

NORTHAMPTON COUNTY

July 2024

ELECTION REPORT

PART II



Pennsylvania House of Representatives

By Honorable Ann Flood

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Executive Summary

During the 2023 Municipal Election, a significant and substantial flaw occurred with the voting machines in Northampton County, resulting not only in confusion and inconvenience for the day, but also uncertainty and mistrust in the electoral process thereafter.¹

As a representative for Northampton County, I was extremely disappointed that election administration problems continued to occur. In December 2023, I issued a report to look further into the problems and assess how to respond.²

This report is a follow-up to the December 2023 report and includes:

- Background on the issues in Northampton County.
- Information from informal examinations into the problems.
- Examination takeaways.
- Election administration in Pennsylvania - Where are we now?

With not just Pennsylvania, but also the nation, being only months away from a major election, now more than ever it is important to continue to address and learn about the proper administration of elections; past, present and future.

¹ Pennsylvania State Government. (2023, Nov. 7) Secretary of State Reports Smooth Election Day Across Commonwealth, With Limited Number of Isolated Issues. [Press Release]. <https://www.media.pa.gov/Pages/State-details.aspx?newsid=580>

² Pennsylvania State Rep. Ann Flood. (2023). 2023 Election. The Impact of Issues with the Administration of Elections in Northampton County. <https://www.repannflood.com/electionreport>

November 2023: Background on Issues with the Administration of Elections in Northampton County

Northampton County has experienced two instances of significant malfunctions with their voting machines.

The first occurred in 2019, when voting machines were improperly configured, due to “human error,” resulting in both election officials counting ballots by hand as well as a delay in the announcement of the election results.³ Errors in the system in 2019 lead to litigation requiring the Commonwealth to decertify the ExpressVote XL electronic voting system, with the Northampton County elections board saying there was “no way to restore voters’ trust in the machines.”⁴

In early 2023, a settlement was reached in this case.⁵ As part of the settlement, the Department of State (“DOS”) now requires counties to publicly report voting machine malfunctions and for DOS to also provide the public with improved opportunities to scrutinize the voting machine equipment examination process.⁶

Northampton County’s voting machines yet again appeared to malfunction during the 2023 General Election. Paper ballots were improperly recording votes relating to judicial retention.⁷ Reports state this was due to “mislabeling” on the part of a county board of elections employee when backing up the paper ballots.⁸ However, the county determined the digital record of each

³ Bresswein, Kurt. “Apologies offered, ‘human error’ blamed for Northampton county election problems. Lehigh Valley Live, Dec. 12, 2019. <https://www.lehighvalleylive.com/elections/2019/12/apologies-offered-human-error-blamed-for-northampton-county-election-problems.html>; Bresswein, Kurt “What went wrong with Northampton county’s voting machines? The analysis is done.” Lehigh Valley Live, Dec. 12, 2019. <https://www.lehighvalleylive.com/elections/2019/12/what-went-wrong-with-northampton-countys-voting-machines-the-analysis-is-done.html>

⁴ Hall, Peter. “Voting security advocates seek to block use of Northampton County’s machines.” The Morning Call [Allentown], Jan. 13, 2020. <https://www.mcall.com/2020/01/13/voting-security-advocates-seek-to-block-use-of-northampton-countys-machines/>

⁵ Walker, Carter. “Pa. will track voting machine malfunctions under new settlement with election security groups.” The Morning Call [Allentown], Aug. 18, 2023. <https://www.mcall.com/2023/08/18/pa-will-track-voting-machine-malfunctions-under-new-settlement-with-election-security-groups/>

⁶ Walker, Carter. “Pa. will track voting machine malfunctions under new settlement with election security groups. Votebeat Pennsylvania [New York], Aug. 18, 2023 <https://www.votebeat.org/pennsylvania/2023/8/18/23837562/voting-machine-malfunction-reports-public-database-election-lawsuit/>; [Directive Regarding the Uniform Reporting of Voting System Malfunctions to the Department of State](#)

⁷ Molly Bilinski, Stephaie Sigafoos, Tom Shortell, and Ryan Gaylor. “Election 2023: County exec ‘livid’ at voting machine trouble but confident in accurate count.” Lehigh Valley News, Nov., 7, 2023. <https://www.lehighvalleynews.com/elections/election-2023-widespread-voting-machine-problems-reported-in-northampton-county>

⁸ Molly Bilinski, Stephaie Sigafoos, Tom Shortell, and Ryan Gaylor. “Election 2023: County exec ‘livid’ at voting machine trouble but confident in accurate count.” Lehigh Valley News, Nov., 7, 2023. <https://www.lehighvalleynews.com/elections/election-2023-widespread-voting-machine-problems-reported-in-northampton-county>

vote was accurate.⁹ Nevertheless, the impact on county administration of the election was widespread, as there were reports of: *“chaos at some polling places, contradictory instructions from poll workers, a shortage of emergency paper ballots, a lack of privacy when filling out ballots and reports that some people were told to leave their polling place and return later to vote.”*¹⁰ There were reports that one polling place was even locked for more than an hour.¹¹

⁹ Molly Bilinski, Stephaie Sigafoos, Tom Shortell, and Ryan Gaylor. “Election 2023: County exec ‘livid’ at voting machine trouble but confident in accurate count.” Lehigh Valley News, Nov., 7, 2023. <https://www.lehighvalleynews.com/elections/election-2023-widespread-voting-machine-problems-reported-in-northampton-county>

¹⁰ Orenstein, Robert. “Northampton County certifies election results despite opposition from large crowd.” Armchair Lehigh Valley, Nov. 22, 2023. <https://armchairlehighvalley.substack.com/p/northampton-county-certifies-election>

¹¹ Bresswein, Kurt. “Northampton County certifies 2023 vote amid outcry about problems and promised fixes.” Lehighvalleylive.com, Nov. 22, 2023. <https://www.lehighvalleylive.com/elections/2023/11/northampton-county-certifies-2023-vote-amid-outcry-about-problems-and-promised-fixes.html>

What Happened: Examinations into the November 2023 Northampton County Election

Despite many complaints, the election was certified.¹² Northampton County voters were left without answers and continued to worry about their lack of confidence in the county's voting machines. Voting rights groups called for an investigation into the problems on Election Day.¹³

In addition to my December 2023 report, both elected officials and the press alike took proactive steps to find out what actually happened, including:

- **Pennsylvania DOS:** At the onset, Secretary Schmidt, when discussing the issue in Northampton County said: *"While the county has assured voters that this issue will not affect the tabulation of votes, we will be following up with both Northampton County and ES&S in the coming days to determine why the error was not identified prior to Election Day," Schmidt said. "It is important that the county and the vendor continue to be transparent after the election so that voters have confidence that a similar issue will not occur in the future."*¹⁴
- **Senate State Government Committee Hearing:** In March 2024, the Senate State Government Committee held a public hearing on "cybersecurity of voting machines, and suggested principles for state statutes regarding ballot marking and vote tabulation."¹⁵ Among the testifiers were:
 - **Kevin Skoglund, Citizens for Better Elections**, who also developed a report on the Northampton County issue.¹⁶ He testified: *"the root cause of the problems in Northampton was a simple data entry error. The fact that this was one small error made by a person is in no way reassuring. It was a small thorn that brought down an elephant. It could easily happen in any election in any of the 20 counties that require all voters to use BMDs (ballot marking devices)."*¹⁷ In fact, Northampton County itself had already experienced a system-wide technical

¹² Bresswein, Kurt. "Northampton County certifies 2023 vote amid outcry about problems and promised fixes." Lehighvalleylive.com, November 21, 2023. [Northampton County certifies 2023 vote amid outcry about problems and promised fixes \(lehighvalleylive.com\)](https://www.lehighvalleylive.com/news/politics/elections/2023/11/21/northampton-county-certifies-2023-vote-amid-outcry-about-problems-and-promised-fixes/)

¹³ Hall, Peter. "Voting rights groups call for investigation of Election Day problems in Northampton County." Pennsylvania Capital-Star [Harrisburg], Nov. 14, 2023. <https://penncapital-star.com/briefs/voting-rights-groups-call-for-investigation-of-election-day-problems-in-northampton-county/>

¹⁴ Pennsylvania State Government. (2023, Nov. 7) Secretary of State Reports Smooth election Day Across Commonwealth, With Limited Number of Isolated Issues. [Press Release]. <https://www.media.pa.gov/Pages/State-details.aspx?newsid=580>

¹⁵ Pennsylvania Senate Republicans.(March 18, 2024). Public hearing on cybersecurity of voting machines, and suggested principles for state statutes regarding ballot marking and vote tabulation. [Press Release]. <https://stategovernment.pasenategop.com/sg-031824/>

¹⁶ Skoglund, Kevin. "Election Problems in Northampton county, PA in November 2023. Citizens for Better Elections, Nov. 15, 2023. https://securiosa.com/posts/northampton_problems_2023.html

¹⁷ A "ballot marking device" allows voters to vote on a screen, and then the device prints out the ballot with the voter's selections. [Everything you need to know about Pa.'s voting machines | WITF](https://www.witf.com/news/election/everything-you-need-to-know-about-pa-s-voting-machines/)

failure in 2019 due to another simple misconfiguration. It can happen again, and the next time could have an even bigger impact on an election and on the trust of the citizens of Pennsylvania.”¹⁸

- **Joint Letter from the Republican and Democrat Committee Chairs of Northampton County**, who outlined the 2019 and 2023 problems with the voting machines in Northampton County and stated: “*we share a joint concern for election integrity and confidence, particularly with the 2024 race approaching. Let us be very clear, the voter-verified, human readable selections on the ballot card are NOT used in tabulation of the votes. Voter verification of the ballot from the ES&S Express Vote XL is impossible. The county and equipment vendor have repeatedly failed to ensure proper programming of these machines to ensure an error-free election. The continued failures are further fomenting distrust in the election systems used in Northampton County.*”¹⁹
- **Votebeat and Spotlight PA Investigation:** Released in April 2024 a report where their review of “*the county’s preparation for last November’s election found that its testing documentation was incomplete, inconsistent, and in more than 150 cases missing entirely, making it difficult to prove that it tested its machines correctly. Their review of records also showed a disorganized, incomplete process, with no evidence of machine inspectors’ work being double-checked for accuracy.*”²⁰

¹⁸ Skoglund, Kevin. Testimony of Kevin Skoglund. Hearing on Election Security, Pennsylvania Senate State Government Committee, March 18, 2024. https://stategovernment.pasenategop.com/wp-content/uploads/sites/141/2024/03/Skoglund_PA_Sen_Govt_Cmte_Hearing_Testimony.pdf

¹⁹ <https://stategovernment.pasenategop.com/wp-content/uploads/sites/141/2024/03/Signed-Joint-letter-to-PA-Senate-Matt-and-Glenn-NORCO.pdf>

²⁰ Walker, Carter. “Missing voting machine documents raise concern about Pa. county’s testing process. Spotlight PA, [Harrisburg], April 18, 2024. <https://www.spotlightpa.org/news/2024/04/northampton-county-voting-machine-error-testing-records-2023-election/>

Examination Takeaways

All of these investigations have yielded some important takeaways, with many consistent across investigations, as well as with those in my report.

To recap, here were the takeaways from my 2023 report²¹:

- ***Voting machine equipment:*** *Ballot-marking devices serve no purpose, and they can create expensive, time-consuming errors that would all be absent if they did not exist.*
- ***Paper is necessary:*** *We cannot continue to use “running out of paper” as an excuse for people being turned away at the polls. We must ensure all counties are prepared for emergency situations.*
- ***Election Integrity Grant Program accountability:*** *The Commonwealth should have more opportunities to ensure public funds are being used to the fullest extent appropriate and necessary to ensure the proper administration needed for free, fair and safe elections.*

In addition, a testifier at the Senate hearing pointed out the need for:

- *“Measures that increase the resilience of elections and move all counties to evidence-based elections—trustworthy paper ballots, secure chains of custody, and routine risk-limiting audits. At the same time, it is important to consult with experts, DOS, county election officials, and other election stakeholders to ensure that any legislation will be well designed and effective.”²²*

²¹ Pennsylvania State Rep. Ann Flood. (2023). 2023 Election. The Impact of Issues with the Administration of Elections in Northampton County. <https://www.repannflood.com/electionreport>

²² Skoglund, Kevin. Testimony of Kevin Skoglund. Hearing on Election Security, Pennsylvania Senate State Government Committee, March 18, 2024. https://stategovernment.pasenategop.com/wp-content/uploads/sites/141/2024/03/Skoglund_PA_Sen_Govt_Cmte_Hearing_Testimony.pdf; [Signed-Joint-letter-to-PA-Senate-Matt-and-Glenn-NORCO.pdf \(pasenategop.com\)](#)

Election Administration in Pennsylvania-Where are We Now?

These investigations and their conclusions resulted in a call to action and response to these election administration issues at the legislative, state and county levels.

They included:

- **Legislation:** Both myself and several of my Northampton County colleagues have introduced legislation in response to the 2023 General Election issue in Northampton County, including:
 - **Rep. Flood Legislative Package**²³: Together with Reps. Zachary Mako (R-serving parts of Northampton and Lehigh County) and Joe Emrick (R-serving part of Northampton County), I introduced a four-bill package designed to:
 - *“Prohibit counties from newly purchasing, and the DOS from newly certifying, any machine that uses a “ballot marking” method of operation.*
 - *Require any county using a “ballot marking” machine have sufficient emergency ballots supplied to each polling place for use if the machine is inoperable.*
 - *Require any time a polling place is using emergency paper ballots rather than the planned machine voting that sufficiently private areas are prepared for voters to complete these ballots. In the chaos of unexpected emergency voting operations, it remains vital that voters’ ballot secrecy be preserved.*
 - *Amend the Election Integrity Grant Program to ensure those funds may be used by counties to remediate administrative errors and problems that have arisen in recent elections, and to require remedial plans be established by those counties in order to continue to participate in the grant program.”*
 - **Rep. Mackenzie Legislation:** Rep. Milou Mackenzie (R-serving parts of Northampton, Lehigh and Montgomery counties) introduced two bills²⁴ to:
 - *“Expand and formalize requirements for the certification of any voting machine by the Secretary of State, as well as for additional pre-election machine testing in all counties.*
 - *Strengthen Pennsylvania’s requirements for voting machine manufacturers to resolve any defects or failures occurring in their*

²³Pennsylvania House of Representatives. House Co-Sponsorship Memoranda. Jan. 3, 2024.
<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20230&cosponId=41900>

²⁴Pennsylvania House of Representatives. House Co-Sponsorship Memoranda. Feb. 14, 2024.
<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20230&cosponId=42111>; Pennsylvania House of Representatives. House Co-Sponsorship Memoranda. Feb. 14, 2024.
<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20230&cosponId=42109>

machines, as well as creating a liability for these companies for failure to timely resolve any such defect.”

- **Sen. Coleman Legislation:** Sen. Jarrett Coleman (R-serving parts of Bucks and Lehigh counties) together with Sen. Cris Dush (R-serving Cameron, Centre (part), Clinton, Elk, Jefferson (part), McKean and Potter Counties) has recently introduced Senate Bill 1293, which is “*designed to ensure election equipment is adequately tested.*”²⁵
- **County Response:** The county made changes to its election integrity processes that were applied to the administration of the April 2024 Primary Election.²⁶
 - Recently, the Northampton County Council rejected a resolution relating to election integrity, with rejection relating less to the substance of the resolution and more relating to need and process.²⁷
- **State Response:**
 - According to the Spotlight PA/Votebeat Report: “*DOS updated its directive on pre-election machine testing to clarify what voting patterns must be used when testing. The department also offered new training sessions on how to perform the testing.*”²⁸
 - In addition, the DOS also issued its first report, as a result of the settlement to the 2019 lawsuit, detailing voting machine malfunctions and for the DOS to also provide the public with improved opportunities to review the voting machine equipment examination process.²⁹

²⁵ Walker, Carter. “Missing voting machine documents raise concern about Pa. county’s testing process. Spotlight PA, [Harrisburg], April 18, 2024. <https://www.spotlightpa.org/news/2024/04/northampton-county-voting-machine-error-testing-records-2023-election/> ; Pennsylvania State Senate. Senate Co-Sponsorship Memoranda. Nov. 15, 2023.

<https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20230&cosponId=41760>; Senate Bill 1293 [Bill Information - Senate Bill 1293; Regular Session 2023-2024 - PA General Assembly \(state.pa.us\)](https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20230&cosponId=41760)

²⁶ Walker, Carter. “Missing voting machine documents raise concern about Pa. county’s testing process. Spotlight PA, [Harrisburg], April 18, 2024. <https://www.spotlightpa.org/news/2024/04/northampton-county-voting-machine-error-testing-records-2023-election/>

²⁷ Althouse, Steve. “Northampton County rejects election integrity resolution.” www.wfmz.com. July 18, 2024. https://www.wfmz.com/news/area/lehighvalley/northampton-county-rejects-election-integrity-resolution/article_47fbcf76-456d-11ef-9101-7b5a5538797d.html

²⁸ Walker, Carter. “Missing voting machine documents raise concern about Pa. county’s testing process. Spotlight PA, [Harrisburg], April 18, 2024. <https://www.spotlightpa.org/news/2024/04/northampton-county-voting-machine-error-testing-records-2023-election/>

²⁹ Commonwealth of Pennsylvania. “Directive Regarding the Uniform Reporting of Voting System Malfunctions to the Department of State.” Directive 2 of 2023. Sept. 22, 2023. <https://www.pa.gov/content/dam/copapwp-pagov/en/dos/resources/voting-and-elections/directives-and-guidance/2023-Directive-Voting-System-Malfunctions-1.0.pdf.pdf> ; Commonwealth of Pennsylvania. “Voting System Malfunction Report.” Nov. 11, 2023. https://www.pa.gov/content/dam/copapwp-pagov/en/dos/programs/voting-and-elections/voting-systems/Combined-Redacted-Malfunction-Reports_Redacted.pdf

- Guidance Documents: In March 2024, the DOS also updated three guidance documents relating to voting systems:
 - **Use of Emergency Paper Ballots**³⁰
 - **Pennsylvania Provisional Voting Guidance**³¹
 - **Directive on Logic Voting Accuracy & Testing**³²

The April 2024 Primary Election in Northampton County did not see the same administration problems as those of 2019 or 2023. The post-election audit found no issues with the results.³³

Northampton County Election director stated: *“of course, there’s things we can certainly still implement. We’ll do that moving forward as well. There’s always room for improvement.”*³⁴

³⁰ Commonwealth of Pennsylvania. “Use of Emergency Paper Ballots.” Version 2.0. March 11, 2024. <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2024-DOS-Emergency-Paper-Ballots-2.0.pdf>

³¹ Commonwealth of Pennsylvania. “Pennsylvania Provisional Voting Guidance.” Version 2.1. March 11, 2024. <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2024-ProvisionalBallots-Guidance-2.1.pdf>

³² Commonwealth of Pennsylvania. “Directive on Logic & Accuracy Testing.” Directive 1 of 2024. Version 3.0. March 7, 2024. <https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Documents/2024-Directive-on-Logic-Accuracy-Testing-3.0.pdf>

³³ Addy, Jason. “Everything checked out’: Election audit finds no issues with Northampton County primary results.” Lehigh Valley News, May 9, 2024. <https://www.lehighvalleynews.com/elections/everything-checked-out-election-audit-finds-no-issues-with-northampton-county-primary-results>

³⁴ Addy, Jason. “Everything checked out’: Election audit finds no issues with Northampton County primary results.” Lehigh Valley News, May 9, 2024. <https://www.lehighvalleynews.com/elections/everything-checked-out-election-audit-finds-no-issues-with-northampton-county-primary-results>

Conclusion

Even with these improvements, we must continue to monitor the administration of elections not just in Northampton County, but the entire Commonwealth.

While improvements have been implemented at all levels of government, however, we may continue to see systemic issues that must be proactively monitored and resolved, both in Northampton County and across the Commonwealth.

As we embark on an upcoming major election cycle, now more than ever we must ensure the security and integrity of our elections and voters' trust and confidence in the outcome. I will continue to issue election reports regularly to provide transparency, as well as keep a watchful eye on our election processes across Pennsylvania and make sure that we have a trustworthy system that the residents in this state can trust in and know their vote counts!

My conclusion in my 2023 report is the same now: one problem is too many, and it cannot happen again.