

April 14, 2025

Committee on Veterans and Legal Affairs
Maine Legislature
via electronic submission

Dear Committee Members,

On behalf of Verified Voting, I write to provide informational testimony on **LD 252**, an act to withdraw from the National Popular Vote (NPV) Compact. Verified Voting is a nonpartisan nonprofit organization whose mission is to strengthen democracy for all voters by promoting the responsible use of technology in elections. Since its founding by computer scientists in 2004, Verified Voting has promoted voter-verified paper ballots and routine, rigorous post-election audits to check the accuracy of computerized vote counts. We take no position on the merits of NPV, and we are skeptical of strong claims about its impact on election verification. That said, we believe that nationwide audits of NPV elections are feasible through federal legislation, and that they would have some advantages over the status quo.

Verifying presidential elections: where are we now?

Currently, presidential elections depend on 56 distinct election outcomes: in the fifty states, D.C., and each of Maine's two and Nebraska's three U.S. House districts. Fair-minded observers generally agree that recent presidential election outcomes are well attested. In 2020 and in 2024, the vast majority of voters voted on paper ballots or paper records that they could verify. States applied clear and sensible procedures to prevent illegal voting. Many states, including those with the smallest margins, conducted post-election audits that supported the substantial accuracy of the vote counts. The results appear to be materially accurate, despite some vocal claims.

At the same time, much could be done better. Notably, election security experts recommend *risk-limiting* audits that check reported outcomes against the paper ballots before the results are made final. Risk-limiting audits (RLAs) can provide robust and timely evidence that reported winners received more votes—or, if necessary, can expand to full hand counts to determine the outcomes. Only one state, Georgia, currently requires RLAs of presidential contests, and those audits are not directly binding. Several other states require RLAs but do not specify in law or rule which contests to audit. Some states do not audit the presidential contest at all. By this standard, the U.S. is far from adequately attesting presidential election outcomes.

These facts, among others, lend themselves to sharp disagreements even about how to evaluate and describe the status quo, much less the effects of policy changes. Strongly held opinions often seem to depend on specific expertise, experience, or value judgments. Elections are not a straightforward technical issue.

Auditing NPV elections

In principle, NPV could be in force as soon as 2028. By that time, we expect that the few jurisdictions (mainly in Louisiana) that do not yet offer voter-verifiable paper ballots or records in polling places will have done so. This change sets the stage for nationwide audits designed to confirm the National Popular Vote winner. In one sense, auditing NPV is much simpler than auditing 56 separate presidential contests—because there is only one outcome, and because the population from which to sample is so much larger. For simplicity, consider an audit of 1% of precincts in each state. In Maine and many other states, this sample would be small. But it would cover over 1,800 precincts overall. A well-run audit with such a large sample would be very likely to detect any widespread errors. Even very close NPV elections, in principle, could be effectively audited using a sample of this size or moderately larger. Federal legislation could require such an audit, including additional action to correct the results if substantial errors are found. (Short of federal legislation, individual state audits can contribute evidence about tabulation accuracy, much as they do now.)

The nationwide audit scenario troubles some advocates of risk-limiting audits (RLAs) because the RLA model tacitly assumes a central election authority. This central authority ensures that all participating counties (or other jurisdictions) do whatever work is necessary to confirm or to correct the originally reported outcome. The United States has no central election authority, and the states operate under diverse election laws and calendars. The legal and procedural obstacles to implementing a coordinated, binding nationwide RLA are formidable. This does not mean that a nationwide audit would be unable to correct a wrong outcome (although it plausibly might not), but it may not comply with the formal requirements of a risk-limiting audit. Beyond that technical objection, NPV invites relatively unfamiliar “what-if” questions about scenarios in which states fail to do what they ought to. However, similar questions arise under current arrangements: no formal system ensures, or can ensure, that elections will be rightly decided.

In short, a National Popular Vote election can be audited, arguably well, but thoughtful observers will continue to disagree on the merits and impacts of NPV.

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