

Appreciating Representation

A LESSON PLAN FOR HIGH SCHOOL TEACHERS
OF CIVICS, GOVERNMENT, AND U.S. HISTORY



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APPRECIATING REPRESENTATION LESSON PLAN

Prepared by Alan Rosenthal, Eagleton Institute of Politics of Rutgers University, as a project of the National Conference of State Legislatures, the Center for Civic Education, and the Center on Congress at Indiana University

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TABLE OF CONTENTS

Appreciating Representation: An Overview of the Lesson

Background, objectives and methods for teachers

Student Handout A

Appreciating Representation: An Overview

Student Handout B

Instructions for Scenario Exercises

Scenario 1

Deciding how to vote on an increase in the sales tax

Scenario 2

Deciding how to vote on abolishing the death penalty

Scenario 3

Deciding how to vote on an increased cigarette tax

Scenario 4

Deciding how to vote on allowing optometrists to use diagnostic drugs

Scenario 5

Deciding how to vote on a reduction in the voting age

Voting Tally Sheet

Student Handout C

How most legislators would have decided and observations from lesson

AN OVERVIEW OF THE LESSON

BACKGROUND, OBJECTIVES, AND METHODS FOR TEACHERS

This lesson on appreciating representation is designed mainly for civics, American government, and history courses taught at the high school level. It follows upon an earlier lesson, “Appreciating Democracy,” which dealt with: first, the fact that people have different values, interests, and priorities; second, that legislative bodies try to settle these differences by means of deliberation and negotiation, with compromises and majority votes as key elements; and, third, that dealing with differences can be very difficult, indeed. Now the focus is on how, to what degree, and on what issues people’s values, interests, and priorities get represented in the legislative process.

This “Appreciating Representation” project is sponsored by several organizations that are collaborating on the teaching of civic education on representative democracy and legislatures: the National Conference of State Legislatures (NCSL), the Center for Civic Education (CCE), and the Center on Congress at Indiana University, all of whom are joined in the Representative Democracy in America project.

Rationale

Our governmental system at both the national and state levels is based on the principle of representation. People do not themselves govern, nor do they ordinarily vote to adopt laws and public policy. Rather, they govern indirectly by electing legislators who represent them.

For the framers of the U.S. Constitution, the legitimacy of the government came from the consent of the governed. The House of Representatives, with its members elected by constituencies throughout the nation, was designed to reflect the views of the people. The Senate, with its members originally selected by state legislatures, was designed to reflect the sovereignty of the states. The will of the people would find its way through legislative chambers by means of lawmakers who would assess their constituencies’ preferences and interests and take them into account in deciding on matters of public policy. Legislators would both interpret and reflect public opinion as they assembled in Congress.

Today members of both the U.S. House and U.S. Senate and the houses and senates of the 50 states (except Nebraska, which is unicameral and has a senate, but not a house) are elected by the people and are considered to be representatives of the people.

At the state level, for example, legislators represent their constituents in a number of ways. They help constituents in their district who may have problems with governmental regulation or the provision of services, such as welfare benefits, unemployment compensation, driver’s licenses, insurance costs, taxes—almost anything under the sun. They try to get projects, such as the construction of a courthouse or funding for travel by a high school band, for their districts. And they are constantly looking for as many state dollars as possible to be channeled to their districts as school, county, and municipal aid. Insofar as possible, legislators also attempt to give expression to the policy views of their district and its residents. It is not always easy for legislators to figure out what the policy views of their constituents are and, thus, it is far more difficult for them to express constituency views than to help individual constituents with problems they have or fight for project and state aid for their districts.

Legislators themselves have little doubt as to the quality of the jobs their institutions do with regard to representation. When asked in a recent survey about their legislature’s performance representing constituencies, almost nine out of ten members responding characterized the job as “excellent” or “good” (rather than “only fair” or “poor”). Smaller proportions thought their legislatures did as well making laws or balancing the power of the executive.¹

Overall, Americans approve of the job their own representative is doing. Public opinion polls offer evidence of this, as do election results that show incumbents winning 80-90 percent of the time in both Congress and state legislatures. Yet, people don’t feel the same way about representatives other than their own or about the system in general. As surveys conducted by the University of Michigan show, confidence that government officials listen to “people like me” has declined over the past fifty years. A recent survey, sponsored by the National Conference of State Legislatures, found that almost half the people with opinions thought that elected officials didn’t care what plain people thought and more than half with opinions thought that elected officials work to serve their personal interests rather than the public interest. Further evidence of the lack of public support for the representative part of democracy is suggested by the fact that only 30 percent of those surveyed believe that making laws is a job best left to elected representatives, while 47 percent believe that the public should decide issues directly by voting on them.²

Americans are not only represented in legislative chambers by members whom they elect. They are also represented by political parties with which they affiliate or identify and interest groups to which they belong or with which they share values, interests, or priorities.

Party matters to people, even though most people are critical of the two major political parties and think they have too much power in the political system. Fifty years ago, party mattered even more. Then, roughly three out of four Americans identified themselves as either Republican or Democrats, while the rest identified as Independents. Since then, the proportion of Independent identifiers has increased, but, still, about two out of three people consider themselves to be either Republicans or Democrats. The remaining one-third are Independents, but even among them a number lean Republican or Democratic.

Not only do Americans identify with the parties; they normally vote for their party’s candidates. It is no accident that, in the 2004 presidential elections, 90 percent of Republican identifiers voted for George W. Bush and almost as high a percentage of Democratic identifiers voted for John Kerry. If party preferences play such a vital role in the voting decisions of high-visibility elections such as that for the presidency, they provide even more important cues to voters in less visible contests, such as those for the state legislature. The political parties represent different constituencies in the population. Republicans are more likely to be higher income and church goers, while Democrats are more likely to be lower income and less religiously observant. Finally, the political parties take different positions on issues—not all issues, by any means, but several significant issues, such as the role of government, abortion, and the distribution of tax cuts.

Interest groups also provide a channel for representation, although few people recognize this. Indeed, most Americans think that interest groups (or “special interests” as they are pejoratively termed) have too much power and do more harm than good.

If, as the public believes, interest groups are the enemy, then, in the words of the comic-strip character Pogo, “we have met the enemy and he is us.” That is because seven out of ten Americans belong to one

¹ Alan Rosenthal, *Heavy Lifting: The Job of the American Legislature* (Washington, D.C.: CQ Press, 2004), p. 233.

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interest group or another, while four out of ten belong to more than one group. And, of course, the political and policy opinions and interests of all of us are represented by groups to which we do not belong but with whom we share values or interests. It may well be that (as the case of their attitude toward their own representative in comparison with their attitude toward everyone else's representative) people think that the group to which they belong is pursuing, not a "special" interest, but rather the public interest, while groups whose interest they do not share are selfish and require control.

The concerns of the constituency, political parties, and interest groups all come to bear on the lawmaking process. So also do other factors, among the most important of which are the merits of the particular case, that is the substantive arguments for and against a particular bill, and what individual representatives themselves believe and what their past records are like.

Take the merits of the case, for example. Most of the discussion that takes place in the legislative process—whether in committee or on the floor or by lobbyists for various groups—is over the merits of proposed legislation. Arguments, supported by evidence, are made in favor of a proposal, while arguments, also supported by evidence, are made against a proposal. These opposing arguments are critical grist for the legislative mill. In the deliberation that takes place, arguments on one side or the other often are the decisive elements in how many legislators vote; and, if not decisive, they still play an influential role. Legislators, of course, have their own convictions, values, and beliefs—ones that they have acquired over time. Many, for example, feel strongly one way or the other about gun control; many feel just as strongly on issues relating to gay rights. Moreover, they have records that they have made while serving in public office. They may, for instance have consistently supported increased expenditures for state aid to education. If they change course, they will look inconsistent and in their next election campaign they can be taken to task for switching positions. So, in the legislative process, as elsewhere, the past helps to shape the present.

Objectives

An appreciation of representation does not come easily. It has to be taught—just as music and art appreciation and the appreciation of democracy in practice have to be taught. This teaching lesson on representation has the following objectives:

- (1) To show students the channels by which people's values, interests, and priorities are expressed in the legislative process. The principal channels of representation considered here are: first, those elected to legislative office; second, the two major political parties; and third, the interest groups that advocate and lobby for (and against) a particular policy.
- (2) To bring to the attention of students the major factors that affect how legislators decide on matters of public policy. These factors are (a) the merits of the case; (b) the views of constituents; (c) the role of interest groups; (d) the position of the legislative political party; and (e) the conviction and record of the individual legislator.
- (3) To give students an idea of how legislators make up their minds on issues of public policy and the variation in decision making depending upon the specific issue being examined.
- (4) To illustrate, albeit in a simplified way, the multiple considerations that operate in lawmaking in the states.

This lesson is designed to promote learning in high school government, civics, or history courses that is in accord with standards that are in effect in virtually every state. It is designed also to:

- (1) Increase a student's knowledge about channels of representation, the roles of constituency, political parties, and interest groups, the kinds of issues that arise, and legislator decision making in representative democracy.
- (2) Develop a student's skills in reasoning through the decision-making process of legislators, who are being influenced by a number of major factors.
- (3) Affect a student's dispositions toward representative democracy by countering the prevailing cynicism and suggesting that factors such as the merits of the issue, the legislator's conviction and record, and constituency views are critical elements in decisionmaking. Also to promote an appreciation of a political system in which people seldom decide directly on issues, but instead elect those individuals who decide on their behalf.

Methods

Students will develop knowledge about and an appreciation of the representational system if they examine different types of issues on which legislators have to decide. By doing so, they can see what factors legislators weigh in coming to decision on bills on which they have to vote. Students ought to be able to see that the factors that are most influential are not always the same; they vary, depending on the specific issue that is being decided.

In order to accomplish our objectives, five brief and simple scenarios presenting hypothetical situations have been developed:

- (1) Deciding how to vote on an increase in the state sales tax;
- (2) Deciding how to vote on abolishing the death penalty;
- (3) Deciding how to vote on an increased cigarette tax;
- (4) Deciding how to vote on allowing optometrists to use diagnostic drugs; and
- (5) Deciding how to vote on a reduction in the voting age.

For each of the above-listed scenarios:

- (1) The issue is posed;
- (2) The merits for and against passage of a bill are stated;
- (3) Where constituents stand is indicated;
- (4) Interest groups that are involved are specified;
- (5) The political party position of the legislator is identified; and
- (6) The legislator's own conviction and record are noted.

Students have to figure out how most legislators would decide and why, given the considerations specified in each scenario. It is critical that students consider only the given set of factors and no others. Enough information is provided, so that students can reason out the decisions that most legislators would make, if the factors lined up as indicated. (If the scenarios were scripted differently, most legislators would decide differently.) What is important here is not what students themselves think, but what students think influences legislators and legislatures. So, students should not take into account their own views and

positions, but instead should examine the factors specified in order to figure out how most legislators would decide.

This lesson consists of five scenarios and a debriefing discussion. The time to be allotted to the entire lesson is three 45-minute periods.

In advance of the first period, Student Handout A should be distributed. It includes the same text that is presented earlier in the “Rationale” section of this lesson for teachers and briefly discusses the principal factors that ordinarily influence legislative decision making. The handout should be studied at home before students respond to the first set of scenarios.

The first period should take up three scenarios of issue resolution in which students figure out how most legislators would have voted and why. Student Handout B consists of brief instructions to the students and the five issues legislators have to decide. Student Handout B also contains a tally sheet that can be used to record the votes of students on how they think most legislators would decide on each issue. The second period should deal with the remaining two scenarios.

Scenarios 1, 2, and 3 – Period 1

Students should be given the instructions, along with the first three scenarios and the tally sheet.

- (1) Deciding on an Increase in the Sales Tax;
- (2) Deciding on Abolishing the Death Penalty; and
- (3) Deciding on an Increased Cigarette Tax.

The students can discuss the issues as a class, but it is preferable that they be organized into discussion groups of six to eight persons. The assignment is for them to read each of the three scenarios and discuss in their groups the questions:

How do you think most legislators would probably vote on this issue, given the specified factors?

Why do you think they would vote this way?

It should be emphasized that the purpose of group discussion is not to arrive at agreement, so there is no need for students to persuade one another of their view on how most legislators would vote. The purpose is to allow students to exchange views with one another, and perhaps learn from one another. Each student should decide how legislators would vote on the basis of the factors specified in the scenarios, not on the basis of dominant opinion in the discussion group.

After about thirty minutes of discussion in their groups, students will be asked to indicate how they think most legislators would vote on each of the three issues.

Scenarios 4 and 5 – Period 2

Students should be given the remaining two scenarios and the tally sheet, along with a repeat of the instructions:

- (4) Deciding on Allowing Optometrists to Use Diagnostic Drugs; and
- (5) Deciding on a Reduction in the Voting Age.

Preferably, students should be organized into different discussion groups of six or eight persons. The assignment is the same as that in the first period—to read each of the scenarios and discuss in their group the questions:

How do you think most legislators would probably vote on this issue, given the specified factors?

Why do you think they would vote this way?

Again, the purpose of the group discussion is not to arrive at agreement, but rather to allow students to exchange views with one another. Each student should decide how most legislators would vote on the basis of the factors specified in the scenarios, not on the basis of dominant opinion in the discussion group.

After twenty minutes of discussion in their groups, students will be asked to indicate how they think most legislators would vote on each of the two issues.

Debriefing -- Period 3

At the conclusion of the vote during the second period, students should hand in the tally sheets and the teacher should distribute Student Handout C, which analyzes legislative decision making. This analysis is based largely on research that political scientists have conducted over the years. It explains how legislators would have voted on each of the five issues, given the specified factors. The reading of this handout should be done by students at home, and before period 3. Along with Handout A, it will provide the basis for class discussion in period 3.

The conventional pattern of pedagogy at the high school or collegiate levels has a reading assignment preceding discussion. In this lesson, by contrast, some background reading precedes discussion and further reading follows discussion. The intent is to engage students in the subject, by means of their having to figure out how legislators would decide. If students become engaged as a result of these exercises, the expectation is that they will attend to the concluding reading more thoughtfully than otherwise. This is one way in which engagement can facilitate learning (as learning facilitates engagement).

The debriefing session, after the students have read an analysis of the subject and of decision making on the five issues, should provide an informed discussion of some of the basic elements of representative democracy.

The major questions to be addressed in this debriefing session are:

- (1) What did the students identify as the factor(s) playing the most important role on each issue, as far as the decisions of legislators were concerned?
- (2) What were the principal differences, issue by issue, of factors that influenced legislators?
- (3) Did the discussions and reading of Handouts A and C change the way students think about how legislators make decisions? How?
- (4) In the political system do people get represented on the issues? Do interest groups exercise control? Are political parties in charge? Does conscience and conviction matter? What role is played by the merits of the issue and deliberation on the merits?

Student Handout A

APPRECIATING REPRESENTATION AN OVERVIEW

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suggested by the fact that only 30 percent of those surveyed believe that making laws is a job best left to elected representatives, while 47 percent believe that the public should decide issues directly by voting on them.⁴

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If, as the public believes, interest groups are the enemy, then, in the words of the comic-strip character Pogo, “we have met the enemy and he is us.” That is because seven out of ten Americans belong to one interest group or another, while four out of ten belong to more than one group. And, of course, the political and policy opinions and interests of all of us are represented by groups to which we do not belong but with whom we share values or interests. It may well be that (as the case of their attitude toward their own representative in comparison with their attitude toward everyone else's representative) people think that the group to which they belong is pursuing, not a “special” interest, but rather the public interest, while groups whose interest they do not share are selfish and require control.

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Take the merits of the case, for example. Most of the discussion that takes place in the legislative process—whether in committee or on the floor or by lobbyists for various groups—is over the merits of proposed legislation. Arguments, supported by evidence, are made in favor of a proposal, while arguments, also supported by evidence, are made against a proposal. These opposing arguments are critical grist for the legislative mill. In the deliberation that takes place, arguments on one side or the other

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often are the decisive elements in how many legislators vote; and, if not decisive, they still play an influential role. Legislators, of course, have their own convictions, values, and beliefs—ones that they have acquired over time. Many, for example, feel strongly one way or the other about gun control; many feel just as strongly on issues relating to gay rights. Moreover, they have records that they have made while serving in public office. They may, for instance, have consistently supported increased expenditures for state aid to education. If they change course, they will look inconsistent and in their next election campaign they can be taken to task for switching positions. So, in the legislative process, as elsewhere, the past helps to shape the present.

Factors Influencing Legislative Decision Making

Hundreds or even thousands of bills are introduced in a state legislature at one of its annual sessions. The numbers range from states like New York, with about 15,000 introductions, and Massachusetts, with about 8,000, to Wyoming with about 500. These bills run the gamut in terms of the problems that are addressed and the issues that are raised, and the variation in terms of scope and importance is tremendous. Most of the bills are non-controversial and pass easily. But many bills are contested. Some of them are on major matters of wide public import, such as the budget bill, tax bills, and legislation on issues like capital punishment, gay rights, and abortion. Others are more limited in their effects. On these bills there are two (or more) sides to the issues being addressed. In all of these cases, legislators have to decide where they stand and how they will vote. Many factors can affect their decisions, depending on the nature of the issue.

The following factors are among the most significant ones affecting how members of a legislature decide. Other factors, such as the views of one's colleagues and the recommendations of the legislative committee that held hearings on and studied a particular bill, also count. But (1) the merits of the case, (2) constituents, (3) special interests, (4) political party, and (5) the conviction and/or record of the individual legislator usually count most heavily. It is worth examining each of these factors briefly.

Merits of the Case

Although negotiation and bargaining are important parts of the legislative process, probably the most important and pervasive part is deliberation on the merits of the case. Sponsors and advocates of just about every bill that the legislature considers will argue the merits of their proposal. "It will help the economy," "improve health," "attract business to the state" are typical claims based on the merits. Those who oppose the bill will argue the merits of their case against the proposal. "It will create a burden for citizens," "costs too much money," or "simply cannot be implemented" are also typical claims on the negative side. Ordinarily, in their efforts to win a majority of members (or keep proponents from obtaining a majority) both sides offer a rationale and data to justify their position. Deliberation then takes place in which each side tries to convince the other, but especially the uncommitted legislators, of the merits of its own position and ideas. This does not mean that everybody is open to persuasion. Most issues a legislature considers are not new; they have been around in similar form for a while. So, some legislators already have positions and even a voting record. Other legislators may have decided on other grounds. But a healthy number of people are open to persuasion.

Most of the discussion that takes place in Congress and state legislatures is of a deliberative nature, revolving around the merits as seen by various participants in the process.

Constituents

Our governmental system at both the national and state levels is based on the principle of representation. People do not themselves govern, nor do they ordinarily vote to adopt laws and public policy. Rather, they govern indirectly by electing legislators who represent them in Washington and the capitals of the states.

Members of both the U.S. Senate and U.S. House and the senates and houses of the 50 states (except Nebraska which is unicameral and has a senate, but not a house) are elected by and serve as representatives of the people. At the federal level two senators are elected from each of the states, while each member of the house is elected by voters in districts or constituency of 645,632 people. At the state level, the population of senate and house districts varies from state to state. But each member of the senate and each member of the house is elected by voters in a particular district or constituency.

Representation by legislators entails both serving the interests and expressing the views of constituents and constituency. Legislators perform their representational tasks in a number of ways. They help constituents in their districts who have problems with government, such as not receiving welfare benefits, signing up for unemployment compensation, renewing a driver's license, or disputes over the amount of income tax they are expected to pay. Legislators try to get projects—such as the construction of a court house or funding for travel by a high school band—for their district. And they are constantly looking for as many state dollars as possible to be channeled to their district as school, county, and municipal aid.

Insofar as possible, legislators try to give expression to the dominant policy views of their district and the people in it. However, on the overwhelming majority of issues on which legislators have to vote, the overwhelming majority of constituents have no views. On some issues, a substantial number of constituents do have views; but their views may be split, with roughly half of them for and half of them against a particular measure. On very few of the many issues the legislature handles do constituents have views. On even fewer issues, do constituents' views run in the same direction. Only then does a dominant constituency view, sometimes referred to as a "constituency mandate," exist.

Interest Groups

The so-called "special interests," more neutrally known as "interest groups," are people who organize and engage in political actions to promote values, interests, and views that they have in common and feel strongly about. Thousands of interest groups exist at the national level and hundreds exist in each of the fifty states. There are groups promoting a cleaner environment, animal rights, the mentally ill, for example, as well as trade associations, industrial associations, including businesses, labor unions, and student associations. There are groups that favor abortion, and other groups that oppose abortion. Some groups favor the death penalty, others oppose it. And so on. Virtually every political interest or point of view is organized to some degree or another. Each of them is constitutionally entitled to advance and/or defend its common interest through the lawmaking process in Congress and state legislatures.

Interest groups provide a channel of representation for people who share values, interests, views, and such. Whether politically active or not, practically all Americans have some values or interests that concern them. Seven out of ten people belong to an interest group and four out of seven belong to more than a single group. Whether people are members or not, some groups or group(s) is representing values and interests that they hold. If, for example, you personally favor the decriminalization of marijuana, you would be represented by several organizations that are trying to promote that objective legislatively. Just about everyone, therefore, has one or several "special interests" that they want to see advanced.

Interest groups organize in order to maximize their chances of success in their political efforts. A groups in a state that represents thousands of members or hundreds of businesses is advantaged politically over individuals who represent only themselves. Some groups have large memberships, others are economically important; some are zealous in pursuit of their objectives, others rely on political skills and forming coalitions or alliances with like-minded groups. Take teacher associations, for instance. These groups are very influential in practically every state in the nation. Their influence derives from the following: they have a relatively large membership; members are dispersed throughout all the legislative districts of the state; members can be mobilized for political action; membership dues provide substantial financial resources; association lobbyists are skillful; and teachers lay claim to advocating for education, which is highly valued by people in the state.

Political Parties

In both the nation and states, a two-party system prevails (except in Nebraska where elections to the legislature and the legislature itself are nonpartisan), with Democrats and Republicans contesting control of both the executive and legislative branches of government. The parties perform several functions: they represent people; they compete in elections in order to place their members in executive and legislative offices; they offer different policy choices to the electorate; and the party that wins a majority of votes and/or seats organizes and runs government and attempts to enact and implement its policy agenda.

As representative agencies, parties have members and identifiers among the American and state publics. Two-thirds to three-quarters of people in the states belong to or identify with the Republican or Democratic party. The remainder consider themselves Independents, but many of these lean toward the Republican or Democratic parties. For most people in most elections, membership or identification structures their voting decision. In presidential, congressional, or legislative elections, Democrats overwhelmingly vote for the Democratic candidate while Republicans overwhelmingly vote for the Republican candidates.

At the state legislative level the legislative party has become both a significant electoral force and a significant governing force. The senate Democrats and house Democrats and the senate Republicans and house Republicans take major responsibility for getting their incumbents reelected and replacing incumbents of the opposing party with challengers of their own. In their campaigns the legislative parties, led by legislative party leaders, help recruit candidates, raise funds that are allocated to targeted (that is, competitive) races, provide polling and other information, and even suggest strategies for their members. If a party wins control of the state senate or state house by electing a majority of the total membership, it takes the lead in organizing the body. Its members will preside over the chamber and chair all or most of the committees that serve as the major work groups in the legislature. Moreover, the majority party sets the agenda for the major policy issues to be considered.

Conviction/Record

Like anyone else, people who serve in public office, have core convictions which affect the decisions they make. Many legislators, for example, are opposed to abortion on moral or religious grounds. Others are almost as equally zealous in defending a woman's right to choose. Given their convictions, these legislators are not likely to be moved much by reasoned argument, persuasion, or most anything else. Other issues may also impact on a legislator's conviction or conscience, although most issues do not. Some legislators are staunch in their support of the environment, others feel strongly about civil liberties, and for still others civil rights are a matter of principle.

Related to conviction is the record that a person in public office develops over time. Given the fact that state legislators cast as many as a thousand or more votes overall in a two-year legislative session, perfect consistency in one policy domain or another cannot be expected. But generally legislators vote in accord with their record, rather than otherwise. Overall, they may have pro-labor records on issues where business and labor interests conflict. It should be noted, however, that on many issues legislators do not have a record that in any way limits how they decide to vote.

Student Handout B

APPRECIATING REPRESENTATION INSTRUCTIONS FOR SCENARIO EXERCISES

Five scenarios are presented. Each scenario is on a different issue that legislators have to vote on: (1) an increase in the sales tax; (2) abolishing the death penalty; (3) an increased cigarette tax; (4) allowing optometrists to use diagnostic drugs; (5) a reduction in the voting age.

Each scenario specifies some of the most important factors influencing how legislators vote. These factors are: (1) the merits for and against passage of a bill; (2) where one's constituents stand; (3) the interest groups that are involved; (4) a legislator's political party position; and (5) the legislator's own convictions and record of the issue.

For each scenario, students have to *figure out how most legislators would decide to vote and why*, given the considerations specified in each scenario.

It is critical that students take into consideration only the given set of factors and no others. Students should not express or make use of their own views and positions, but instead should simply try to reason out how most legislators would decide. Enough information is provided, so that students can figure out legislators' decisions.

React to each scenario, discuss it in your group for about ten minutes, and then indicate how you think most legislators would vote—yes or no. These votes should be recorded on the Voting Tally Sheet.

Student Handout B

APPRECIATING REPRESENTATION

SCENARIO 1: DECIDING HOW TO VOTE ON AN INCREASE IN THE SALES TAX

Issues: Do you favor a bill that would increase the state sales tax by 2¢, or not?

Merits of the case: In favor of such an increase is the argument that it is necessary to fund a raise in state school aid to local districts, among other things, in order to keep property taxes from rising. Against such an increase is the argument that if local school boards did their job and kept educational expenditures down, property taxes wouldn't rise.

Interest groups: Most of the organized group activity is in support of the sales tax increase. Especially active are the statewide teachers association, the association of school boards, and groups representing local elected officials in the state.

Political parties: Your party has generally been opposed to raising either the income or sales tax.

Constituents: Your constituents support public education programs, but they are opposed to tax increases at any level of government.

Conviction/record: In your years in office, on a few occasions you did vote to raise taxes on alcohol and tobacco. But you opposed raising either income or sales taxes.

How do you think most legislators would vote – yes or no – given the factors specified?

Why do you think that they would vote this way?

Student Handout B

APPRECIATING REPRESENTATION

SCENARIO 2: DECIDING HOW TO VOTE ON ABOLISHING THE DEATH PENALTY

Issues: You have to make up your mind as to whether to support a bill abolishing the death penalty (which currently exists) in your state.

Merits of the case: The case against the death penalty is based largely on the belief that innocent people might be executed in error. In some cases individuals convicted of capital crimes have later had their convictions reversed. The case for the death penalty is that, given the nature of crimes like premeditated murder, retribution is deserved and necessary.

Interest groups: Many groups advocate for or against the death penalty. On the pro side are public defenders in the state and state affiliates of the National Coalition to Abolish the Death Penalty and Amnesty International. On the anti side are prosecutors in the state and state members of Justice for All.

Political parties: Neither the Democratic nor Republican Party in the legislature has position on the issue. Some Democrats are for capital punishment, some are against it; some Republicans are for capital punishment, some are against it.

Constituents: Most of your constituents—and certainly most of those who vote for you—appear to support the death penalty. But those who want it abolished have done more to organize themselves, contact you, and express their views forcefully.

Conviction/record: You have been consistent in your belief that the death penalty is good public policy. In the past, you have voted in the legislature against its abolition.

How do you think most legislators would vote – yes or no – given the factors specified?

Why do you think that they would vote this way?

Student Handout B

APPRECIATING REPRESENTATION

SCENARIO 3: DECIDING HOW TO VOTE ON AN INCREASED CIGARETTE TAX

Issues: You have to decide whether to support a bill to increase the tax on a package of cigarettes by \$.25.

Merits of the case: The main arguments for increasing the tax are as follows: first, the state is facing a budget deficit and without the tax, cuts will have to be made in a number of programs; and second, an increased price will discourage some people—and especially teenagers—from smoking. The main arguments for opposing a tax increase are as follows: first, cigarettes are now taxed at \$2.00 per pack; second, an additional tax is an unfair burden for those who choose to smoke; and third, higher cigarette prices will further encourage smuggling and the illegal sale of cheaper, untaxed cigarettes.

Interest groups: The tobacco Institute, supported by a number of tobacco companies, is opposing the tax. The Institute contributed \$500 to your last campaign. The state chapter of the American Heart Association and the American Lung Association, as well as several other health groups, have come out in favor of the tax.

Political parties: Members of your party in the legislature have not yet taken a position on the issue.

Constituents: Only about one out of four of your constituents smoke. They are not organized, but a number have written to your office objecting to the tax increase. Your non-smoking constituents have not taken any position; the issue is less salient for them than it is for smokers.

Conviction/record: In the past, you have generally favored increased taxes on tobacco products and have voted to restrict cigarette smoking in the workplace. You know the tobacco is harmful to one's health, but believe that if people want to smoke they should be allowed to do so.

How do you think most legislators would vote – yes or no – given the factors specified?

Why do you think that they would vote this way?

Student Handout B

APPRECIATING REPRESENTATION

SCENARIO 4: DECIDING HOW TO VOTE ON ALLOWING OPTOMETRISTS TO USE DIAGNOSTIC DRUGS

Issues: You have to choose between supporting a bill to allow optometrists in your state to use drugs in order to diagnose eye ailments or opposing the bill, thus restricting them to their current practice of simple eye examinations and eyeglass prescriptions.

Merits of the case: Optometrists argue that it would be cheaper for members of the public to use their services for routine examinations for eye ailments than to have to go to ophthalmologists. The ophthalmologists maintain that optometrists are not qualified, as are ophthalmologists by virtue of having attended medical school and been licensed as physicians; and, therefore, a procedure done by optometrists would not be as safe.

Interest groups: Two interest groups are in direct competition here—the state association of optometrists on the one hand and the state association of ophthalmologists on the other. Members of both groups are actively lobbying the legislature on the issue. The optometrists have regularly made \$500 contributions to your reelection campaign.

Political parties: The two political parties are taking no position on the issue. Democrats and Republicans are on both sides.

Constituents: Outside of the relatively few optometrists and ophthalmologists in your district, no one seems to care one way or another about the issue.

Conviction/record: You don't have strong feelings on the issue, and you appreciate the merits of each side's argument. Nor have you in the past had to cast a vote on a bill where the two groups came into conflict.

How do you think most legislators would vote – yes or no – given the factors specified?

Why do you think that they would vote this way?

Student Handout B

APPRECIATING REPRESENTATION

SCENARIO 5: DECIDING HOW TO VOTE ON A REDUCTION IN THE VOTING AGE

Issues: You have to figure out your position on a bill to amend the state constitution in order to reduce the voting age for state and local elections from age eighteen to age sixteen.

Merits of the case: The major reason advanced for the sixteen-year old vote is that would increase the likelihood that youngsters would “learn” to vote and get in the habit of voting. If their first eligible vote occurred when they were seniors in high school, they could be taught more about voting in twelfth-grade civics or government courses. The opposition is based on the belief that sixteen-year olds are not mature or responsible enough to be entrusted with the franchise.

Interest groups: The National Student Association supports the proposal, while no significant groups have come out in opposition.

Political parties: Neither the Democratic nor the Republican Party in the legislature has taken a position on this issue.

Constituents: Relatively few constituents have contacted you on the issue. Most of those who have gotten in touch are opposed to sixteen-year olds voting. But the overwhelming majority of your constituents are not at all concerned about the issue. On the other hand, several high school classes have sent you petitions favoring the proposal.

Conviction/record: Essentially you have no record in this particular area, nor do you feel strongly about the issue. You would like more youngsters to be interested in and engaged in politics, but you’re not sure about allowing them to vote before they are eighteen.

How do you think most legislators would vote – yes or no – given the factors specified?

Why do you think that they would vote this way?

Student Handout B

**APPRECIATING REPRESENTATION
VOTING TALLY SHEET**

Fill out tally for members of discussion group and return to the teacher.

	How students think most legislators would vote.	
Issues	Yes	No
1. Increasing the sales tax		
2. Abolishing the death penalty		
3. Increasing cigarette tax		
4. Allowing optometrists to use diagnostic drugs		
5. Reducing the voting age		

Student Handout C

APPRECIATING REPRESENTATION HOW MOST LEGISLATORS WOULD HAVE DECIDED

The five scenarios have been scripted with particular lessons on representation in mind. These scenarios are examined, from the point of view of political science research, to show the kinds of issues legislators face and some of the key factors that influence their decisions. Certainly not every legislator, if faced with these issues and considerations, would decide in the same way and with a similar weighting to the factors involved. But our contention is that most legislators would behave as is suggested below.

Scenario 1. Deciding on an Increase in the Sales Tax

This would be a relatively easy decision for most legislators to make. Given the facts stipulated in the scenario, most legislators would probably oppose legislation increasing the sales tax, even by 2¢.

The merits of the case for an increase are simply not strong enough, even for those who are advocates for public education in the state. Despite increased funding for education in the past, local property taxes have been rising. Many legislators would not be confident in the ability or will of local elected officials to hold expenditures down.

Most of the organized group activity supports the sales tax increase. The so-called “special interests” are mainly on one side. The teachers association is an especially important group, because it has a relatively large membership statewide and teachers live and work in the district of every legislator in the state. Despite the strong organization, their skillful lobbyists, and the grass roots advocacy of its members, the teachers association is not likely to prevail on an issue such as this one.

The dominating factor here is constituents, who are against having their taxes raised—at least the income, sales, or local property taxes. There are very few issues about which people in a legislator’s district are concerned. According to a recent survey of legislators from five states (Maryland, Minnesota, Ohio, Vermont, and Washington), their constituents had an opinion on about one out of twenty of the hundreds of bills on which legislators had to vote in a session. Moreover, during the course of a two-year legislative session the number of bills on which the constituency had a clear position—with a substantial majority for or against—did not normally exceed ten and usually was five or fewer.⁵ The overwhelming number of issues with which legislators deal, therefore, do not register with constituents. Many of them are too narrow or too technical and only a handful of them affect the interests of a sizeable number of people in the district. So, when an issue does register, legislators pay careful attention.

Few constituency mandates, “directing” the legislator to act in one manner or another, exist. But one that currently does, at least in most places, is “Don’t raise my taxes.” This mandate applies to both income and sales taxes, but not necessarily to business taxes or taxes on alcohol and tobacco.

Few legislators want to contradict a large number of their constituents. It is not “good politics” and, if the issue is salient enough (as is taxes) to their constituents, they risk defeat at the next election. On the issue of taxes, for instance, about nine out of ten legislators surveyed in the five states reported that their own views and dominant constituency views were basically the same. Only 7 percent reported that their own

⁵ Alan Rosenthal, *Heavy Lifting: The Job of the American Legislature* (Washington, D.C.: CQ Press, 2004), pp. 40-42.

views on taxes were basically different from their constituents' views.⁶ Presumably, they would be more inclined to raise taxes than their constituents. In those few cases where their views and their constituents' views clashed, about two out of five of the legislators said they would follow their constituents' views and almost half said they would follow their own view.⁷

In the scenario presented here, as in most actual instances, there is no clash. The legislator's own conviction and record is opposed to raising both the income and sales tax. Moreover, the legislator's political party, in response to the electorate, has generally opposed tax increases.

Given these factors, it doesn't matter that most organized interests support the 2¢ increase, while only a few organized interests oppose it. A "constituency mandate," or something resembling it, trumps everything else.

Scenario 2. Deciding on Abolishing the Death Penalty

Here, too, the decision is relatively easy, as easy as the decision on raising the sales tax. Given the factors specified in the scenario, the large majority of legislators would come out against the abolition of the death penalty.

If constituency and conviction did not exercise such strong influence, the argument against the death penalty might have had more impact on legislators. But in arriving at the conviction they hold, legislators earlier rejected the argument that mistakes that are made cannot be corrected if people are put to death. As to the merits of the case, they believe on some ground that the death penalty is deserved and necessary.

On an issue such as this one, the balance of advocates for and against doesn't matter that much for most members. They cannot be budged. While interest groups may try, they make exceedingly few conversions. On an issue such as this one, a so-called "conscience issue," the legislative parties are not likely to take a party position as such, in the expectation that their members will be on both sides and will want to vote their conscience. What counts most heavily on this issue of capital punishment are the same factors that would count most heavily on abortion, gun control, and gay rights issues. These factors are constituency and conviction.

The scenario stipulates that most of the legislator's constituents appear to favor the death penalty, even though those who want to abolish it are better organized and more active. Of those constituents who are supporters of the legislator (that is, members of the legislator's party and of the legislator's electoral base), most oppose abolishing the death penalty. Among their constituents, legislators look especially at their supporters (that is, members of their own party) to figure out where their constituency stands on an issue. Indeed, legislators in the five-state survey cited political supporters in their districts as the most important among eight sources of information on the views held by constituents. Friends and associates, positions taken by organized groups, political leaders, public opinion polls, lobbyists, local media, and legislative staff ranked below political supporters.⁸

⁶ Rosenthal, *Heavy Lifting*, p. 45.

⁷ Rosenthal, *Heavy Lifting*, p. 47.

⁸ Rosenthal, *Heavy Lifting*, p. 38.

Scenario 3. Deciding on an Increased Cigarette Tax

Here, the tax issue is not at all as clear cut as in the case of the increase in the sales tax.

The merits of the case cut both ways, as they nearly always do. There are good grounds to support legislation to bring about a higher cigarette tax: it will provide funds for state services and will discourage some people from smoking. But there are also good grounds against raising the tax that is already high: it is unfair to some people and it may result in illicit sales. Legislators could take either side on the basis of what they believe to be the merits.

The pressure, however, is coming mainly from the opposition to raising the tax on cigarettes—tobacco companies, represented by their organization, the Tobacco Institute and a number of individual constituents who smoke. Neither smoking nor non-smoking constituents are very organized on the issue. But a few national health organizations have taken positions in support of a measure that might discourage smoking.

At this point, neither party has taken a stand, for or against. However, if most of its members take one side or the other, the majority party will probably take a position when it meets in caucus.

What appears decisive is the legislator's convictions and record on the issue. This particular legislator has an anti-tobacco record even though he/she would not go as far as to try to outlaw cigarettes. The campaign contribution from the Tobacco Institute makes little difference at all when it runs counter to a legislator's beliefs, as it does in this case. Just as scissors cuts paper, paper covers rock, and rock breaks scissors, so conscience outweighs contribution.

Most legislators would support this increase in the tax on tobacco, if the facts lined up as they do in this scenario.

If, however, half of the legislator's constituency, and a majority of the legislator's supporters, were strongly opposed to the tax, then the legislator's conviction would be challenged by the constituency. Under these circumstances, the decision could go either way. But in the example presented here that is not the case.

Scenario 4. Deciding on Allowing Optometrists to Use Diagnostic Drugs

This is one of the large number of “special interest” issues that legislatures have to handle. On issues such as these, one or several groups is trying to gain an advantage through the enactment of law, while competitor groups oppose them. In these cases the legislature is asked to decide between competing interests, either one of which is difficult to equate with the public interest.

For example, local Bell telephone companies endeavor to get from under state regulation, while AT&T wants them to remain regulated. Tracks in Florida compete for racing dates for pari-mutuels, which are set by the state; whoever gets the prime dates comes out ahead. The biggest running battles of recent years, which have been fought in over half the states, are those over tort reform, insurance, product liability, and workers compensation, with business, insurance, and doctors going against trial lawyers.

Another face-off finds the orthopedic surgeons on one side and the podiatrists on the other when it comes to ankle injuries, or whether ankles should be the preserve of orthopedic surgeons. Critical to their practice is the definition, established by law, of where the foot stops and the ankle begins.

The issue in the scenario presented here reflects the classic battle, dubbed “Eye Wars,” which was fought throughout the nation. It began when optometrists, who had been limited to giving eye examinations and

prescribing glasses, tried to obtain authority to use diagnostic drugs for their examinations. They were opposed by ophthalmologists, eye doctors who had attended medical school, and had the legal monopoly on such treatment. The groups involved in issues, such as these, are trying to pass/defeat legislation to promote/defend the interests of their members. Nevertheless, each group will argue the merits of its case, maintaining that what benefits them is also good public policy. The ophthalmologists justified their position in terms of economy, lowering costs for the patients. Ophthalmologists justified their position in terms of safety, in that they were more qualified to conduct the procedure than were optometrists. Each side had a reasonable argument—economy, which would impact broadly, or safety, which might be more important but would impact only a few people.

An issue such as this is of very limited concern to the public. Constituents didn't care, except for those who were ophthalmologists or optometrists. Nor did the political parties as such take a position. The overwhelming majority of legislators are not committed by conviction or record. They have many other items on their agendas. On this particular issue, and others that are similar, legislators can go either way. They have to decide, but no strong influence is pushing them one way or the other.

With everything else about equal, the only difference may be in the special interest support for the legislator. While members of both groups at the state level are actively lobbying the legislature, the optometrists in this case have regularly made \$500 contributions to the legislator's reelection campaigns. They are among the legislator's supporters.

What probably happens in a case like this is that the legislator pays more attention to the merits of the position held by his or her supporters, and decides that there is little or no danger to the public health by authorizing the procedure for optometrists, while there are significant cost savings for patients. The merits of the case line up with the position of the legislator's supporters. Other things being equal, campaign support plus the argument on the merits tend to prevail.

Scenario 5. Deciding on a Reduction of the Voting Age

As specified in the scenario, this would be a tough issue for legislators to decide. Legislators are inclined to ask, explicitly or implicitly, with regard to just about every contested issue, "how would its enactment affect my constituency?" and "how would my support of its enactment affect me with my constituency?" The answer in this case would appear to be not much, although a few constituents have informed the legislators of their opposition and a few school classes (of non-voters) have petitioned the legislator in its favor. But how would the constituency respond if the measure to all sixteen-year-old to vote were enacted: Maybe not at all, but it is difficult to predict.

Neither interest groups nor political parties are playing a role, while a national association of students has taken a position but is not considered to be concerned with state legislative elections. So, there is no real impact on the legislator from parties or interest groups as organizations.

Like so many other issues with which legislatures deal, this one is not a central concern to the legislator under scrutiny. This legislator has no strong feeling and no record, one way or the other, on the voting age requirement. He/she wants to encourage youngsters, but is not sure about the merits of allowing them to vote before they are eighteen. Moreover, the legislator is unconvinced by the merits-of-the-case argument that youngsters would be taught about voting in twelfth-grade civics or government courses. There is no guarantee of that. Reducing the voting age would be a major change in state policy, but neither the public support nor policy justification is strongly for such change. So better to leave it alone.

Until the situation changes or other factors come into play, the likelihood is that this individual would vote no.

OBSERVATIONS

On the basis of these five scenarios and the assigned reading, students ought to have become more familiar with some basic features of representative democracy.

- (1) Citizens are represented by individual legislators whom they elect, the political parties with whom they identify, and the interest groups with whom they are affiliated or with whom they share views.
- (2) Most bills introduced in and enacted by legislatures are non-controversial, but a number divide people, parties, and/or interest groups.
- (3) During the course of a legislative session, a legislator will have to deal with hundreds of issues on which he/she has to choose sides and vote yes or no.
- (4) Many factors go into a legislator's decision on each issue—among the most important are the merits of the case, interest groups, political parties, constituents, and the legislator's own convictions and record.
- (5) Arguments on the merits of an issue are a most important part of the legislative process.
- (6) If a bill is minor and if there is no organized opposition and no cost in public monies, it is likely to pass.
- (7) When opposition exists, on issues that affect and arouse the public, the major factors shaping decisions are constituency views and a legislator's own convictions. Relatively few of the hundreds of issues a legislature considers each year are of this nature.
- (8) Usually (not always) predominant constituency views and the representative's own convictions are aligned.
- (9) Interest groups exercise influence across the board, but they exercise their greatest influence on issues where essentially no other major factors are in play. Constituents don't care about the issue. Political parties have no position. And the convictions of legislators are not involved. There are good arguments on both sides of the question. On issues such as these, interest-group support for the legislator during his/her election effort may be a decisive factor.
- (10) Legislators keep their constituents in mind on just about every issue, not only major issues.
- (11) Most legislators tend to agree with their party's positions, because these are the positions that most legislative party members want. But some legislative party members, because of constituency or conviction, will buck a party position.
- (12) The system has worked for over 200 years and continues to work today—not perfectly by any means, but remarkably well.