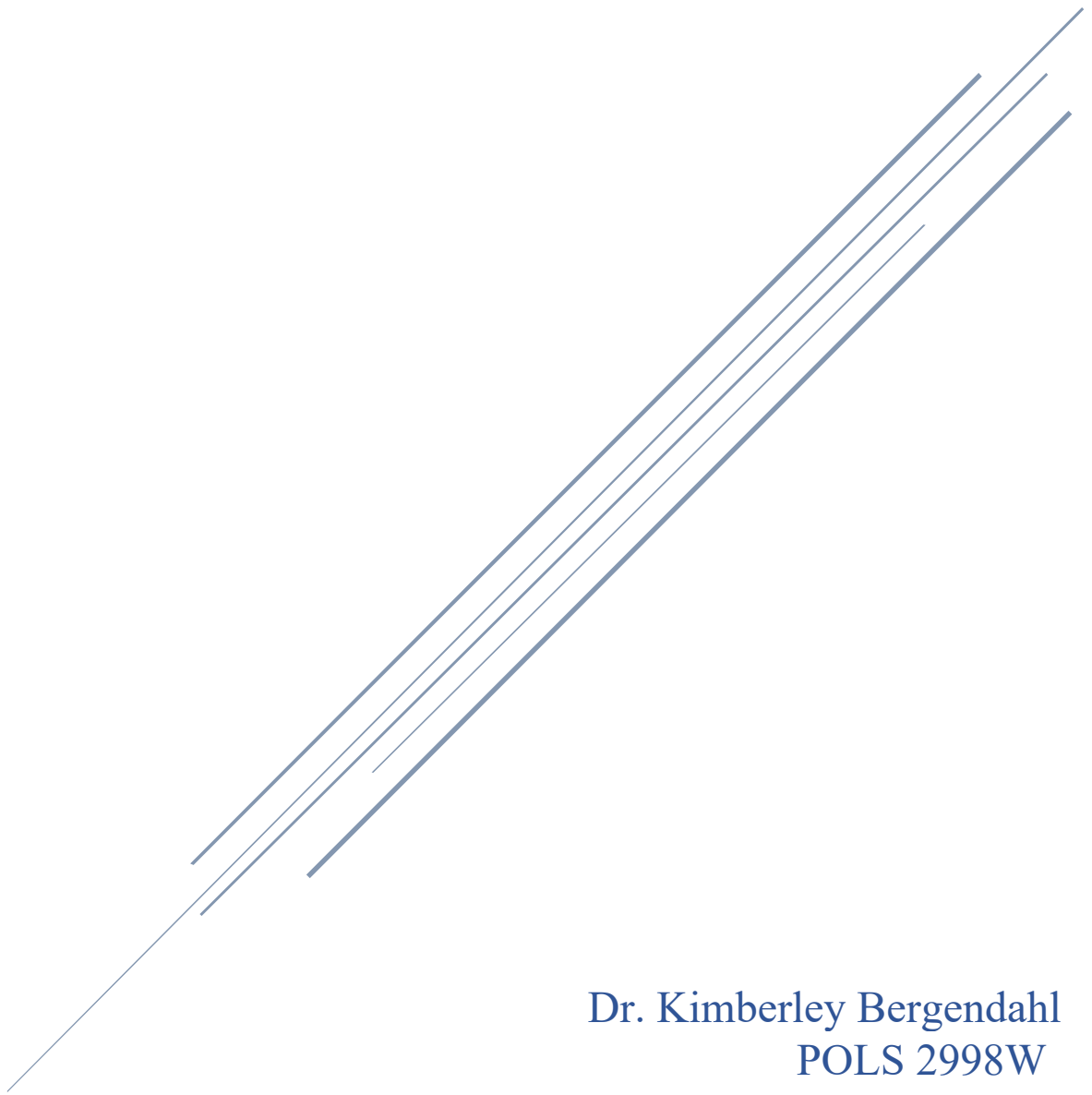


THE CONNECTICUT GENERAL ASSEMBLY: THE LEGISLATIVE PROCESS

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May 1, 2017

The legislative process in Connecticut is a multi-step, dynamic process. Bills must pass through many hands before going to vote. From the beginning when a bill is only a concept, to the end when it is fully drafted in legal language, each stage in the legislative process exposes the bill to new audiences and new opinions. Bills can die at any point along the way; most do. Public hearings are an especially critical point in the legislative process, in which testimony by legislators and members of the public can influence a committee's motives on a bill. The committee's response to testimony is a strong indicator of the bill's fate. This can be seen in the case of HB 5434, "An Act Adopting the Interstate Compact to Elect the President of the United States by National Popular Vote." The topic of this particular bill, and bills similar to it, is highly relevant to the current political climate after the 2016 Presidential election. Members of the public hold strong opinions on how they are represented in the election; they want to ensure that their votes count. The legislature was able to hear from the public directly at the hearing, creating a space for explicit communication. Though every step in the legislative process is crucial, the public hearing can make or break a bill by displaying public passion for the subject. To understand how and why state laws exist as they do, it is important to consider all the steps the bill must overcome to eventually reach the Governor's desk. The focus of this paper is to explain how a bill becomes a law in the Connecticut General Assembly, following the legislative life of HB 5434 as an example.

Introducing a Bill

A bill can come into existence through one of two ways. It can be proposed, meaning an individual legislator has a bill concept and creates the bill. Motives for proposing a bill can vary; if a legislator's constituents share a concern that is particular to their district, they may propose the bill to appeal to constituents and take care of their needs. Something personal in the legislator's life may also inspire them to act on a certain topic. A legislator may propose a bill on any topic,

however, most bills are concepts that the legislator believes will help the State beyond just their own district.

A bill can also be raised, meaning it is proposed by an entire committee. There are twenty-six standing joint committees, each with a different focus, like Aging, Veterans' Affairs, or Education. A committee may only raise bills over which it has cognizance; a committee may not raise a bill on a subject over which it does not preside. Sometimes proposed bills are weak or too narrowly-focused to have a solid future in the General Assembly, or multiple legislators will propose bills on the same concept. In these cases, a committee will combine bill concepts together to form a single, more cohesive bill. This is called a committee bill, and it can often garner more support from a variety of legislators than a proposed bill that was too specific. This combination can sometimes be detrimental to legislators. When a bill is compiled with others, its meaning can be muddled, and the original intent is lost. For the public, it can be hard to track a bill if its substance is moved around in different formats. Each committee has specific deadlines by which any raised or proposed bills must be introduced. After that, no more bills may be introduced until next session.

HB 5434 and the National Popular Vote

The collection of bills in the 2017 session that address the Presidential election are significant; they can change a centuries-old system and require an amendment to the Connecticut General Statutes. However, twice in recent history, the Electoral College has favored a candidate that did not receive the majority of votes, meaning that someone who is not supported by over half of Americans is in the White House. The disparity between the wishes of more than half of the electorate, and the actual election results has gained renewed publicity from the 2016 Presidential election. As this dynamic takes a more prominent role in contemporary political discussion, there

is a slow yet ongoing movement among states to take away the power of the Electoral College, and determine the Presidential election by the National Popular Vote. A growing number of people have expressed that the Electoral College is antiquated, and has no place in modern America. People vote with the intention of having their vote count, however that is not the reality in many states under the current system. People feel cheated. This sentiment of being undervalued in government surely contributes to the infamously low voter turnout rates in the United States. According to the Pew Research Center, only 53.6% of the voting age population in the United States voted in the 2012 Presidential election, whereas that number was 68.5% in Italy, 71.2% in France, and 80.4% in South Korea (Desilver, 2016). Additionally, electoral votes carry different weight across the country, meaning that candidates campaign more heavily in different states, while barely touching others. This inequality in attention to voters leaves some states lacking the publicity, economic boost, and general inclusion during campaign season. An election in which the electoral votes automatically followed the choice of the majority would render campaigns based on obtaining electoral votes useless; campaigns would focus on convincing larger numbers of people. Critics of this plan argue that campaigns would then only go to the most populous states, ignoring smaller states, thus illustrating what the Electoral College was trying to avoid. The proponents of the National Popular Vote say that fair representation in the election will outweigh any campaigning discrepancies.

A potential solution to the contested role of the Electoral College is going through the Connecticut legislative process right now. HB 5434, “An Act Adopting the Interstate Compact to Elect the President of the United States by National Popular Vote”, is a raised bill by the Government Administration and Elections Committee, though originally proposed by twelve Democratic legislators, that seeks to join Connecticut with other states in an official interstate

compact. The Agreement Among the States to Elect the President by National Popular Vote requires that each participating state commits its electoral votes to the Presidential candidate who won the overall National Popular Vote. Even if the national victor did not win the majority of a particular state, the Agreement dictates that the State still commit its electoral votes to the overall winner, supporting the true majority of Americans. This compact would not go into effect in any single state until it was enacted by states holding a majority of electoral votes, 270. Currently ten states and the District of Columbia have signed the compact, amassing 165 electoral votes. For now, the compact remains dormant. If Connecticut passes HB 5434, and signs the compact, its seven electoral votes would be added, bringing the count to 172; still many states to go before the compact is enacted.

Though HB 5205, HB 5435, HB 5736, and SB 9 have similar objectives, HB 5434 is the strongest of these bills. It was originally introduced by Senators Mae Flexer (D-29th) and Gary Winfield (D-10th), and Representatives James Albis (D-99th), Michael D’Agostino (D-91st), Josh Elliot (D-88th), Bob Godfrey (D-110th), Greg Haddad (D-54th), Jack Hennessy (D-127th), Susan Johnson (D-49th), Matthew Lesser (D-100th), Liz Linehan (D-103rd), and Robyn Porter (D-94th). Now, it is co-sponsored by fifty-seven legislators, all of whom are Democrats. None of the other related bills have this much support. HB 5434 commits Connecticut to entering the Agreement, and details what that commitment means for the state’s electoral votes:

“To enter Connecticut into the Agreement Among the States to Elect the President by National Popular Vote, thereby committing the state’s votes in the Electoral College to the presidential candidate that wins the popular vote nationally, regardless of whether such presidential candidate wins the popular vote within the state.”

HB 5205, proposed by Representative Emmett Riley (D-46th), says “To proceed toward implementing the interstate compact to determine the election of the President by National Popular

Vote.” The action described is vague, and therefore weaker than HB 5434. HB 5736, proposed by Representative Ronald Lemar (D-96th), reads “To join Connecticut with other states in the adoption of the interstate compact to elect the President of the United States by National Popular Vote.” Representative Genga (D-10th) proposed HB 5435, which reads “To enter Connecticut into the Agreement Among the States to Elect the President by National Popular Vote.”

SB 9, which was first introduced by Senator Martin Looney (D-11th) before becoming a raised bill by the Government Administration and Elections Committee, contains exactly the same language to HB 5434. This repetition is intended to give the bill a better shot of surviving; if it dies quickly in one setting, perhaps it will pass in another. Overall, HB 5434 had the most support since its inception, and is the most specific of the House bills, therefore it will most likely see the most success out of this group.

This is not the first session that the National Popular Vote has held a presence in the Connecticut General Assembly. In 2007, Representative Andrew Fleischmann (D-18th) introduced a bill to have Connecticut join the interstate compact, however it did not survive past the public hearing, at which only three individuals testified (*National Popular Vote*). Two years later, a large group of legislators introduced a National Popular Vote bill that passed in committee, and went on to pass in the House. However, the bill failed in the Senate. A poll in May 2009 of Connecticut voters showed that 68% of them supported a National Popular Vote (*National Popular Vote*). The bill was introduced again in 2011, 2012, and 2013, by Representative Fleischmann and others. In 2014, it was sponsored by thirty-nine Democratic legislators, and received endorsements from Governor Malloy and Lieutenant Governor Nancy Wyman. In regards to the bill, Governor Malloy is quoted in the CT News Junkie as saying:

“I fully support a national popular vote for president. All Americans deserve to have their votes counted equally for the highest office in the country. The candidate

who wins the most votes should be President. An equal vote for every American citizen, regardless of in which state they happen to live, is the fairest and most democratic way to go,” (McQuaid).

The 2014 bill received a Joint Favorable vote, but did not pass the House (*National Popular Vote*). The Connecticut General Assembly clearly has the potential to pass this bill, or at least it did at one time. The 2017 session features a split Senate, and almost equal numbers of Democrats and Republicans in the House, so it is unclear if HB 5434 will have any luck passing this year.

Public Hearings

A committee can vote to draft a bill, meaning it is put into official legal language. This is done by the Legislative Commissioner’s Office, (LCO), one of the non-partisan offices at the General Assembly. Once this is done, the committee can vote to hold a public hearing, in which members of the legislature and the public may come and testify for or against the bill. Each committee clerk can choose to run a public hearing slightly differently, varying how and when people may sign up, the order in which bills will be addressed. The order of speakers in a public hearing can be arranged in one of two ways. They can be called up in the order they signed up to speak, or they can speak by bill, as in all those speaking about HB 5434 will go first, followed by all those speaking about HB 5435. Regardless, the first hour of the hearing is generally reserved for any legislators who wish to speak. Some legislators will take advantage of this priority placement and express their own opinion or their concerns for their constituents. Other legislators will bring someone with them into their allotted time, like an expert in the field or a constituent with a personal story, in order to bring that person up on the speaker’s list, and to have their message heard early on in the hearing. Public hearings can take hours, sometimes the majority of a day. Committee members go in and out of hearings because of this long duration, meaning that

some speakers do not get the opportunity to address the entire committee. It is never guaranteed how many committee members will be present during any particular testimony, or how much of their attention is secured.

The public hearing is a setting in which the legislature can gauge public opinion on any particular bill. While some hearings are forgettable and poorly populated, others attract mass crowds and fill the room with energy. Groups come out in support wearing matching t-shirts, passing out stickers in the atrium, making their presence known. Sometimes people come to testify with moving personal stories, telling how the passage or failure of a bill will affect his or her life. In hearings like these, it is difficult to ignore such powerful testimony. For legislators, testimony that is presented in-person, in front of them, would be impossible to forget while voting on a bill's future. Legislators' main priority is to represent their constituents, so the human connection during a public hearing can influence a legislator's attitude on any given bill.

When anyone comes to testify, they are given three minutes to speak, after which, any committee members may ask them questions. Committee staff control the timer, so the true amount of time a speaker is given is at their discretion; sometimes they will make exceptions for legislators of certain people they know. Anyone who testifies must submit their testimony in writing, so the committee members may have it in front of them during the hearing. People who wish to testify but who cannot come to the hearing in person may also submit testimony that is given to committee members. Since public hearings take place during the regular workday, many people are prohibited from attending because they cannot take off work or get childcare. The online testimony makes participating a little easier for those populations.

The Government Administration and Elections Committee Public Hearing for HB 5434 took place on Wednesday, February 22. It was a well-attended hearing, drawing people from across

the state. Over ninety people provided testimony, most of whom came in person before the Committee. Public input was overwhelmingly in favor of the National Popular Vote bills, with a small yet firm opposition. Most people only named HB 5434, whether for or against, but others referenced all the related bills on this subject; SB 9, HB 5205, HB 5435, and HB 5736. In total, 149 people testified in support of HB 5434, and only 5 testified against it. For legislative support, Senator Flexer and Representative Susan Johnson, both Democrats, testified for the bill, and Representative Robert Sampson (R-80th) and Representative Michael Ferguson (R-138th), both Republicans, testified in opposition. Secretary of State Denise Merrill also supported the bill at the hearing, (GAE Committee Public Hearing).

Those in support of the bill, which were the majority of people at the hearing, based much of their support on the “One Person, One Vote” concept. All other elected positions are decided by the popular vote, so it does not make sense that the leader of the entire nation would have a complicated additional component. They want the National Popular Vote to be the sole determiner of the Presidential election, without the added algorithms of the Electoral College. Supporters stressed equal representation for individual voters and for states. Under the current system, some states’ Electoral College votes are worth more, thus drawing in more campaigning in those states. Other states, like Connecticut, do not experience as much campaigning. This dynamic in which people’s individual votes are not always valued discourages voter turnout, which is already notoriously low in the United States compared to other countries. Because the candidate who receives the majority of citizen votes does not always receive the majority of Electoral College votes, a candidate that the American public did not select could wind up in the White House, a result that seems counterintuitive to the American ideals of democracy.

Stephen Karp, Executive Director of the Connecticut Chapter of the National Association of Social Workers, submitted testimony in support of HB 5434, HB 5205, HB 5435, and SB 9, saying,

“For states like Connecticut, [adoption of the interstate compact] will mean that candidates cannot take the State for granted and it will provide our voters with a degree of influence that currently does not exist in most Presidential elections. Such added attention is good for our democratic process in Connecticut, will increase voter turnout that has a ripple effect down the ballot and will be an economic boost to the state economy every four years due to increased election expenditures within the state.”

He argues that his profession is “deeply rooted in democratic ideals,” hence his organization’s stake in this subject, (GAE Committee Public Hearing).

Other groups that testified in support of the National Popular Vote were the Connecticut Chapter of the Sierra Club, Common Cause, the League of Women Voters, Together We Rise CT, CT Voters Count, Action Together CT, and Global Health Systems Consultants (GAE Committee Public Hearing). Supporters noted how an amendment to the Constitution abolishing the Electoral College would be a long and difficult process, and though the interstate compact is also proving to be lengthy, this path is a more efficient means of achieving change than going through Congress. Danbury resident James Root testified that “While this would be a dramatic change in the national electoral process, the Electoral College has not demonstrated any real reason for being in modern times,” (GAE Committee Public Hearing).

In contrast, the opposition highlighted the important role the Electoral College plays in the Presidential election by helping smaller states have better representation in election. If election results were based only on population, campaigning would only occur in the most populous states, leaving the smaller ones excluded from that process. Under the Constitution, states have control over elections in their state, including how they spend their Electoral College votes. If states choose instead to allow their Electoral College votes to automatically go towards the winner of the

National Popular Vote, regardless of the results in their own state, they are strengthening federal supremacy, and sacrificing some state autonomy. Representative Ferguson, in his testimony, explains that states have jurisdiction over elections, especially recounts, and entering into the interstate compact would give up those powers. He continued, “Essentially, the NPV Compact seeks to circumvent the U.S. Constitution,” (GAE Committee Public Hearing). Representative Sampson had similar sentiments, testifying that joining the National Popular Vote movement will “effectively eliminate state sovereignty and nullify votes.” He then expressed concern for an electoral system that only focuses on population centers, and ignores smaller states (GAE Committee Public Hearing). Andy Schatz, of Westbrook, testified that a two-party system forces a candidate to obtain the support of at least half of voters (GAE Committee Public Hearing). Under the National Popular Vote, the majority candidate would win, not necessarily amassing half of American voters. Opponents of HB 5434 do not want to see Connecticut cast its Electoral Votes for a candidate that Connecticut’s population did not support. They see the Electoral College as a fair part of American elections; a part that needs to stay.

No matter which side people were arguing for, many members of the public cited the 2016 Presidential election in their testimony. Though the National Popular Vote bill has been introduced in other sessions that were not election years, recent events have motivated the public to take an interest and take a stance on electoral proceedings in the United States. The majority of supporters whether legislators or constituents, are Democrats. They are unhappy with the disparity in voter representation and how different states are treated differently because of their Electoral Votes. This past November, Democratic nominee, Hillary Clinton received 65,853,516 votes, and Republican nominee, Donald Trump, received 62,984,825 votes. Though Clinton won the National Popular Vote by nearly three million votes, Trump won the presidency because he received more Electoral

votes: 306 to Clinton's 232. (CNN). Democrats could be using this recent loss as energy to reinvigorate the party to fight for the National Popular Vote. The election brought this discrepancy in the American political system to the national stage. Even those who voted for Trump may empathize that even though their candidate won this time, this system could work against them in a future election. The system that HB 5434 is trying to implement is not inherently a partisan scheme, but rather seeking to create equal representation for all voters. Overall, both sides were vocal in a passionate public hearing for the National Popular Vote bill in Connecticut.

Joint Favorable Motion

After the bill has had a public hearing and has been debated, the committee can choose to pass a Joint Favorable, colloquially known as "JF." A JF motion on a bill means that the committee recommends its passage to the General Assembly; the bill is going to the chamber floor. A variant of this is JFS, Joint Favorable Substitute. A JFS motion means that the committee recommends the bill be passed only with some changes. A change could be a few lines or entire paragraphs, depending on what the committee wants for the particular bill. The consequences of these changes may be minimal, or they could totally undermine the bill's substance. Any legislator involved in proposing or supporting a bill hopes for a simple JF vote, so the bill may proceed to the floor as it was originally written and intended.

Each committee has its own deadline by which all JF votes must be completed. If a bill does not get the JF vote by that time, it is effectively dead; it will not be going to the chambers per the committee's recommendation. A Joint Unfavorable motion does exist, in which the committee explicitly recommends that the bill not be passed. However, this is rather an unnecessary motion, as it is easier to simply let the bill expire with the deadline. With a JF motion, a JF report is created

by the committee clerk about the bill's history, such as the public hearing testimony and various opinions on the bill.

Once a bill has a Joint Favorable vote, it may need to be referred to another committee. Some bills fall under cognizance of multiple committees, depending on the issue. For example, HB 5422, An Act Requiring the Use of Natural Alternatives to Magnesium Chloride for Melting Ice on State Highways, was raised by the Environment Committee, but was sent to the Committee on Transportation after receiving a JF from Environment. The subject matter of this bill warrants consideration by both bodies.

If the bill only needs to be approved by one committee, after its JF it is processed by three non-partisan offices, the Legislative Commissioner's Office (LCO), the Office of Fiscal Analysis, and the Office of Legislative Research (OLR). The first office, comprised of attorneys, LCO, reviews the bill for its constitutionality, and also that it does not conflict with existing law. The bill must be legal and in line with pre-existing Connecticut statutes before it goes on to the House or Senate floor. OFA creates a fiscal note, detailing what the fiscal impact on the State will be if it adopts the bill into law. The fiscal note is critical, as government spending is always contested, especially in a budget year where the General Assembly and the public are paying particular attention to deficits and gaps in the state budget. Sometimes, the cost of a bill is more influential in legislators' votes than its substance or politics. The state's economic longevity and vitality are important to all political ideologies. Finally, OLR writes the bill analysis. This is a summary of the bill, sometimes with a look at current law, highlighting what changes the bill would create. Bill Analyses are not written in "legalese," rather they are written for all audiences, with the intent of readers gaining a solid understanding of the bill and its implications. Legislators, aides, and interns often read the bill analysis instead of the actual bill text because it conveys important legislative

information quickly in a more concise and straightforward way than legal writing does. At this point in the process, a clerk puts the bill on the calendar for either the House or the Senate, so the bill is scheduled to be brought up on the floor.

The Joint Favorable vote in the Government Administration and Elections Committee for HB 5434 passed, and this bill is now on the House Calendar, which is the schedule of when bills will be brought up for debate in the House. Every bill that is voted to the House receives a Calendar Number, putting it in line to be debated. The exact day in which the bill will be brought up is not part of the Calendar; rather, the House goes through the list and gets to a bill whenever it gets to that part of the list. This means that if the House does not get through enough bills by the end of session, some bills that received Calendar Numbers are never heard, and therefore die. In the Senate, the same Calendar arrangement exists.

HB 5434 is number 328 on the House Calendar. The other House bills, HB 5205, 5435, and 5736 all died after their public hearing because they did not receive a Joint Favorable motion. The Government Administration and Elections Committee motioned to JF SB 9, the one Senate bill regarding the National Popular Vote; however this motion failed on March 24. The JF vote for HB 5434, the last bill standing, took place on March 24, nearly two months after it was initially raised in committee. Of the seventeen total members on the Committee, nine voted “yea” and eight voted “nay” for HB 5434. This was a tight vote that nearly killed the bill, and thus the topic altogether. All of the “Yes” votes were cast by Democrats, and all of the “No” votes were cast by Republicans. This sharp partisan split was not surprising. The 2016 Presidential election had the Electoral College favoring Republicans, so it seems natural that Republicans, regardless of who they voted for individually, would support a system that kept their party in power. Additionally, conservatives are less likely to want to make such a drastic change to American tradition. The

Electoral College is a vestige of the Founding Fathers' vision for the United States, and usually supports the National Popular Vote anyways. Letting go of Electoral votes would contribute to letting go of states' rights, something Republicans are famous for defending. In the previous vote on March 6, to have the bill drafted, thirteen legislators voted to go through with the draft, with only four voting it down. Four Republican members, Representative Cummings (R-74th), Senator Jesse McLachlan (R-35th), Representative Laura Devlin (R-134th), and Senator Frantz (R-36th), supported the bill's drafting, then chose to vote against its Joint Favorable. Both of the co-chairs of the Committee are Democrats (Senator Flexer and Representative Daniel Fox (D-148th), but the Ranking Member and one of the three Vice Chairs are Republicans. The Committee's members are made of nine Democrats and eight Republicans; about as equal as a Committee could be in regards to party representation.

Becoming Law

Bills are brought up in the House or the Senate on their scheduled day, unless there is back-up from previous days, in which case it will be delayed. A chamber may choose to vote to pass the bill, or make amendments to the bill. In the latter case, the bill is sent back to its original committee so it can approve the amendments. Then, the bill returns to the first chamber, and needs a passing vote before moving on to the second chamber. A bill must obtain more than fifty percent of the legislators' vote in both chambers in order to pass. If it passes both the House and the Senate, the bill goes to the Governor's desk to await his signature. Once the Governor, Dannel Malloy, signs the bill, it finally becomes law. Up until the signing, any legislators may add or remove their names as co-sponsors. Sponsorship is to show support for the bill. The Connecticut General Assembly requires a lengthy process, with many points at which a bill could die. A bill could not pass one of the chambers, or not meet a committee deadline, and it is done, at least until next session. Bills

that achieve law status are really quite the feat, considering all the people and processes they need to overcome along the way.

This bill has passed in the House in a previous session, however, it is unlikely it will pass the House this year. It narrowly passed the Joint Favorable vote in the Government Administration and Elections Committee, and only because there was one more Democrat than Republican. On the House floor, it may see similar results. This is shaping up to be a partisan vote, in which the Democrats have a slight majority in the House, which may be the bill's only hope of surviving. The bill does not have a fiscal note, and most likely will not going forward, so the matter of cost is not a significant factor in this vote. The recent election has provided a political setting perfect for motivating "Yes" votes on this subject, yet no Republicans seem to be supporting it, making the bill's potential passage a narrow chance. If the bill passes, Connecticut enters into a historic compact with other progressive states in a landmark move for equal voter representation and modern elections. If the bill fails, it will certainly be brought up again in future sessions. When the Electoral College and the National Popular Vote stand in conflict, people grow tired of the centuries-old system, and will be newly inspired to seek structural change. Either way, simply having this bill raised in the Connecticut General Assembly this session emphasized a continuing conversation in the government and among the public about what a fair and free election truly means, and what the election for the highest office in the country should entail.

HB 5434 is on the calendar for the House of Representatives. There, it has the opportunity to be passed, amended, or failed. If it is passed, it moves on to the Senate to await a vote. If it is amended, it must return to the Government Administration and Elections Committee for approval before coming back to the chambers. If the bill fails, then all the testimony and work done this

session did not convince enough legislators to vote “yes,” and supporters will need to analyze what exactly went wrong before they try to reintroduce the bill in a future session.

The results of the 2016 Presidential election have epitomized why the bill is significant for Connecticut voters and people across the country. Though the public hearing brought immense public and legislative support for Connecticut to reduce the influence of the state’s Electoral College votes, passing this bill would be a historic move. It is unlikely the bill will become law; passing both chambers, as well as getting approved by the Governor, would be a massive step. It is impressive when any bill becomes a law after all the scrutiny and review it must undergo in the General Assembly, especially in this session with nearly equal party representation. With ten states and the District of Columbia already committed, perhaps prioritizing the National Popular Vote is a political trend that will continue. If that is the case, and more states move toward passing legislation, Connecticut will have to eventually pledge to this plan, even if it does not pass this particular bill in the 2017 session. Irrespective of the bill’s outcome, HB 5434 certainly highlighted a contentious aspect of American elections, setting the stage for an impassioned public hearing. Beyond any potential new laws, this bill’s journey seems to have inspired constituents to become more engaged in their political system.

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