

Remarks of the Chief Electoral Officer before the Board of Internal Economy

**Legislative Assembly of Saskatchewan
August 15, 2023**

CHECK AGAINST DELIVERY

Introduction

Thank you, Mr. Chair, for inviting me here today to discuss my CEO Directives and to discuss plans for the province's next general election, scheduled to be held, by legislation, on October 28, 2024. Beside me today I have Jennifer Colin Deputy Chief Electoral Officer & Chief Operating Officer at Elections Saskatchewan.

Before I start, let me first thank you, Mr. Chair, and the Board for agreeing to meet during the summer months. I understand this is difficult given many competing schedules and I and our team at Elections Saskatchewan certainly appreciate it. My hope is that when I depart here today that I will have clarity as to what our next general election will look like from an administrative standpoint. As you know, earlier this summer, I submitted CEO Directives to the Board in accordance with legislation, and only the Board can offer this clarity.

Background

I have been Saskatchewan's Chief Electoral Officer for more than 11 years now, and I recently took a few minutes and reviewed the very first annual report I submitted, back in July 2013. Even in those early years, when my primary focus was on building the team at Elections Saskatchewan and stabilizing our system of delivering elections, the need to modernize processes and procedures comes through.

Still, the path to modernization became much more evident after the province's 2016 election, and in the *Volume IV report* that followed, I laid out a path that would see modernization introduced, slowly and methodically, in general elections in 2020, 2024 and 2028.

As the calendars moved from 2019 to 2020, my office was rapidly preparing to offer a modernized voting experience, complete with electronic poll books and vote counting equipment – at advance polls in about half the province, a key first step in modernizing our election system.

Of course, we all know the saying about the “best laid plans.” The possibility of an early election *combined with* the worldwide COVID-19 pandemic meant the suspension of our planned modernization activities. All was not lost, however, as we were able to greatly improve and modernize our Vote by Mail system, something that I had not originally envisioned happening until 2028.

Last October, I released my *second Volume IV report*—a document which outlined an updated path forward, continuing down the same three phase path already introduced but updated to account for the setbacks experienced in 2020. Ultimately, legislation was introduced which allowed modernization to move forward through the use of CEO Directives—but with the requirement that the Board offer its approval for these Directives.

CEO Directives

On June 30 of this year, I provided the Board with a set of six proposed CEO Directives. I won't discuss these Directives in detail, but I will briefly introduce each one:

- **Polling Divisions:** The first (under the heading of Polling Divisions) would allow the CEO to modify the legislated instructions around polling divisions and move away from a strict 300 voters to one polling division rule – a key first step in any plan to modernize or introduce technology.
- **Polling Period/Voting Week:** The second introduces the idea of a polling period, what I refer to as “Voting Week,” in place of traditional advance and election day voting periods.

- **Electronic Poll Books/Voting Record:** A third CEO Directive introduces the use of electronic poll books – for clarity, an electronic poll book is a laptop computer loaded with specialized software that allows for voter strike off to take place. This is the technology that allowed Elections Saskatchewan to share real time information on who voted and when with candidates and parties in our ongoing by-elections.
- **Vote Counting Equipment:** Vote Counting Equipment was introduced in a fourth Directive. And please note, this was vote counting equipment, not a voting machine. All vote counting equipment does is scan a hand marked paper ballot and record the results.
- **Vote Anywhere:** A fifth CEO Directive introduces the ability for voters to vote anywhere, meaning to vote outside of their constituency.
- **Vote by Mail:** And then a sixth—and final—CEO Directive provides to the Board implemented a vote by mail process consistent with what we first used in 2020 and has been positively received by voters and political stakeholders alike.

If approved, these six CEO Directives would create a new framework of voting, one that has substantial benefits for voters, for candidates and parties, and for the thousands of workers that Elections Saskatchewan hires to administer a general election.

Important Considerations

There are a number of important items which the Board should must also consider:

- First, these CEO Directives are written for an election that takes place on October 28, 2024, in accordance with legislation. Should that change, I would need to re-evaluate our options and update the Board as to the impacts.
- Second, the Directives are submitted as written. Within each, there are dependencies on other Directives and changes within one could impact a different part of the system.

- Third, the operational window for my team at Elections Saskatchewan has all but closed. While we are in the midst of administering three by-elections, we have simultaneously been continuing our planning and preparations for October 2024.
- Fourth and finally, I'll discuss the path forward should the Board choose not to approve all six Directives as presented.

Path Forward without Vote Counting Equipment

I understand from correspondence from the Government House Leader that the government members of the Board are unlikely to approve the entire framework I have presented—having particular concerns about the use of vote counting equipment.

I want to be clear about what I've been articulating for many, many months now—I am not offering my opinion. What I am articulating is best practice and would allow us to avoid significant risk as we modernize our election system. Vote counting equipment has been used, and has proven reliable in many jurisdictions—including right here in Saskatchewan – the cities of Saskatoon and Regina have used this equipment for more than a decade.

To my knowledge, every study of vote counting equipment, whether conducted by an academic institution, an election management body, or a third-party observer group, has found vote counting equipment to be more reliable than hand counting, especially hand counting by election workers who have already put in more than a 12-hour workday.

And finally, this equipment, and the procedures in place when it is used, have built in significant measures to ensure the count is accurate and the equipment is functioning correctly – this includes both pre and post logic and accuracy testing, along with a confirmation process where a pre-established number of paper ballots, often from a randomly selected ballot box, is hand counted in front of observers.

Yesterday, here in Saskatchewan for our by-elections, we went above and beyond that national standard and inspected all ballots counted by vote counting equipment from the constituency of Regina Walsh Acres—where the closest margin between those who finished first and second was found.

In the other two constituencies—Lumsden-Morse and Regina Coronation Park—a confirmation was conducted on one randomly selected machine and ballot box. In both Lumsden-Morse and Regina Coronation Park, the count of paper ballots in each box matched the numbers provided by the machine.

It was same in the larger confirmation in Regina Walsh Acres. And, in fact, in two of the five boxes, it was those who counted by hand who made an error and—after they recounted the paper ballots, the numbers matched those provided by the machines. This all took place yesterday in front of representatives from both of your parties.

The other point I would like to raise is that modernization, dating back to discussions in my report on the 2016 election, is that vote counting equipment needs to be paired with electronic poll books.

As board members, I've written to you and said many times that: Electronic poll books introduce considerable efficiencies at the front end when it comes to checking voters in and striking them off the voters list. If this front-end efficiency is not matched with back-end efficiency—which vote counting equipment provides—then you have a system which is off balance. And when the system is off balance, you have introduced significant risk.

What are the risks?

For complete details, I would refer Board members to my memo dated May 10, 2023, pages 3 to 5, but very briefly, these risks include:

- Increased administrative errors due to a mix of technology and paper based processes;
- An increased possibility of multiple ballots being deposited into a ballot box;
- Increased likelihood of counting errors; and
- the possibility that the number of votes in a ballot box will be greater than what a person can reasonably count at the end of the day.

I know well that there is considerable rhetoric and disinformation around vote counting equipment. I understand that there are a very small number in Saskatchewan who would prefer that votes simply be counted by hand, either out of mistrust of the technology or a belief in the traditional methods.

What I will say is that Saskatchewan is not unique to the problems and issues that have led election administrators in Ontario, New Brunswick, Manitoba, Alberta, BC, and many other jurisdictions to transition to vote counting equipment. And as Chief Electoral Officer it is my responsibility to continue advocating for and pursuing this responsible change.

Allowances for Removal of Vote Counting Equipment

So, I've been clear, clear about what is best practice and that I do not feel comfortable moving forward with—eliminating half of the technology that has been proposed. At the same time, I have worked with this Board for more than a decade now and will again articulate my strong commitment to the rule of law and to good governance.

I will implement the coming general election in line with the wishes of legislators. I will work to implement an election in line with the instructions you give and I'll adjust procedures to compensate for ensuring the integrity of our system.

This means that certain allowances and compensatory measures will need to be introduced, measures in this case that would account for the absence of vote counting equipment and would help to alleviate risk and work to restore balance to the system.

Given correspondence that I have received from Government members of this Board, I have given considerable thought to what measures would need to be taken.

- A first measure is found on page 7 of my June 30 submission memo to you. I articulated clearly that if the Directive allowing for Vote Counting Equipment (2023-012) were to be rejected, that the Board should consider “withdrawn from consideration” Directives related to both Electronic Pollbooks (2023-011) and Vote Anywhere (2023-013).” The Directive focusing on Vote Anywhere (2023-013) has to be

withdrawn because a Vote Anywhere system cannot be introduced without Vote Counting Equipment.

Ultimately, the three Directives mentioned will necessarily need to be replaced by two other Directives. A first would focus on the scope and use of Electronic Pollbooks alone. A second would focus on revisions needed to the count—changes that would compensate for the imbalance and reduced integrity to the system that an elimination of vote counting equipment brings.

- A second measure is to ask you to accept the other three Directives related to Polling Divisions (2023-009), the Polling Period (2023-010), and Vote By Mail (2023-014), but to make clear that I am likely to need to amend those, particularly the one related the Polling Period in order to bring it in line with the two newly introduced directives.

In the interests of ensuring speedy approval, however, I want to provide the Board with an overview of what this change will mean for the administration of our next election.

2024 General Election

The inability to use vote counting equipment will mean a difference in how the election is administered in urban constituencies versus rural ones. Urban constituencies will most likely include the list of cities I provided as Appendix A in my General Directive submitted on June 12, 2023 – including the four largest cities, plus Yorkton, Swift Current and the Battlefords, essentially any constituency that is a fully enclosed urban area.

These urban constituencies will have electronic poll books and a more limited footprint of voting locations, and we will rely on the same locations throughout the polling period. The exact number will be based on the constituency and also on what my team thinks will result in a realistic number of ballots for election workers to count at the end of the night.

Rural constituencies will not use electronic poll books and will be served in a manner very similar to the 2016 and prior general elections. An exception is that the work of our election officials will be made simpler by the use of the voting record – meaning no one needs to hand write voter names.

Consistent with our approach during the ongoing Lumsden-Morse by-election, we will have a limited number of voting locations in the early part of voting week and then a larger number on the last day of voting. Our institutional commitment will remain that no voter travels more than 30 minutes to vote wherever feasible.

There are several reasons why we are pursuing an approach with distinct systems in urban and rural constituencies.

- First, by limiting the use of electronic poll books to urban constituencies we limit the footprint of technology to a size that my office can support without introducing a level of risk that I cannot accept.
- Second, we should be able to access suitable cellular coverage in most voting locations.
- Third, it ensures we comply with section 5.4 of our Act, which requires electronic poll books, if they are introduced, to be used in all constituencies which are part of a city with more than 20,000 inhabitants – those being Regina, Saskatoon, Prince Albert and Moose Jaw, and we have added Yorkton, Swift Current and Battlefords to that list.
- Fourth and finally, it results in a cleaner and simpler election for our Field Leadership Team members to implement – urban constituencies will have technology at all locations on all voting days, while rural ones will rely on more traditional processes on all voting days.

While introducing a mixed-system within a constituency may be technically possible—it would introduce so much complexity and make the administration of the election so much more difficult, that I believe it could result in the system shutting down. We cannot take that risk.

Conclusion

As I conclude my remarks this afternoon, I want to thank the Board for its continued cooperation and its collaboration. In November 2021, the Legislative Assembly appointed me to a second term as Chief Electoral Officer of Saskatchewan. Key to this role is the responsibility to implementing an election in accordance with legislation. But also central to the role is the responsibility to advocate for electoral best practice and to push for responsible, measured change.

If I did not firmly believe that vote counting equipment was the best option for the province, I would not have recommended its use. And in the coming years, I will continue to push the modernization framework that was first developed after our 2016 election.

With that, Mr. Speaker, I am happy to take questions from the Board as to my CEO Directives or the framework under which our next general election will be administered.

Thank you.