



# MEMORANDUM

Office of the  
Chief Electoral Officer

**From:** Dr. Michael Boda  
Chief Electoral Officer  
Province of Saskatchewan

**Date:** May 10, 2023

**To:** The Honourable Randy Weekes  
Speaker of the Legislative Assembly  
Chair of the Board of Internal Economy

**Cc:** The Honourable Jeremy Harrison  
Government House Leader  
Ms. Nicole Sarauer, MLA for Regina Douglas Park  
Opposition House Leader

**Re:** Reasoning behind planned Voting Services Modernization for Pending By-Elections

As you are aware, on April 20, 2023, I provided the Board of Internal Economy with seven Directives of the Chief Electoral Officer (CEO Directives) in accordance with section 5.1 of *The Election Act, 1996* (the Act). This section of the Act provides the Chief Electoral Officer with authority to direct the use of “alternate procedures, equipment or technology” during a by-election.

Given a recent letter received from Minister Harrison,<sup>1</sup> raising some questions with respect to the use of vote counting equipment during the coming by-elections, I am writing to offer a more fulsome understanding of the intentionality with which the modernization framework for these by-elections was put forward under section 5.1 of the Act. It is perhaps important, however, to initially revisit how we have arrived where we are today.

## Path to Modernization

Saskatchewan’s path toward modernizing its election system has been methodical, collaborative and has unfolded over the course of the past decade, with discussions dating back to 2012. While there have been many milestones on this journey, I will highlight just five here:

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<sup>1</sup> Honourable Jeremy Harrison (Government House Leader) to Michael Boda (Chief Electoral Officer, Saskatchewan). Dated May 2, 2023.

- **Volume IV Report following 2016 GE (April 2018):** Following the province’s 2016 general election, I released a series of recommendations in Volume IV that included introducing electronic pollbooks and vote counting equipment in advance polls for the 2020 general election.<sup>2</sup> This was described as Phase 1 of a three-phase modernization plan.
- **Bill 166 – *The Election Amendment Act, 2018* (December 2018):** In response to my Volume IV report, Bill 166 was introduced, providing the CEO with the authority to “pilot” modifications to legislation but also to move forward with technology at advance polls. Section 135.1 allowed the CEO to direct the use of electronic pollbooks and vote counting equipment at advance polls, subject to a small number of legislated requirements. This prompted Elections Saskatchewan to begin its “Advance Voting Services Modernization” (AVSM) initiative which would have seen this technology used at all advance polls in 28 of the province’s 61 constituencies. These plans were well on their way to implementation for 2020 but a potential early election call and COVID-19 superseded this plan, forcing me to abandon Phase 1 of the modernization plan and follow a 2016 model of implementation. This plan was later further modified to ensure voters and election workers were kept safe given that COVID-19 was present.<sup>3</sup>
- **Paper on Modernizing Saskatchewan’s Provincial Voting Experience (August 2021):** Immediately following the return to the writ in November 2020, I began discussions with political stakeholders to gauge interest in moving forward with modernization and to discuss how to reshape Phase II of the modernization initiative for 2024. These early-cycle discussions culminated in a paper framing what had been agreed to so far among stakeholders, including the introduction of electronic pollbooks and vote counting equipment more broadly than would have been introduced during the 2020 GE, along with a centralized Vote by Mail system.<sup>4</sup>
- **Volume IV Report following 2020 GE (October 2022):** Further discussions followed involving working with representatives of registered political parties to ensure that specific elements of the modernization plan would not undermine campaign activities but support and benefit all parties equally. I published what had been agreed to during these further discussions in Volume IV which outlined recommendations for legislative change following the 2020 general election.<sup>5</sup> Again, both electronic pollbooks and vote counting equipment were to be included, along with a centralized Vote by Mail system that had been introduced successfully during the 2020 general election.

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<sup>2</sup> *A Report on the Twenty-Eighth General Election, Volume IV, Chief Electoral Officer’s Recommendations for Legislative Reform* was tabled in April 2018 and can be found online at <https://www.elections.sk.ca/reports-data/reports-publications/>.

<sup>3</sup> On February 19, 2020, I sent a letter to Premier Moe outlining the change in our planning position and indicating that I would not be moving ahead with planned modernization during that election. In May 2020, I sent a second letter and discussion paper outlining my recommendations to offer a safe voting experience in light of COVID-19.

<sup>4</sup> This paper, entitled *Modernizing Saskatchewan’s Provincial Voting Experience – Voting Services Modernization for Saskatchewan’s 30th General Election*, can be found at <https://cdn.elections.sk.ca/upload/SK-CEO-Paper-Framework-for-VSM-v1.0.pdf>.

<sup>5</sup> *A Report on the Twenty-Ninth General Election, Volume IV, Chief Electoral Officer’s Recommendations for Legislative Reform* was tabled in October 2022. A copy can be found at <https://cdn.elections.sk.ca/upload/2022.10.13-29th-GE-Volume-IV-v1.0.pdf>.

- **Bill 123 – *The Election Amendment Act, 2022* (December 2022):** On December 7, 2022, the Legislative Assembly of Saskatchewan passed Bill 123, making changes to *The Election Act, 1996* in response to the recommendations that I made in my Volume IV report following the 2020 General Election. Readings of the Bill were completed over two days. My office had identified several operational problems with the Bill but was not able to address those concerns with government before its passing. Given the historic nature of the changes involved, I strongly urged a delay of the second and final readings until the spring session. Section 5.2 of *The Election Act, 1996* allows, with approval from the Board of Internal Economy, the Chief Electoral Officer to direct any alternate procedures, equipment, and technology for use during a general election. The Bill offered greater specificity in Section 5.4 which introduces the use of electronic pollbooks, also with approval from the Board. This all followed months of discussion and agreement between registered political party stakeholders that always included a coupling of electronic pollbooks with vote counting equipment.

### If Electronic Pollbooks, then Vote Counting Equipment

Unlike in the weeks leading to Bill 166 in 2018, as Chief Electoral Officer, I was not afforded the opportunity provide advice on the operational implications of what resulted from Bill 123 in December 2022. Had I been given the chance, I would have noted that discussions with political stakeholders and registered political parties going back to 2017 had never involved an *uncoupling* of electronic pollbooks from vote counting equipment—for very good reason. Indeed, there is ample evidence as to why this is neither wise nor sustainable.

#### 1. Without vote counting equipment, major risks are introduced to the election system:

- **Administrative errors will increase:** A system that fully uses technology (electronic pollbooks on the “front end” and vote counting equipment on the “back end”) does not use additional paper forms (e.g., registration forms). A “mixed system” (using only electronic pollbooks and *not* voting counting equipment) will use a combination of technology AND paper forms. A mixed system will lead to increased administrative errors by election officials.
- **Risk of multiple ballots deposited will increase:** In Saskatchewan’s traditional manual system of voting (all paper, no technology), integrity is maintained via what might be called a “buddy system.” Two officials at each table keep each other accountable to the rules and maintain a high standard of election administration. Planned modernization involves reducing election officials from two at each table to one, with the technology ensuring accountability. Vote counting equipment allows only one ballot per voter to be deposited and therefore ensures the system’s integrity. An exclusion of vote counting equipment will put the system at risk, leading to higher costs without reducing Elections SK’s human resource requirements.

- **Votes in ballot boxes will exceed the number that can reasonably be counted by hand:** By design, the introduction of electronic pollbooks will significantly increase the number of voters processed at individual tables. The resulting ballots will be more than election officials (one third of whom are 65 years and older) can reasonably be expected to count. By design and best practice, vote counting equipment is paired with electronic pollbooks to reduce the pressure on the election system (and the officials who must count these additional ballots) by counting the increased number of ballots quickly and accurately.
- **Counting errors will be made:** Vote counting equipment is proven to be more accurate at counting. The number of votes counted at each poll location will be larger because electronic pollbooks can process more voters. After 13 hours of work, elections officials will make more counting errors.

## 2. Without vote counting equipment, long-term benefits will not be realized:

- **Human resource efficiencies will not be achieved:** On average, provincial elections currently require 12,000 election officials to conduct the process. And, to run successful campaigns, registered political parties need party representatives at each polling location. During the past four cycles, recruitment in both cases has proven increasingly difficult. Planned modernization, which includes vote counting equipment, will allow Elections SK over two cycles to reduce its dependency on people to run the system—with the number of officials at each table being reduced from two to one. Simply put, a lower reliance on people cannot be achieved without vote counting equipment.
- **The cost of elections will increase:** As seen in other jurisdictions, the cost of elections can flatline or be lowered when people are replaced by technology. Elections SK is positioning the province to achieve these efficiencies in future cycles by: (1) reducing the number of people it must hire by using electronic pollbooks and vote counting equipment; and (2) engaging with municipalities to share and provide access to equipment to reduce overall costs. If vote counting equipment is not introduced, the *same* number of election officials will be required while the cost of acquiring electronic pollbooks (if they are used) would add to an election's cost. Simply, by excluding vote counting equipment, the savings described here for elections cannot be realized in the long-term; and finally,

## 3. Without vote counting equipment, stakeholder needs will not be met:

- **Registered Political Parties will get less or no real time data:** Noted above, excluding vote counting equipment from the planned modernization introduces risk to the election system. In the past, Elections SK has provided data periodically to RPPs when polls are open, but party representatives must be available to pick up these forms in-person at each poll location. The widespread use of electronic pollbooks (necessarily paired with vote counting equipment) would allow Elections SK to share data on who has voted and when, in real time, with political parties and candidates. An exclusion of vote counting equipment would lead to increased risks

to the election system that would, in turn, diminish Elections SK ability to provide data virtually to RPPs.

- **Registered Political Parties will need to recruit more candidate representatives:** For all political parties, candidate representatives are important to the “get out the vote” process because they are needed to collect “bingo cards” made available at each polling location at different times while polls are open. Not unlike recruiting election officials, the recruitment of party representatives has become increasingly difficult. RPPs have noted the need for an alternative method that relies less on people. Such a method is viable, but it cannot be achieved without a secure and efficient system that involves both electronic pollbooks and vote counting equipment.
- **Voters will not be able to “vote anywhere”:** With planned modernization, voters would be able to vote if working temporarily in one constituency while living permanently in another. Without vote counting equipment, a vote anywhere system is simply not viable because it provides the ability for ballots to be printed outside a constituency where a voter may be, with the ballot then being virtually redistributed to a home constituency. Without vote counting equipment, a “vote anywhere” system cannot be introduced.

Ultimately, excluding vote counting equipment when electronic pollbooks are introduced increases operational risk and has great potential to undermine the election system’s integrity. By introducing technology efficiencies at the “front end” of the process (electronic pollbooks) and choosing not to do so at the “back end” (vote counting equipment), the system becomes out of balance, leading to more mistakes, more inefficiencies and, in some cases, the inability of the system to function.<sup>6</sup>

Arguing that excluding vote counting equipment will mean that officials will just take more time to count votes is true if you are maintaining the manual system that you have in place, one that does not use electronic pollbooks. But it simply is not accurate at all when you introduce technology to one part of the system without accounting for its impact on another.

By 2024, all but three other provincial jurisdictions will have already introduced technology at their polling locations or will be planning to do so, including Alberta which will use electronic pollbooks and vote counting equipment widely in their election later this month. Later this year, Manitoba will join Alberta in using electronic pollbooks and vote counting equipment during their next general election. British Columbia will do so in 2024. Other provinces, notably Ontario, have also implemented both types of technology during general elections. I would also note that Saskatchewan’s municipal government election legislation, *The Local Government Election Act, 2015*, provides specific permission for municipalities to use vote counting equipment as well as other forms of technology.<sup>7</sup>

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<sup>6</sup> Electronic pollbooks create pressure on the “front end” of the system that needs to be alleviated using vote counting equipment—which can manage the increase in ballots that result by counting more quickly and more accurately. When electronic pollbooks are introduced alone, hand counting methods no longer have the capacity to keep up and meet voter and candidate expectations.

<sup>7</sup> See section 90 of *The Local Government Election Act, 2015* for the specific references to “voting machines, voting recorders, optical scanning vote tabulators or other similar devices.”

I believe that the significant operational risks outlined here, combined with the lack of long-term benefits and that the needs of political parties not being met provide strong reasoning for what was included in the *CEO Directives* for the coming by-elections.

### The Importance of Modernizing Vote by Mail

Another essential element of my recommendations on modernizing Saskatchewan's election system focuses on improving the vote by mail approach in place for many years in the province. For decades, the Act has contained "absentee voting" provisions. This created a little used, decentralized option that made it possible for some to vote if they would not be physically present during advance or election day voting. Absentee voting was administered out of each of the 61 returning offices and allowed voters to apply for a mail in package or to vote early in the returning office. The process was administratively cumbersome, with voters forced to mail in copies of their identification to the returning office after which eligible voters would be mailed a ballot kit which they would complete and then mail back to the returning office. Given Saskatchewan's short writ period, often just 27 days, and the substantial amount of time it takes to have mail delivered, the system was never efficient or well used. In the province's 2016 and 2011 general elections, just over 4,000 voters (about 1 percent of all votes cast), opted to use this opportunity.

The presence of COVID-19 during the 2020 general election required a new approach to absentee voting. In my Volume IV report issued after the 2016 election, I had included a revised and improved Vote by Mail system as a priority for Phase 3 of modernization, to be instituted in advance of the province's 2028 general election.<sup>8</sup> However, COVID-19 forced changes to this timeline as it was very likely that many would not feel safe voting in person.

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<sup>8</sup> A table showing which elements of modernization are part of all three phases of my original recommendations for modernization can be found on page 11 of my 2016 Volume IV report. While modifications have been made to this original timeline, it remains the high-level vision for transforming our election system.

**In the months between when COVID-19 was first discovered in Saskatchewan and our October election, our team at Elections SK revised our processes and transformed traditional absentee voting into Vote by Mail.** This was a centralized system with an online application portal that allowed voters to upload a copy of their ID along with their information which could then be reviewed by an ESK team member. If approved, the fulfillment and mail out happened automatically, offering significant improvements and efficiencies over the previous system of absentee voting.

I was able to make the required modifications to legislation using my section 7 “emergency” powers, which were clarified and better defined in mid-2020 to ensure that they could be used during the pandemic. During that event, I modified several other legislative provisions to ensure that in-person voting could be conducted safely, and that the election system had sufficient capacity.<sup>9</sup> I believe that the successful administration of the 2020 pandemic election serves as an example of how my office can collaborate with political stakeholders to introduce elements of modernization.

**Not only was this Vote by Mail system better for voters by broadening access to the ballot, but it also offered increased security and integrity measures. In addition, registered political parties and candidates were able to access real-time data on who had applied to Vote by Mail and when their ballots had been successfully received by Elections SK—data that is not available via Returning Offices in the context of absentee voting.** The success of this new approach is evident in the numbers as more than 56,000 votes were cast in this way—nearly 13 percent of all votes in the 2020 election. I believe that many of these voters will expect that Elections SK will once again offer a modernized, convenient Vote by Mail option and will be frustrated if this is not available.

### **“Whole is Greater Than Sum of Parts”**

So far, I have highlighted the importance of electronic pollbooks, vote counting equipment, and a modernized Vote by Mail system. These three items, each of which were introduced in a CEO Directive for the pending by-elections, are critical elements of an improved system which offers voters far greater access to a ballot than they have ever had in our province and which provides political parties and candidates with data they have not been able to access before.

Within the system created by the seven CEO Directives I submitted last month, there are many dependencies and linkages. The first three Directives (the creation of a polling period in place of advance and election day voting; the elimination of the poll clerk position and the elimination of polling divisions) set the stage for an environment in which other modifications can be made, in this case, the introduction of electronic pollbooks, vote counting equipment and Vote by Mail. By removing the distinction between advance and election day voting, a suitable footprint of voting locations can be established throughout the voting period. No jurisdiction could introduce technology if they were forced to work with polling divisions of 300 voters, as our existing legislation requires. The removal of the poll clerk allows for a reduced human resource

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<sup>9</sup> In total, I would issue 13 CEO Orders (now referred to as CEO Directives) during the 2020 general election, making the aforementioned changes to absentee voting as well as other changes such as introducing “Extraordinary Voting” for voters forced to quarantine due to COVID-19 and limiting the number of candidate representatives able to be present in-person during voting. All of these modifications can be viewed on the Elections SK website at <https://www.elections.sk.ca/candidates-political-parties/bulletins-circulars/>.

footprint introducing savings, efficiencies, and integrity that the technology involved provides. The seventh Directive, which introduces a Voting Record, ensures that efficiencies and greater integrity controls can also be put in place in locations that cannot be served by technology.

While I have introduced the changes for these by-elections through seven separate Directives, these are not seven unique modifications from which a selection can be made. It is essential to note that the Directives involved constitute a cohesive set of adaptations that are integrally connected one to the other—when one part is missing, it impacts the entire system. **Taken together, they make the election system as a whole much better. The removal of one part weakens the election system and introduces risk to the system’s integrity, efficiency, and overarching goal of increasing accessibility for all voters.** And in some cases, the removal of one part may make it difficult or even impossible for others to move ahead.

### What You Can Expect

In providing this memo, my aim has been to offer a more comprehensive understanding of the framework for modernization that I sent to the Board on April 20, 2023. Of course, the framework provided will be implemented for three pending by-elections and not the general election scheduled for 2024.

**As an election administrator with three decades of experience around the globe, I am convinced that the framework being instituted for the coming by-elections offers a better experience for voters, candidates, registered political parties and election workers. Further, however, I would not be this assertive in my statements if I did not strongly believe the framework as a whole facilitates increased integrity and security to an election system that is antiquated and disjointed due to years of “tinkering.” Indeed, I fear that removing parts of the proposed approach could undermine the election system.** With respect to the approach being instituted for these by-elections, I would be pleased to meet with you to answer your questions. We have a simulation lab set up at our head office and I could arrange for a demonstration at your convenience.

While my comments in this document focus primarily on the upcoming by-elections, I want you to be aware that we are preparing and are finalizing plans for the election system I will propose for the October 2024 general election. While the conduct of a by-election certainly does not fully mirror that of a general election, the framework of Directives put forward for these by-elections offer the foundations of those for the coming general election.

I presently plan to submit a series of CEO Directives to the Speaker of the Legislative Assembly in accordance with section 5.2, 5.3, and 5.4 of the Act in early June. Of course, the submission of CEO Directives for a by-election according to section 5.1 differs from that for a general election, with the Board of Internal Economy needing to approve these Directives before they can be implemented.

I look forward to submitting these Directives for the general election and discussing them with you, again at your convenience. I appreciate the consistent support and direction the Board has provided to me and my office over the past ten years as we have collaborated on modernizing Saskatchewan’s election system in a way that will serve all stakeholders in the province more effectively moving forward.



I know that we all value the democratic traditions of the province and look forward to your continued collaboration in order to establish an election system that serves our needs for the coming decades. I believe that once MLAs, voters, and political stakeholders see this system at work in the upcoming by-elections, they will recognize the significant benefits and how it improves integrity while also increasing access to the ballot. Again, as I said, I would be pleased to host you in my offices and to conduct a demonstration for you and explain our plans in detail. Please let me know if you would be interested and I will make arrangements.

A handwritten signature in blue ink that reads "Michael D. Boh". The signature is written in a cursive style with a long horizontal flourish at the end.