



TO: The Honorable Louis Luchini
The Honorable Chris Caiazzo, Co-Chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: May 11, 2021

RE: LD 1330, An Act To Join the National Popular Vote Compact
LD 1384, An Act To Adopt the National Popular Vote Compact

Good morning Senator Luchini and Representative Caiazzo, and members of the Joint Standing Committee on Veterans and Legal Affairs.

My name is John Brautigam. I am here today as Legal Counsel and Policy Advisor for the League of Women Voters of Maine. The League of Women Voters of Maine is a nonpartisan political organization that has been working for over 100 years to encourage informed and active participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy. We never support or oppose any political party or candidate.

We testify in favor of LD 1330 and LD 1384. We strongly support electing our president and vice president by popular vote, and we support the National Popular Vote Compact to achieve that result. Simply put, we believe that every vote across all 50 states and the District of Columbia should matter equally in electing the president. The current system is not only anachronistic, it results in undemocratic outcomes which do not enhance the stability and public confidence in the single most important election in our country.

Popular election of public officials has been a feature of our democracy across the country for over 150 years. In that time, our commitment to electoral democracy has grown in importance. It is now part of our political culture and a bedrock feature in our democracy. The idea that “the person with the most votes wins” is familiar to every schoolchild and is based on a value that transcends long-ago political compromises. The Presidency is unique – the only official chosen by every eligible voter across the entire country, and the only office equally accountable to each and every person in every state and territory. The president is the president of “the people,” not of “the states.”

Yet when each state uses a winner-take-all approach based on the vote within that state for electing the president, the result does not necessarily reflect one person, one vote. The system now in place does not align with our bedrock principles.

This goal is within reach. It does not need a constitutional amendment, and it does not require abolition of the Electoral College.

Under the U.S. Constitution, each state has discretion over the allocation of its electoral votes. Some states use a "winner take all" approach, giving all their electoral votes to the candidate who wins the plurality from voters in that state. Maine uses a district approach, with two of our four electoral votes going to the statewide winner, and one going to the winner in each congressional district. And here is the crucial point: The allocation of electors for any one state is not required by the U.S. Constitution or the Maine Constitution. It is not required by a federal law. It is a decision entrusted to the state legislature.

In Maine, that decision is found in Title 21-A, Section 805(2). That section says that Maine presidential electors must vote as follows: Two at-large electors must vote for the candidate winning the most votes statewide, and the other two each vote for the candidate winning the most votes in his/or respective congressional district.

LD 1330 and LD 1384 merely amend Section 805(2). Once this bill takes effect, state law would direct our electors to vote for the winner of the national popular vote, rather than the state or district popular vote. It's that simple. This rule only takes effect when enough states have agreed to join together to allocate their electors in this manner. Until that time, Maine would continue to allocate our electors as we always have - using our hybrid at-large and district allocation approach.

It really is simple. The electors entrusted to our state by the federal constitution are under state control. The power to allocate them is a power entrusted to our legislature – to you.

I would like to speak a little to some persistent misconceptions around the National Popular Vote. The National Popular Vote would not center presidential elections in large cities. According to Census estimates, The combined population of the top 100 cities in the United States represents roughly 20% of the total US population. Ask yourself this: could any candidate win a national popular vote by trying to appeal to only 20% of voters? The National Popular Vote requires a candidate to appeal to every voter in every state.

The current system centered around winner-take-all doesn't mean candidates focus on big states or small states, it means they focus on the most closely divided states -- the "swing states." Maine has not been one of the beneficiaries of this.

Some opponents of one person-one vote try to argue that there is a conflict between NPV and Maine's adoption of ranked choice voting in presidential general elections. You will hear them go on at length about this later in this public hearing. But that simply is not so. It is very easy to use both NPV and RCV. If NPV is in use, the final round RCV tabulation will be Maine's contribution to the total national vote, and Maine could submit that vote count to the other states. It is not necessary to repeal RCV in Maine's presidential elections, and we would ask the committee to delete any repeal language before reporting out a bill.

The question here is whether we should choose the president of the United States by popular vote. There is a short answer and a much longer answer. The short answer is, of course we should. The president should be the president of all the people. There should be a clear and straightforward choice by the voters that the president would represent. The current system of each state using “winner takes all” is undemocratic. That is why we support NPV.

Thank you for the opportunity to testify. I would be happy to answer any questions from the Committee.