result, 8,068 or more signatures were required on the recall petition.

Petition to recall Blaire Suffredine - MLA for Nelson-Creston

Recall petition	RP-NEL-2003-005
Proponent's name	Birthe Wilson-Achtner
Member's name	Blaire Suffredine
Member's political affiliation	LIB
Issuance date	February 27, 2003
Return date	April 28, 2003
Number of registered canvassers	394

Proponent's opinion why the recall of the Member is warranted:

Nelson-Creston MLA Blair Suffredine has neither heard nor represented his constituents and must be recalled.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Nelson-Creston, 29,233 voters were registered to vote on May 16, 2001. As a result, 11,695 or more signatures were required on the recall petition.

Petition to recall Jeff Bray - MLA for Victoria-Beacon Hill

Recall petition	RP-VTB-2003-006
Proponent's name	Sybil Rowe
Member's name	Jeff Bray
Member's political affiliation	LIB
Issuance date	February 28, 2003
Return date	April 29, 2003
Number of registered canvassers	147

Proponent's opinion why the recall of the Member is warranted:

"Voters need not wait until the next election to rid themselves of an incompetent, dishonest, unresponsive or irresponsible representative." - 1993 Report of Select Standing Committee

Victoria-Beacon Hill MLA Jeff Bray should be recalled because he misled voters during the last election campaign. Since the election he has failed to represent the wishes of his constituents.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Victoria-Beacon Hill, 36,775 voters were registered to vote on May 16, 2001. As a result, 14,711 or more signatures were required on the recall petition.

Petition to recall Gordon Campbell - MLA for Vancouver-Point Grey

Recall petition	RP-VPG-2003-007
Proponent's name	Eric Simons
Member's name	Gordon Campbell
Member's political affiliation	LIB
Issuance date	March 13, 2003
Return date	May 12, 2003
Number of registered canvassers	154

Proponent's opinion why the recall of the Member is warranted:

Vancouver-Point Grey MLA Gordon Campbell has failed to represent the wishes of his constituents. He has displayed a deficiency in good judgment and has continually avoided accountability. For these reasons he should be recalled.

Status of petition:

The proponent withdrew on May 12, 2003, and therefore the petition failed. In Vancouver-Point Grey, 36,554 voters were registered to vote on May 16, 2001. As a result, 14,623 or more signatures were required on the recall petition.

Petition to recall Lorne Mayencourt - MLA for Vancouver-Burrard

Recall petition	RP-VBU-2003-008
Proponent's name	Alec Robert Zuke
Member's name	Lorne Mayencourt
Member's political affiliation	LIB
Issuance date	April 2, 2003
Return date	June 2, 2003
Number of registered canvassers	76

Proponent's opinion why the recall of the Member is warranted:

Lorne Mayencourt has repeatedly failed to represent the interests of his constituents and therefore is being recalled.

Status of petition:

The proponent did not return the petition sheets and therefore the petition failed. In Vancouver-Burrard, 37,400 voters were registered to vote on May 16, 2001. As a result, 14,961 or more signatures were required on the recall petition.

B Recall petition financing reports

Financial reporting overview

This report includes the financial information from the recent recall financing reports that the Chief Electoral Officer has received. The Electoral Finance department staff has reviewed each report and subsequent amendments to ensure the compliance, accuracy and completeness of the reports. There may be rounding differences due to the omission of cents from the numbers presented in this report.

Proponents and Members of the Legislative Assembly

Summaries of the Statements of Income and Expenses filed by proponents and MLAs follow the overview below. The recall financing information provided in this report includes both the total inflows and outflows. Total inflows consist of:

Contributions – an amount of money or the value of any property or services provided without compensation by way of donation, advance, deposit, discount or otherwise.

Fundraising income – the portion of income from fundraising functions that is not reported as contributions.

Other income – miscellaneous income, such as interest income.

Total outflows consist of:

Recall expenses subject to limits – the value of property or services used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition. The recall petition period begins on the day the recall petition application is approved in principle and ends on the day established for the return of the petition, or on the day the petition is submitted to the Chief Electoral Officer, if earlier. The *Recall and Initiative Act* limits the amount a proponent or MLA can spend on recall expenses.

Recall expenses not subject to limits – recall expenses specifically excluded from the recall expense limit, as described in section 122 of the *Recall and Initiative Act*.

Non-recall expenses – the value of property or services used outside the recall petition period.

Registered recall advertising sponsors

The following definitions are relevant to recall advertising sponsors:

> **Recall advertising** – advertising used during a recall petition period to promote or oppose, directly or indirectly, the recall of the Member who is the subject of the recall petition.
>
> **Contributions** – an amount of money or the value of any property or services provided without compensation to a recall advertising sponsor during the period beginning six months before the recall petition was issued and ending at the end of the recall petition period.
>
> **Amount of sponsor's assets used** – the value of the sponsor's personal assets used to pay for recall advertising. This amount does not include recall contributions referred to above.
>
> **Value of recall advertising** – the market value of preparing and conducting recall advertising.

Section 147 of the *Recall and Initiative Act* stipulates that a registered recall advertising sponsor is not required to submit a financial disclosure report if, during the recall petition period, the recall advertising sponsored did not have a total value of $500 or more. Two registered recall advertising sponsors sponsored advertising with a total value in excess of $500: RecallBC and the Committee to Support Wendy. A summary of their financing reports follows the summary of the statements of income and expenses for proponents and MLAs.

The following registered recall advertising sponsors indicated that they spent less than $500:

- Commons Protection Group (involved in all nine recall petitions)
- Peter Kelly (Delta South recall petition)
- Terry Parker (Delta South recall petition)
- RecallBC (involved in all nine recall petitions, but spent more than $500 only in the Delta South recall petition)
- The Committee for Support of Wendy McMahon (Columbia River-Revelstoke recall petition)

Summaries of the statements of income and expenses

Petition to recall Val Roddick, MLA for Delta South

	Val Roddick MLA $	John Bayne Proponent $
Inflows		
Recall contributions		
Individuals	-	25,000
Corporations	-	-
Unincorporated businesses/commercial organizations	-	-
Trade unions	-	-
Non-profit organizations	15,881	-
Other identifiable contributors	-	-
Anonymous contributions	-	-
Total recall contributions	15,881	25,000
Fundraising income	-	-
Other income	-	-
Total inflows	15,881	25,000
Outflows		
Recall expenses		
Accounting and auditing services	525	-
Bank charges	30	90
Brochures (pamphlets, flyers, etc.)	360	1,862
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	284
Data processing	-	23
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	1,328
Gifts	-	-
Insurance	-	-
Interest expense	-	-
Media advertising	7,034	2,407
Newsletters	-	-
Office rental	-	5,571
Office supplies, stationery	-	411
Personal expenses of authorized participant	-	80
Postage and courier	188	49
Printing	-	1,081
Printing of petition sheets	-	139
Professional services	1,021	-
Research and polling	-	-
Salaries and benefits	-	-
Signs (lawn signs, billboards, etc.)	-	3,318
Social functions	-	92
Telecommunications	-	593
Travel	-	133
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	440
Total recall expenses	9,158	17,951
Non-recall expenses	6,723	7,049
Total outflows	15,881	25,000
Surplus/(deficit)	0	0
Recall expense limit	28,846	28,846
Recall expenses subject to limits	8,632	17,682
Recall expenses not subject to limits	526	269

Petition to recall Gillian Trumper, MLA for Alberni-Qualicum

	Gillian Trumper MLA $	John Olsen Proponent $
Inflows		
Recall contributions		
Individuals	-	50
Corporations	-	-
Unincorporated businesses/commercial organizations	-	-
Trade unions	-	-
Non-profit organizations	-	-
Other identifiable contributors	723	-
Anonymous contributions	-	-
Total recall contributions	723	50
Fundraising income	-	-
Other income	-	-
Total inflows	723	50
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	-	-
Brochures (pamphlets, flyers, etc.)	-	-
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	-
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	-
Gifts	-	-
Insurance	-	-
Interest expense	-	-
Media advertising	723	-
Newsletters	-	-
Office rental	-	-
Office supplies, stationery	-	-
Personal expenses of authorized participant	-	-
Postage and courier	-	-
Printing	-	-
Printing of petition sheets	-	-
Professional services	-	-
Research and polling	-	-
Salaries and benefits	-	-
Signs (lawn signs, billboards, etc.)	-	-
Social functions	-	-
Telecommunications	-	-
Travel	-	-
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	-
Total recall expenses	723	50
Non-recall expenses	-	-
Total outflows	723	50
Surplus/(deficit)	0	0
Recall expense limit	29,692	29,692
Recall expenses subject to limits	723	0
Recall expenses not subject to limits	0	50

Petition to recall Mike Hunter, MLA for Nanaimo

	Mike Hunter MLA $	George Addison Proponent $
Inflows		
Recall contributions		
Individuals	520	917
Corporations	1,570	-
Unincorporated businesses/commercial organizations	-	1,148
Non-profit organizations	-	-
Other identifiable contributors	17,166	-
Anonymous contributions	-	180
Total recall contributions	19,256	2,245
Fundraising income	420	-
Other income	-	-
Total inflows	19,676	2,245
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	14	-
Brochures (pamphlets, flyers, etc.)	1,748	24
Contributions to other organizations	9,050	-
Convention, workshop and meeting fees, and rentals	-	417
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	120	-
Gifts	-	-
Insurance	-	-
Interest expense	-	-
Media advertising	1,005	329
Newsletters	-	-
Office rental	1,570	1,133
Office supplies, stationery	17	55
Personal expenses of authorized participant	-	-
Postage and courier	26	-
Printing	-	53
Printing of petition sheets	-	117
Professional services	-	17
Research and polling	-	-
Salaries and benefits	5,350	-
Signs (lawn signs, billboards, etc.)	-	-
Social functions	-	-
Telecommunications	524	50
Travel	-	-
Utilities and maintenance	-	-
Total cost of fundraising functions	252	-
Other expenses	-	-
Total recall expenses	19,676	2,245
Non-recall expenses	0	0
Total outflows	19,676	2,245
Surplus/(deficit)	0	0
Recall expense limit	29,246	29,246
Recall expenses subject to limits	19,424	2,061
Recall expenses not subject to limits	252	184

Petition to recall Judith Reid, MLA for Nanaimo-Parksville

	Judith Reid MLA $	Elizabeth Fox Proponent $
Inflows		
Recall contributions		
Individuals	-	1,029
Corporations	-	-
Unincorporated businesses/commercial organizations	-	-
Trade unions	-	1,148
Non-profit organizations	-	180
Other identifiable contributors	5,500	-
Anonymous contributions	-	47
Total recall contributions	5,500	2,404
Fundraising income	-	-
Other income	-	60
Total inflows	5,500	2,464
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	21	-
Brochures (pamphlets, flyers, etc.)	406	-
Contributions to other organizations	3,623	-
Convention, workshop and meeting fees, and rentals	-	533
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	-
Gifts	-	-
Insurance	-	-
Interest expense	-	4
Media advertising	1,136	335
Newsletters	-	-
Office rental	-	1,148
Office supplies, stationery	-	52
Personal expenses of authorized participant	-	120
Postage and courier	-	17
Printing	-	-
Printing of petition sheets	-	80
Professional services	-	-
Research and polling	-	-
Salaries and benefits	-	-
Signs (lawn signs, billboards, etc.)	-	48
Social functions	-	17
Telecommunications	314	60
Travel	-	-
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	-
Total recall expenses	5,500	2,464
Non-recall expenses	0	0
Total outflows	5,500	2,464
Surplus/(deficit)	0	0
Recall expense limit	30,820	30,820
Recall expenses subject to limits	5,500	2,214
Recall expenses not subject to limits	0	250

Petition to recall Wendy McMahon, MLA for Columbia River-Revelstoke

	Wendy McMahon MLA $	Joylaine Orr Proponent $
Inflows		
Recall contributions		
Individuals	80	3,304
Corporations	-	200
Unincorporated businesses/commercial organizations	655	-
Trade unions	-	874
Non-profit organizations	13,903	65
Other identifiable contributors	-	-
Anonymous contributions	-	611
Total recall contributions	14,638	5,054
Fundraising income	-	-
Other income	-	-
Total inflows	14,638	5,054
Outflows		
Recall expenses		
Accounting and auditing services	655	-
Bank charges	-	25
Brochures (pamphlets, flyers, etc.)	3,672	-
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	80	50
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	-
Gifts	-	-
Insurance	-	-
Interest expense	-	-
Media advertising	3,709	1,580
Newsletters	-	-
Office rental	-	567
Office supplies, stationery	-	675
Personal expenses of authorized participant	-	872
Postage and courier	-	251
Printing	-	-
Printing of petition sheets	-	469
Professional services	-	-
Research and polling	-	-
Salaries and benefits	115	-
Signs (lawn signs, billboards, etc.)	-	21
Social functions	-	-
Telecommunications	-	425
Travel	514	69
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	-
Total recall expenses	8,745	5,054
Non-recall expenses	5,893	-
Total outflows	14,638	5,054
Surplus/(deficit)	0	0
Recall expense limit	34,064	34,064
Recall expenses subject to limits	8,090	3,663
Recall expenses not subject to limits	655	1,391

Petition to recall Blair Suffredine, MLA for Nelson-Creston

	Blair Suffredine MLA $	Birthe Wilson-Achtner Proponent $
Inflows		
Recall contributions		
Individuals	-	7,708
Corporations	-	550
Unincorporated businesses/commercial organizations	-	-
Trade unions	-	2,510
Non-profit organizations	15,205	-
Other identifiable contributors	-	-
Anonymous contributions	-	685
Total recall contributions	15,205	11,453
Fundraising income	-	-
Other income	-	-
Total inflows	15,205	11,453
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	21	45
Brochures (pamphlets, flyers, etc.)	-	715
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	-
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	1,850
Gifts	-	-
Insurance	-	-
Interest expense	-	20
Media advertising	9,490	1,162
Newsletters	3,717	-
Office rental	-	3,285
Office supplies, stationery	9	1,436
Personal expenses of authorized participant	-	-
Postage and courier	11	337
Printing	-	1,006
Printing of petition sheets	-	100
Professional services	316	-
Research and polling	-	-
Salaries and benefits	-	-
Signs (lawn signs, billboards, etc.)	88	360
Social functions	-	-
Telecommunications	25	1,087
Travel	228	-
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	-
Total recall expenses	13,905	11,453
Non-recall expenses	1,300	-
Total outflows	15,205	11,453
Surplus/(deficit)	0	0
Recall expense limit	32,420	32,420
Recall expenses subject to limits	13,905	11,303
Recall expenses not subject to limits	0	150

Petition to recall Jeff Bray, MLA for Victoria-Beacon Hill

	Jeff Bray MLA $	Sybil Rowe Proponent $
Inflows		
Recall contributions		
Individuals	7,100	8,139
Corporations	3,625	-
Unincorporated businesses/commercial organizations	-	-
Trade unions	-	-
Non-profit organizations	6,518	1,923
Other identifiable contributors	-	200
Anonymous contributions	-	544
Total recall contributions	17,243	10,806
Fundraising income	680	-
Other income	-	-
Total inflows	17,923	10,806
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	20	45
Brochures (pamphlets, flyers, etc.)	2,782	1,270
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	567
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	83
Gifts	-	-
Insurance	-	-
Interest expense	18	-
Media advertising	3,299	3,104
Newsletters	-	-
Office rental	-	1,404
Office supplies, stationery	-	752
Personal expenses of authorized participant	-	-
Postage and courier	2,825	10
Printing	-	706
Printing of petition sheets	-	-
Professional services	2,933	-
Research and polling	-	-
Salaries and benefits	-	-
Signs (lawn signs, billboards, etc.)	-	621
Social functions	-	54
Telecommunications	290	232
Travel	-	-
Utilities and maintenance	-	-
Total cost of fundraising functions	4,133	-
Other expenses	-	-
Total recall expenses	16,300	8,898
Non-recall expenses	1,623	1,903
Total outflows	17,923	10,801
Surplus/(deficit)	0	5
Recall expense limit	30,720	30,720
Recall expenses subject to limits	11,442	8,797
Recall expenses not subject to limits	4,858	101

Petition to recall Gordon Campbell, MLA for Vancouver-Point Grey

	Gordon Campbell MLA $	Eric Simons Proponent $
Inflows		
Recall contributions		
Individuals	1,300	19,039
Corporations	720	-
Unincorporated businesses/commercial organizations	425	500
Trade unions	-	1,150
Non-profit organizations	11,853	-
Other identifiable contributors	-	-
Anonymous contributions	-	-
Total recall contributions	14,298	20,689
Fundraising income	-	-
Other income	-	56
Total inflows	14,298	20,745
Outflows		
Recall expenses		
Accounting and auditing services	459	-
Bank charges	17	63
Brochures (pamphlets, flyers, etc.)	-	1,763
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	313
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	920	601
Gifts	-	-
Insurance	250	-
Interest expense	-	-
Media advertising	1,592	1,080
Newsletters	-	-
Office rental	1,070	6,420
Office supplies, stationery	860	2,001
Personal expenses of authorized participant	-	-
Postage and courier	44	2,786
Printing	1,098	1,417
Printing of petition sheets	-	126
Professional services	200	268
Research and polling	-	40
Salaries and benefits	-	1,072
Signs (lawn signs, billboards, etc.)	-	457
Social functions	-	-
Subscriptions and dues	-	33
Telecommunications	1,738	143
Travel	-	-
Utilities and maintenance	432	1,015
Total cost of fundraising functions	-	-
Other expenses	-	29
Total recall expenses	8,680	19,677
Non-recall expenses	5,618	1,068
Total outflows	14,298	20,745
Surplus/(deficit)	0	0
Recall expense limit	30,711	30,711
Recall expenses subject to limits	8,221	19,501
Recall expenses not subject to limits	459	176

Petition to recall Lorne Mayencourt, MLA for Vancouver-Burrard

	Lorne Mayencourt MLA $	Alec Zuke Proponent $
Inflows		
Recall contributions		
Individuals	11,095	1,474
Corporations	7,324	-
Unincorporated businesses/commercial organizations	-	1,360
Trade unions	-	550
Non-profit organizations	-	-
Other identifiable contributors	-	150
Anonymous contributions	-	52
Total recall contributions	18,419	3,586
Fundraising income	-	-
Other income	5,000	-
Total inflows	23,419	3,586
Outflows		
Recall expenses		
Accounting and auditing services	-	-
Bank charges	-	15
Brochures (pamphlets, flyers, etc.)	-	-
Contributions to other organizations	-	-
Convention, workshop and meeting fees, and rentals	-	365
Data processing	-	-
Fees charged by Chief Electoral Officer	-	50
Furniture and equipment	-	106
Gifts	-	-
Insurance	-	300
Interest expense	-	-
Media advertising	-	451
Newsletters	-	-
Office rental	-	1,200
Office supplies, stationery	641	42
Personal expenses of authorized participant	-	112
Postage and courier	420	-
Printing	-	60
Printing of petition sheets	-	105
Professional services	-	-
Research and polling	-	-
Salaries and benefits	-	100
Signs (lawn signs, billboards, etc.)	178	322
Social functions	711	208
Subscriptions and dues	-	-
Telecommunications	114	150
Travel	-	-
Utilities and maintenance	-	-
Total cost of fundraising functions	-	-
Other expenses	-	-
Total recall expenses	2,064	3,586
Non-recall expenses	21,305	-
Total outflows	23,369	3,586
Surplus/(deficit)	50	0
Recall expense limit	31,099	31,099
Recall expenses subject to limits	2,064	3,319
Recall expenses not subject to limits	0	267

Summary of advertising sponsor disclosure reports

Recall advertising sponsor - Columbia River-Revelstoke

	Committee to Support Wendy $
Inflows	
Recall contributions	
Individuals	650
Corporations	695
Unincorporated businesses/commercial organizations	-
Trade unions	-
Non-profit organizations	-
Other contributors	-
Anonymous contributions	-
Total recall contributions	1,345
Amount of sponsor's assets used	-
Total inflows	1,345
Outflows	
Advertising by category	
Brochures	-
Newspapers	696
Radio	-
Signs	107
Television	-
Other	-
Total recall advertising expenses	803

Recall advertising sponsor - Delta South

	RecallBC $
Inflows	
Recall contributions	
Individuals	876
Corporations	-
Unincorporated businesses/commercial organizations	-
Trade unions	-
Non-profit organizations	-
Other contributors	-
Anonymous contributions	-
Total recall contributions	876
Amount of sponsor's assets used	-
Total inflows	876
Outflows	
Advertising by category	
Brochures	28
Newspapers	493
Radio	-
Signs	251
Television	-
Other	104
Total recall advertising expenses	876

C Further legislative recommendations

The following recommendations for amendments focus on technical and administrative aspects of the *Recall and Initiative Act*, primarily with respect to recall financing provisions. A number of these recommendations are consistent with recommendations for amendments to the *Election Act* in the *Report of the Chief Electoral Officer – 37th Provincial General Election*. The recommendations are intended to facilitate compliance, provide consistency, streamline procedures and remedy issues that have arisen since the Act came into force in 1995.

Section 109(1)(b) – General obligations of financial agent

The Act requires the financial agent to ensure that all recall expenses are paid from an account in a savings institution. Section 110 of the Act permits the appointment of assistant financial agents who are authorized to accept recall contributions and incur recall expenses. Due to the vastness and particular geography of some electoral districts, it is often impractical to have the financial agent pay for all expenses directly.

Recommendation: *Permit the financial agent or assistant financial agent to incur recall expenses and, upon production of receipts for the expenses, to be reimbursed from the account in a savings institution designated for the recall petition.*

Section 114(4)(b) – Recall expenses

The Act provides that "the cost of travelling to or within the electoral district" is a personal recall expense if incurred by an authorized participant. There is no reference to travel "from" the electoral district. This appears to be a replication of a drafting error in the *Election Act*.

Recommendation: *Include travel from the electoral district as a personal recall expense if incurred by an authorized participant.*

Section 120(1)(e) – Financial agent must record each recall contribution

Financial agents must record certain information for each recall contribution made to the authorized participant. If the contributor is a numbered corporation or an unincorporated organization, the full names and addresses of at least two individuals who are directors or principal officers of the organization must be recorded.

A numbered corporation is no different than a named corporation except that its name is a number. To require a director of a numbered corporation to be identified but not to require the same for a director of a named corporation is inconsistent

and unnecessary. A numbered corporation can be searched in the Corporate Registry in the same way as a named corporation.

Recommendation: *Remove the requirement to record the names of directors of numbered corporations.*

Section 121 – Restriction on who may incur recall expenses

This section states that only authorized participants or recall advertising sponsors may incur a recall expense. This is contradictory to section 107, which states that authorized participants may incur recall petition expenses only through their financial agent.

Recommendation: *Amend section 121 to include a reference to section 107 to clarify who has authority to incur a recall expense.*

Section 122(2)(f) – Recall expenses in excess of limit prohibited

Section 114(2) establishes that a deficit incurred in holding a recall fundraising function during a recall petition period is a recall expense. Section 122(2)(f) establishes that expenses incurred in holding a fundraising function if no deficit is incurred are to be excluded from expenses subject to expense limits.

The Act is not clear about how to deal with costs incurred in holding a fundraising function that does incur a deficit. If both costs and the deficit itself were reported as separate recall expenses, the amount of the deficit would be counted twice.

Recommendation: *Amend section 122(2)(f) to clarify that the cost incurred in holding any fundraising function during a recall petition period is not a recall expense subject to the expense limit.*

Section 125(1) – Recall financing report

Within 28 days after the end of the recall petition period, the financial agent of an authorized participant must file a financing report with the Chief Electoral Officer. However, the financial agent is not always available to submit the financing report. The Act does not permit another person to submit the financing report on the financial agent's behalf.

Recommendation: *Allow authorized participants and assistant financial agents to submit recall financing reports on behalf of the financial agent*.

Section 125(4) – Recall financing report

A recall financing report must be filed with a solemn declaration of the financial agent as to its accuracy. Recall financing reports have been submitted without a solemn declaration having been sworn before an authorized individual. Elections

BC has had to return such reports, as they did not meet the requirements of the Act. In the absence of Government Agent or Elections BC offices, there is no place where a financial agent may make a solemn declaration without cost. Election financing reports under the *Election Act* do not need to be filed with a solemn declaration.

Recommendation: *Remove the requirement that recall financing reports be filed with a solemn declaration of the financial agent.*

Section 125(5) – Recall financing report

Recall financing reports do not need to be audited unless, after examining the report, the Chief Electoral Officer requires an audit. It would be beneficial if recall financing reports with contributions or expenses over a certain threshold were audited before submitting them to the Chief Electoral Officer. This would allow Elections BC to place increased reliance on the information in the reports and would also encourage financial agents to be diligent in recording and reporting their financial transactions.

In the *Election Act*, financing reports must be audited if the amount of either political contributions or election expenses is $10,000 or greater.

Recommendation: *Require that recall financing reports be filed with an auditor's report if the value of the recall contributions or recall expenses to be reported is $10,000 or more*.

Section 135(3) – Sponsorship of recall advertising

The Act requires advertising sponsors who are numbered corporations or unincorporated organizations to include the name of a principal officer or director on their advertising. Advertising registration information, including the names of two principal officers, is publicly available from Elections BC. Therefore, such detailed disclosure on the advertising is unnecessary and somewhat onerous.

Recommendation: *Remove the requirement to include the name of a principal officer or director on recall advertising sponsored by a numbered corporation or unincorporated organization.*

Section 137 – Recall advertising must identify sponsor

All recall advertising must identify the sponsor, or in the case of an authorized participant, the financial agent. Advertising must also, if applicable, indicate that the sponsor is registered under the Act, state that the advertising is authorized by the sponsor, and provide a telephone number or mailing address at which the sponsor may be contacted regarding the advertising.

It is impractical to print "authorization" statements on many minor items of personal wear or use, such as buttons, caps, T-shirts, and bumper stickers. Such items should be exempted from sponsor disclosure requirements.

Recommendation: *Exempt certain classes of recall advertising, or specify classes of recall advertising to which sponsor identification would apply.*

Section 147(1) – Independent sponsors must file disclosure reports

If an individual or organization sponsors recall advertising during a recall petition period worth $500 or more, the sponsor must file a recall advertising disclosure report with Elections BC.

This leads to confusion about the status of those advertising sponsors who have not submitted a disclosure report. It remains unknown to both the public and Elections BC whether the disclosure report was not submitted because the sponsor spent less than $500 or simply failed to comply with the filing requirements.

Recommendation: *Require all independent advertising sponsors who spend less than $500 to file a report indicating that the advertising sponsored during the petition period did not have a total value of $500 or more.*

Section 148(3) – Contents of disclosure report

A recall advertising disclosure report must include certain information regarding contributors who make one or more contributions to the sponsor that, in total, have a value of more than $250. If the contributor is a numbered corporation or an unincorporated organization, the full names and addresses of at least two individuals who are directors or principal officers of the organization must be reported.

A numbered corporation is no different than a named corporation except that its name is a number. To require a director be identified for numbered corporations but not for named corporations is inconsistent and unnecessary. A numbered corporation can be searched in the Corporate Registry in the same way as a named corporation.

Recommendation: *Remove the requirement to report the names of directors for numbered corporations.*

Section 169(2) – Enforcement of Act by Chief Electoral Officer

The Act currently limits the authority of the Chief Electoral Officer with respect to the inspection of records in relation to audits and investigations.

In September 1998, the Chief Electoral Officer retained forensic accountant Ron Parks to investigate recall campaigns in the electoral districts of Prince George North, Skeena, and Comox Valley. Investigators raised concerns with respect to the limitations on the Chief Electoral Officer's authority to pursue certain records and documents held by individuals and organizations other than the authorized participants and their financial agents. In his report, Ron Parks included a number of recommendations to improve the recall legislation, one of which included the expansion of the Chief Electoral Officer's authority.

Recommendation: *Provide the Chief Electoral Officer with a general power to inspect and make copies of documents, in the possession of any person, that the Chief Electoral Officer reasonably believes may be relevant to an investigation.*

D Recall – an historical context

Originating from citizens' desire for grassroots democratic control and more accountability from their elected representatives, recall is the most recent addition in the field of direct democracy following the introduction of the referendum and the initiative. Although not as common and familiar as the others, recall is viewed as the ultimate direct control device, enabling voters to subject elected officials to direct review before the end of their normal term of office.[29] The electorate's appetite for such direct democracy tools has only increased in recent decades, particularly in the North American political landscape, and is considered by academics to be a feature in the evolution of electoral democracy.

The origins of recall in North American are found in the populist and progressive movements beginning in the late nineteenth century. Stemming from a growing distrust of state legislatures and government in general, the progressives sought electoral reforms to redress abuses of power by elected officials. Recall was perceived as a way to reverse the tide of what was considered a notably corrupt political system that other remedies, such as regular elections and existing impeachment provisions, could not correct.[30]

Los Angeles' voters overwhelmingly approved recall when it was put to a referendum in 1903, becoming the first jurisdiction in North America to institute the device. Oregon was the first to adopt recall for state officers when voters supported it by similarly large margins in a referendum in 1908. California followed in 1911. Recall has since become a common feature of the political process in the U.S. Today 18 states have recall provisions for state officials. Thirty-six states allow recall at the local level.

Although recall is a relatively recent phenomenon in North America, the idea of recall can be traced to ancient Rome. In 133 B.C. Triberius Gracchus, an elected official known as a tribune, introduced a bill providing agrarian reform desired by the Roman citizenry. Fellow tribune Marcus Octavius opposed the measure and vetoed the senate bill. Octavius was regarded as representing powerful interests opposed to land reform. Unable to persuade Octavius to reconsider, Triberius brought forward a bill deposing Octavius from office as an opponent of the people's will and summoned the citizens to cast their vote. Questions about the legitimacy of the measure ensued as no one had ever proposed such an act before. However, the election on the bill proceeded, and Octavius' tribuneship was removed. The agrarian reform bill passed and a replacement for Octavius as tribune was elected.[31]

Switzerland, the oft-cited pioneer and model of direct democracy, was the first jurisdiction in modern times to institute recall. Although not part of cantonal law until the 1850s, recall in Switzerland dates back much earlier as customary law.[32] Provisions for recall currently exist in six cantons. However, it is rarely used and an elected official has yet to be recalled.

Canada became the first jurisdiction in the Commonwealth to implement recall. As the first major wave of populism spread across Canada immediately following the First World War, the progressive movement advocated grassroots democracy and the devices of direct democracy. However it wasn't until the 1930s during Canada's second wave of populism that recall became law. [33]

As part of its campaign platform, Alberta's Social Credit Party promised recall during the 1935 provincial election. Premier William Aberhart's enthusiasm for recall waned following the party's landslide victory; however, the *Legislative Assembly (Recall) Act* became law in April 1936. While based on models typically used in the U.S., the requirements for a successful petition were considerably more difficult. In spite of this, voters in Premier Aberhart's own riding came close to obtaining the required number of signatures. However, citing forces outside the province opposed to the Social Credit Government, Premier Aberhart repealed the legislation retroactively in October 1937, thus avoiding becoming the first politician to be recalled in Canada.[34]

It wasn't until 1991 that the concept of recall was again formally introduced in Canada – also by a Social Credit government, but this time in British Columbia. In 1990 the British Columbia Legislature passed the *Referendum Act*. Premier Rita Johnston used the Act to put two questions to voters in conjunction with the October 1991 provincial election – one regarding initiative, the other, recall: "Should voters be given the right, by legislation, to vote between elections for the removal of their Member of the Legislative Assembly?" Recall was strongly supported by the British Columbia electorate – 81 percent of valid referendum votes cast. However, the Social Credit Party was defeated and the New Democrat Party formed the government, promising to accept the overwhelming vote in support of recall.

In June 1992, a Select Standing Committee began to examine and inquire into the concepts of recall and initiative. The committee was assigned the task of providing specific recommendations to the Legislative Assembly regarding the establishment of recall and initiative legislation in British Columbia. The committee tabled its report in November 1993. Bill 36, the *Recall and Initiative Act*, came into force in February 1995, combining both measures into one Act.

While there have been no other instances of recall law existing in Canada, bills containing recall legislation have been introduced in at least two other

jurisdictions. Federally, the Reform Party introduced a Private Member's Bill, *An Act to provide for the recall of members of the House of Commons* in February 1994. The bill was defeated at second reading. An opposition party in Saskatchewan, the Saskatchewan Party, put forward recall bills in 1997, 1998 and 2001 respectively; none passed second reading.

Today British Columbia is the only province in Canada and the only jurisdiction in the Commonwealth with recall.

E Respondents

The Chief Electoral Officer invited the 18 authorized participants – proponents and MLAs – involved in the nine recall petitions in the current Parliament to provide their comments and suggestions with regard to the current recall legislation. Representatives of the five political parties on the Election Advisory Committee were also invited to identify issues from their perspective. Respondents to the invitation are listed below.

Members of the Legislative Assembly

Jeff Bray, MLA, Victoria-Beacon Hill
Judith Reid, MLA, Nanaimo-Parksville
Blair Suffredine, MLA, Nelson-Creston
Gillian Trumper, MLA, Alberni-Qualicum

Proponents

George Charles Addison, Nanaimo
John Bayne, Delta South
Elizabeth Fox, Nanaimo-Parksville
John Olsen, Alberni-Qualicum
Joylaine Orr, Columbia River-Revelstoke
Sybil Rowe, Victoria-Beacon Hill
Eric Simons, Vancouver-Point Grey
Birthe Wilson-Achtner, Nelson-Creston

Members of the Election Advisory Committee

Tim Bonner, President, Unity Party of British Columbia
Gerry Scott, Provincial Secretary, New Democratic Party of British Columbia
Andy Shadrack, Green Party of British Columbia

Bibliography

Book of the States. 2002. Vol. 34. Lexington: Council of State Governments.

Bott, Alexander J. 1990. *Handbook of United States Election Laws and Practices: Political Rights. Westport: Greenwood Press.*

Bowser, Jennie D. *Recall of State Officials*. 2003. Washington, D.C.: National Conference of State Legislatures.

British Columbia. 1993. *Report on Recall and Initiative*. Legislative Assembly. Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills. Victoria: The Committee.

British Columbia. 1993. *The Use of Recall and Initiative in Other Jurisdictions*. Legislative Assembly. Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills. Victoria: The Committee.

Cronin, Thomas E. 1989. *Direct Democracy: The Politics of Initiative, Referendum and Recall*. Cambridge: Harvard University Press.

Duhamel, Ron and Jacquie Best. 1995. *Recall: Is it really a democratic cure-all?* Policy Options. 4:44-47.

Elections BC. 2003. *Voter Registration in BC – Discussion Paper.* Victoria: Chief Electoral Officer.

Elections BC. 1991. *Report of the Chief Electoral Officer – Provincial Referendum, October 17, 1991*. Victoria: Chief Electoral Officer.

McCormick, Peter. 1991. *Provision for the Recall of Elected Officials: Parameters and Prospects*. In Michael Cassidy ed., Democratic Rights and Electoral Reform in Canada, Vol. 10, Research Studies. Ottawa: Royal Commission on Electoral Reform and Party Financing.

McCormick, Peter. 1994. *The Recall of Elected Members*. Canadian Parliamentary Review. 2:11-13.

Mintz, Eric. 1998. *Recalling Governments.* Policy Options. 5:43-44.

Parks, Ronald H. 1999. *Investigation into the recall campaigns in Prince George North, Skeena and Comox Valley.* Victoria: Chief Electoral Officer.

Ruff, Norman. 1996. *The British Columbia Legislature and Parliamentary Framework.* In R.K. Carty ed., Politics, Policy, and Government in British Columbia. Vancouver: UBC Press.

Zimmerman, Joseph F. 1997. *The Recall: Tribunal of the People.* Westport: Praeger.

Reference notes

1. Hereafter referred to as the Select Standing Committee, unless otherwise noted.
2. *Recall and Initiative Act*, s. 19(4).
3. Ibid., s. 25.
4. "Should voters be given the right, by legislation, to vote between elections for the removal of their Member of the Legislative Assembly?" See Elections BC, *Report of the Chief Electoral Officer – Provincial Referendum, October 17, 1991*.
5. *Recall and Initiative Act*, s. 168.
6. Ibid., s. 21(1).
7. *Recall Petition Administration Regulation*, B.C. Reg. 69/95 s.6(1).
8. *Recall and Initiative Act*, s. 27.
9. Ibid., s.125(1), 130(3).
10. Ibid., s.128, 130, 131.
11. Ibid., s.171.
12. Guam, the Northern Marianas, and the Virgin Islands also permit the recall of certain elected officials (Cronin 1989, 127).
13. *National Conference of State Legislatures* 2003, 1.
14. Bill HB1379 was introduced January 23, 2003 in the Hawaii State Legislature. The Bill has been referred to committees and has not been reported out.
15. *National Conference of State Legislatures* 2003, 1.
16. The Attorney General in Arizona issued an opinion that an official cannot be recalled if there is no opposing candidate (Zimmerman 1997, 56).
17. See Cronin 1989, 151.
18. A discussion regarding the pros and cons of combining the recall election with a replacement election into a single ballot is provided in Zimmerman 1997, 144 and 150.
19. Zimmerman 1997, 50.
20. Cronin (1989, 151) and National Conference of State Legislatures (2003, 1).
21. See Zimmerman (1997, chap. 3) and Cronin (1989, 142).
22. Literature on recall in Switzerland is very limited. We are grateful to Jürg Siegenthaler of the Consulate General of Switzerland in Vancouver for assisting with the research regarding recall in Switzerland.
23. *Local Government Code*, Sections 69-75, Republic of the Philippines.
24. *Constitution of the Bolivarian Republic of Venezuela,* Article 72 and *Guidelines to Regulate the Procedures of Referenda Recalling the Mandates*

of Popularly Elected Officials. A national recall effort is currently underway for a recall referendum on President Hugo Chavez. The National Electoral Council has scheduled Nov. 28 to Dec. 1 for petitioners to collect signatures, with a recall referendum to be held in March 2004 if the petition is successful.

25. For information respecting the specific grounds for recall in each state see National Conference of State Legislatures 2003, 2.
26. Malfeasance is an intentional commission of an unlawful or wrongful act. Nonfeasance is the failure to perform an act required by law.
27. For further discussion concerning the recall as political or judicial process see Zimmerman 1997, 34-40.
28. The statement is drawn from Cronin (1989, 127), as cited in the Select Standing Committee's report at 12.
29. See McCormick (1991, 269) and Zimmerman (1997, 9).
30. Cronin 1989, 130-131.
31. Zimmerman (1997, 6) and Bernstein, Alvin H., *Tiberius Sempronius Gracchus: Tradition and Apostacy.* 1978. Ithaca: Cornell University Press, 160-197.
32. Cronin 1989, 129.
33. McCormick 1991, 274-275.
34. Ibid.