





LegiQuest

The Buck Institute for Education

The Buck Institute for Education (BIE) is a not-for-profit (501c3) research and development organization working to make schools and classrooms more effective through the use of problem and project based instruction. Founded in 1987, BIE received permanent funding from the Leonard and Beryl Buck Trust, and receives funding for specific projects from foundations, schools, school districts, state educational agencies, and the federal government. BIE's current programs are organized around three objectives:

1. *Engaging Learners*: BIE offers problem based curriculum units for high school economics, government, and world history. The BIE *Project Based Learning Handbook* is used by teachers throughout the United States to plan, implement, and assess standards-focused projects that motivate students and enhance their learning.
2. *Supporting Teachers*: Professional development workshops in Problem Based High School Social Science and Project Based Learning (PBL) are given several times each year at the BIE offices in Novato, California. BIE also provides customized workshops on-site at schools and districts by request.
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For further information, visit www.bie.org.

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Graphic design: Pam Scrutton, San Francisco, CA



LegiQuest

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LegiQuest

Problem Statement



How can we, as lobbyists, help our interest group understand the legislative process and get legislation passed that promotes our goals?

❖ Introduction

Using the problem based learning approach, students will explore (a) how groups of citizens, using organized interest groups, pursue their political goals, and (b) how this process leads to the formulation of state and federal legislation designed to accommodate these groups. Central to the unit is the study of the legislative process — how a bill becomes law.

❖ Purpose and Rationale

This unit is designed to teach students about the legislative process at the state and federal levels. In a representative system of government, we expect Congress to create laws that serve the common good — that is, laws which respond to public concerns and solve national problems. However, people have different visions of the common good and conflicting solutions to national problems. As a result, part of the legislative process includes active citizens who gather collectively around specific concerns and lobby Congress for the passage of laws that implement their vision and favored solutions. Being a citizen in a democracy means more than voting. It also means participating in this legislative process as a concerned and active citizen. It is essential that interest groups advocate for what they envision as the common good. Through this process Congress determines what will serve the public — and what public will be served. This level of participation among various interest groups is essential to a healthy democracy. Without it, decisions would lack public input. However, it often means that competing groups lobby for laws that set one group of citizens against another. It is important for students to recognize that this tension over competing solutions is resolved through research, debate, and compromise. Students may resist the process because there are no easy compromises and the system is contentious and messy. Students may also feel that some groups, especially the young, are naturally outside the process. In the pilot testing of this unit, we found that many high school students thought it was unrealistic for students to form a lobbying group and pursue legislative reform on issues that directly affected them. **LegiQuest** enables students to learn that critical decisions directly affecting their lives are often made without their input. They also learn that political tools are available to them, and that they have a legitimate right to use these tools to bring about public policy changes. We expect students, once they have completed this unit, to be less intimidated by the system and more willing to participate in it.

❖ Placement in Curriculum

This unit is designed to teach students about how a bill becomes law and how interest groups participate in and impact this process. **LegiQuest** teaches students about the roles of Congress, the President, and the courts in the legislative process. It can be used at the beginning of the course to introduce the functions and branches of government. It is helpful to begin the unit with a basic review of the three branches of

government and the function of each branch. It is also possible to use this unit after an introductory unit on the fundamental principles of democracy, including such essential democratic documents as the Constitution and its amendments.

A complete listing of content standards associated with each unit can be found in the **Problem Based Government Overview**. The tables under *CONTENT STANDARDS* show the standards addressed by this unit.

Concepts Taught

LegiQuest is designed to teach the following concepts:

- Cloture
- Committee System
- Concurrent Powers
- Filibuster
- Judicial Review
- Initiative and Referendum
- Interest Groups
- Iron Triangle
- Lawmaking
- Legislative Power
- Lobbying
- Political Action Committee (PAC)
- Public Policy
- Veto
- Veto Override

Teachers can also cover the following concepts using this unit:

- Bicameral Legislature
- Divided Government
- Free Rider Problem
- Legislative Supremacy
- Line-item Veto
- Oversight
- Poison Pill
- Regulatory Policy
- Rider
- Seniority System
- System of Checks and Balances

Objectives

By participating in this unit, students will:

- Understand the role citizens and citizen groups play in lawmaking
- Develop citizen-action skills
- Demonstrate an understanding of the legislative process
- Identify the factors that contribute to the successful creation of public policy
- Understand the interplay between the formal legislative process and the impact of interest groups (the informal process)
- Recognize the advantages and disadvantages of a cumbersome legislative process
- Recognize effective approaches to lobbying
- Learn how groups find areas of compromise
- Identify the legislative and judicial alternatives for solving public problems
- Develop public speaking and presentation skills and the ability to advocate in a public forum
- Understand that, as students and adolescents, they have access to the legislative process
- Realize that the methods for setting public policy in a representative democracy are subject to much debate
- Read, write, listen, and make oral presentations more effectively

Content Standards

The process used for the consideration and passage of laws includes constant communication between congressional representatives and constituents and complex strategizing by both groups. This content, which is central to **LegiQuest**, addresses the following *National Standards for Civics and Government*, Center for Civic Education, 1994, for grades 9 through 12.

Standard	Concept	
I. A.	Definition and Purpose of Government	✓
I. B.	Characteristics of Limited and Unlimited Government	
I. C.	Nature and Purposes of Constitutions	
I. D.	Alternative Constitutional Systems	
II. A.	U.S. Constitutional System	
II. B.	Distinctive American Characteristics	✗
II. C.	American Political Culture	✗
II. D.	American Constitutional Values and Principles	
III. A.	Constitutional Restraints: Shared and Limited Powers	
III. B.	Organization of the National Government	✓
III. C.	Organization of State and Local Governments	✓
III. D.	The Rule of Law	✗
III. E.	Choice and Opportunity for Participation	✓
IV. A.	World Politics	
IV. B.	U.S. Relations with the World of Nations	
IV. C.	U.S. Influence in the World of Nations	
V. A.	Citizenship	
V. B.	Rights of Citizens	
V. C.	Responsibilities of Citizens	
V. D.	Civic Traits Needed to Improve Democracy	
V. E.	Civic Participation	

✓ = a standard that is addressed with this curriculum

✗ = a standard that could be addressed with this curriculum

LegiQuest addresses the following *Curriculum Standards for Social Studies*, developed by the National Council for the Social Studies, 1994, for high school.

Standard	Concept	
VI .	Power, Authority, and Government	
A.	Individual Rights, Roles, and Status	
B.	The Purpose of Government	✓
C.	Mechanisms Used to Balance Competing Needs and Wants	✓
D.	National Response to Conflicts	
E.	Comparative Political Systems	
F.	Conflict and Cooperation Among Nations	
G.	Role of Technology in Conflict Resolution	
H.	Applying Political Science Theories to Issues and Problems	✓
I.	Evaluating Government Achievement	
J.	Preparing and Defending Public Policy Papers	

Standard	Concept	
X.	Civic Ideals and Practices	
A.	Key Democratic Republican Ideals	
B.	Citizen's Rights and Responsibilities	★
C.	Evaluating Selected Public Issues	★
D.	Forms of Civic Participation	✓
E.	Influence of Forms of Participation on Public Policy	✓
F.	Public Policy Analysis and Political Actors	
G.	Impact of Public Opinion on Public Policy and Decision-Making	
H.	Relationship of Policy and Behavior to Democratic Ideals	
I.	Policy Statement and Action Plan for a Public Issue	
J.	Participate in Activities for the Common Good	

✓ = a standard that is addressed with this curriculum

★ = a standard that could be addressed with this curriculum

Time Required

First Part: 4 to 5 days (45-minute to 60-minute class period)

Second Part: 5 to 6 days (45-minute to 60-minute class period)

Unit Overview

There are two distinct parts to this unit. In the first part, students, playing the role of researchers for a student interest group, receive a memo instructing them to research and report on a controversial issue that is of concern to the interest group. (We include background material for four issues: the military draft, juvenile death penalty, file sharing, and gun control.) As researchers, students are expected to answer questions about the issue and offer their opinion as to what stand the interest group should take. Students are introduced to a report about medical marijuana that serves as the prototype for the report they must prepare. The medical marijuana report is an example, or template. The teacher is expected to walk students through this example. This gives students a feel for the type of report they will be expected to prepare for the draft, juvenile death penalty, file sharing, or gun control.

Students are broken into four groups, with each group tackling one of the four issues: the draft, the juvenile death penalty, file sharing, or gun control. Each of the four issue groups is broken in half — one half taking the pro side to the issue, the other half taking the con side. Researchers present the pro and con sides to the interest group representative and the class in an open forum. At the end of this debate, as a culminating activity, the class is asked to vote on which side is most convincing.

In the second part of the unit, students are lobbyists for the interest group, and they must propose a bill and get it through Congress. Students receive a letter from the interest group explaining that they are now taking on the role of lobbyists for the organization. As lobbyists, students are asked to present an explanation of possible legislation they could propose and the most likely scenario for its passage. They must decide whether legislation should be presented to the House or Senate, what groups will likely support the bill, and what the President is likely to do about the bill. Again, students are presented with a prototype, or example, of the report they must prepare. Medical marijuana is the issue presented in the prototype. The teacher walks students through the medical marijuana prototype before they begin their lobbying work on the draft, juvenile death penalty, file sharing, or gun control. If the class is only doing the second part of the unit, each of the four issue groups is broken in half — one half taking the pro side to the issue, and the other half taking the con side. If students have completed the first half of the unit, the issue groups will take the side that won the debate (the culminating activity mentioned above).

After completing the report, the lobbying groups are informed by the new acting director of the interest group that its membership is growing frustrated by the lack of progress in getting its legislation passed. The lobbyists are expected to offer possible state-level action or court action that may have more immediate effects than federal legislation. This presentation will be given at a meeting of the interest group governing board, and serves as the final evaluation portion of the unit.

It is possible to use the lobbyist/lawmaking portion of the unit without using the research portion of the unit. Teachers have the flexibility of giving students the research information provided for the first part of the unit, and thus can bypass the research and debate and focus strictly on the role interest groups and lobbyists play in lawmaking. However, by including the research portion, students have a richer sense of the role interest groups play in researching and crafting public policy, giving them more opportunities to develop citizenship action skills.

Resources

Resources are distributed to the students at different points in the problem. (See *The Sequence of the Unit* for one example.)

**ALL HANDOUTS ARE
LOCATED IN APPENDIX I**

Assessment guidelines for evaluating student performance on unit products can be found at www.bie.org. They include:

- A rubric for the debate
- A rubric for the lobbying group presentations and answers to questions from the CSA board

Resources Include:

- Memo from Richard Barley, director of the Council of Student Advocates (CSA)
- Prototype report on the legal status of medical marijuana
- Overview, research resources, and questions about the military draft
- Overview, research resources, and questions about the juvenile death penalty
- Overview, research resources, and questions about file sharing
- Overview, research resources, and questions about gun control
- Instructions from Richard Barley regarding suggested legislative action
- Prototype report with legislation for preventing legalization of medical marijuana
- Prototype report with legislation for legalizing medical marijuana
- Legislative process and questions for the military draft
- Legislative process and questions for the juvenile death penalty
- Legislative process and questions for file sharing
- Legislative process and questions for gun control
- Instructions from the acting director of the CSA for the presentation to the council board
- Classroom textbook
- Web sites



Lesson Materials

Because problem based learning is grounded in constructivist learning, several “teachable moments” will arise when students readily see a need to know particular concepts or a specific government process or policy. During these moments, teachers can use several techniques to teach concepts, process, or policy. For this purpose, lesson materials are included so that traditional lectures can be used to provide information on more difficult subject matter. Alternatively, a Socratic method could be used in which the teacher uses questioning strategies to guide students toward knowledge and understanding.

In this unit we have included lesson materials in the following areas for potential mini-lectures:

■ Interest Groups

- General Overview
- Types of Interest Groups
- Interest Group Activities
- Political Action Committees

■ How a Bill Becomes Law

- A Simple Version
- A Moderately Complex Version
- A Complex Version

■ The Iron Triangle

■ Lobbying

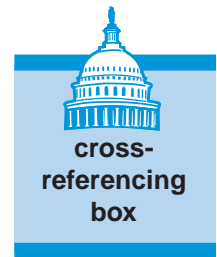
■ Alternatives to Federal Legislation

■ Concurrent Powers

LESSON MATERIALS ARE LOCATED IN APPENDIX II

The Sequence of the Unit

Because problem based learning depends to a great extent on how a particular group of students goes about the task of constructing knowledge from real-world applications, the sequence of learning will differ in each class. As a result, it is virtually impossible to describe the exact unfolding of this problem, even though it has been tested on several occasions. What follows is an example of the sequence of the problem during one class using the full first part of the unit and the second part. We have used this particular sequence in our *Procedure* section. The highlighted phrases are cross-referenced as in the sample above.



- Discuss the first memo from Richard Barley with the whole class
- Develop the initial problem statement with the whole class
- Develop the initial know/need to know with the whole class
- Undertake mini-lecture on interest groups
- Have students make initial problem log entry
- Discuss the prototype report on the legal status of medical marijuana
- Form students into research groups
- Assign an issue (military draft, juvenile death penalty, file sharing, or gun control) to each group
- Review the second resource, the overview, research resources, and questions for each issue
- Assign pro and con subgroups
- Have research groups write a report responding to CSA questions
- Second-part-only entry into the unit
- Have research groups present findings and debate proposal
- Determine most persuasive stance
- Have students make second problem log entry
- Discuss the second memo from Richard Barley
- Revise the problem statement with the whole class
- Revise the know/need to know with the whole class
- Undertake mini-lecture on lobbying
- Discuss the pro and con prototype reports for medical marijuana
- Revise the know/need to know with the whole class
- Undertake mini-lecture on how a bill becomes law
- Review the legislative process and questions for each issue
- Undertake mini-lecture on alternatives to federal legislation
- Jigsaw students in each group to answer questions
- Optional: mini-lecture on the Iron Triangle
- Have students in their lobbying groups write second report responding to CSA questions
- Have students make final problem log entry
- Have lobbying groups present a summary report to the whole class
- Discuss instructions from Barbara Wilson for the presentation to the CSA board
- Finalize problem statement with the whole class
- Revisit information on alternatives to federal legislation
- Have lobbying groups give presentations and take questions from the CSA board
- Use assessment tools to grade presentations and answers to CSA board questions
- Wrap-up and debrief with the whole class

Procedure



memo from
Richard
Barley

ENTRY POINT

Students, playing the role of researchers, are given a copy of a memo from Richard Barley, Director of the Council of Student Advocates (CSA). The CSA membership is interested in “hot” issues that may require the organization to take a position and possibly pursue legislative action. The researchers are asked to review the laws and court cases surrounding these issues and to offer suggestions on the position CSA should take. This position is to be based upon the CSA mission statement, which is included as a sidebar on the memo from Barley. (The mission statement is intentionally vague so that either the pro or con point of view can be approved by CSA.) Students are told by Barley that they will receive copies of a “problem overview” describing the issues, along with copies of the questions CSA members would like answered.

SEE ENTRY DOCUMENT, APPENDIX I



initial
problem
statement

FRAMING OF THE PROBLEM

After discussing the entry document with the students, have them draft a tentative problem statement. Students should be prompted to start this process by filling specific information into the general problem statement form:

How can we, as?, do?, so that?

The initial problem statement may be far from the problem statement presented at the beginning of this unit. This is expected. It is hoped that the problem statement will evolve as students gain more insight and knowledge about the problem and its underlying issues. Remember, the problem is intentionally ill-defined so that the students must grapple with issues and concepts. It is this continual struggle that builds knowledge. The initial statement may look something like:

How can we, as researchers for CSA, review previous laws and court cases and answer questions about the issue so that we can recommend a position that will support the mission of CSA?

If students want to include in the *so that* references to the CSA mission statement, they should be encouraged to do so.

Remember, for now it is fine to keep the problem statement ill-defined or off-target. The problem statement will become more refined, or perhaps change entirely, as the unit unfolds.



initial
know/need
to know

KNOWLEDGE INVENTORY (KNOW/NEED TO KNOW)

After constructing the problem statement, the first step in answering the question is to assess what students know about the problem. This can be done as a class by creating a “What We Know” list on chart paper, an overhead transparency, or by using a computer projector. Students should be coached to identify all of the information the memo from Barley provides. Ask students to carefully review the Entry Document and offer items for the list, making sure to *only record what is actually stated in the text, not what might be inferred*.

The next step in this process is to coach students to identify information they need to know in order to provide a solution to the problem statement. Again being careful that students pay close attention to all parts of the Entry Document, create a class list of “What We Need to Know”. If students are missing a key

piece of information about the problem, the content, or their task, ask questions to elicit items for the list. Without a doubt, students will suggest things they need to know that, in reality, they do not need to know. Now is not the time to filter these questions out of the process. Rather, allow students to see their irrelevance once additional information is discovered.

The knowledge inventory will differ for each class because students are struggling with identifying the knowledge they have and defining the body of knowledge they do not have. An example of the type of items that might appear on the initial know/need to know list follows. *Remember that every class will produce a different list and every idea should be put on the board.* Sometimes the seemingly strange ideas that come from a know/need to know discussion result in some of the more creative approaches to the problem's solution.

EXAMPLES OF INITIAL KNOW/NEED TO KNOW

What do we know?

- CSA works with state and national government to create public policy
- CSA represents the interests of high school students
- CSA advocates improvements in education, justice, technology, and social welfare
- We need to take positions and write reports
- CSA wants us to research previous laws and cases on these issues
- These are controversial issues
- We will receive problem overviews and the questions we need to answer
- Richard Barley is the director
- We will have to take a position
- CSA is a new organization
- CSA wants to show that high school students have a place in politics
- CSA wants high school students to be taken seriously as political participants

What do we need to know?

- What is CSA's position on issues?
- What are the controversial issues?
- Who is Richard Barley?
- How successful has CSA been in the past?
- How much money has CSA allocated to this project?
- Will we get more specifics on the issues?
- What cases or laws are we to research?
- What questions need to be answered?
- What will be the effects of our decisions?

Coach students to include "knows" and "need to knows" from the mission statement.

TEACHABLE MOMENTS AND DIALOGUES

Problem based learning is most effective when there is continual dialogue between the teacher (as a coach) and students. When students are left to discover knowledge or problem solutions on their own without teacher coaching, lectures, or use of problem logs, they may flounder or stray off-track. To prevent this, teachers must actively direct students toward the curriculum goals by posing probing questions in class discussions, providing lectures, circulating and listening to discussions in group work, and evaluating the problem log with meaningful, useful comments. Teachers may take advantage of teachable moments by giving mini-lectures using the lesson materials provided with this unit.

The lesson materials provided in Appendix II are meant for teachers to supplement their knowledge of the subject. It is not mandatory to use the lecture material. Much of this material can be used as needed or if questions arise that require a mini-lecture.



mini-lecture on interest groups

The mini-lecture on interest groups can be used to help students understand their role and the function and purpose of these groups. Interest groups take many forms and represent many competing points of view. It is important for students to understand that Congress depends on these groups for more than campaign funds. This is shown in the lesson materials in Appendix II.

► **Potential Hurdle:** Students sometimes move quickly from a discussion about the function and purpose of interest groups to the principles of the iron triangle. An optional mini-lecture on this topic is included in Appendix II and can be used at this time if appropriate and timely.

LESSON MATERIALS FOR MINI-LECTURES ARE LOCATED IN APPENDIX II



initial problem log entry

THE PROBLEM LOG

Throughout the problem, each student will keep a problem log which will help the student and teacher follow construction of the student's knowledge. To ensure that students stay focused on the underlying political issues, and understand the content, the log should be checked periodically by the teacher. The log can also serve as an important assessment

of how students or groups use problem-solving skills, develop new questions or “need to know” items, manage time and tasks, and work together as a team.

The problem log can be introduced after the class is familiar with the role they are playing in the problem. At this point, students should be asked to start their problem logs by brainstorming the advantages and disadvantages of having interest groups participate in the process of lawmaking.

► **Potential Question to Ask:** A lot of the most effective work an interest group does happens before a bill ever gets to the floor for a vote. What kind of work does this include?



prototype report

RESEARCH AND RESOURCES

The first resource students receive is the report on the legal status of medical marijuana. This is not one of the issues the students will investigate. Rather, the medical marijuana report serves as a prototype for the report students are expected to prepare, and should be discussed by the class as a whole. The report is in a question-and-answer format, and it reviews the laws and court cases that have framed the medical marijuana debate. This

document presents the issues in a non-biased manner, reporting on the history and current conditions of the debate about medical marijuana. However, the report concludes with a policy statement in support of (or opposed to) medical marijuana. Explain to students that the medical marijuana report is a prototype, or example, of the report they must prepare for the issues CSA is currently interested in. Walk students through the medical marijuana report so they can get a feel for all of the elements they will be expected to cover and present. We have included both pro and con statements on medical marijuana. You can show students both statements, or you may choose to show one and not the other.

Keep in mind that you want to eliminate as much of the need to know list as soon as possible, so use the report to get some of this information. Refer students back to the need to know list so they can eliminate some of their questions.

ALL HANDOUTS ARE LOCATED IN APPENDIX I

► **Potential Hurdle:** Remind students that this report is a prototype, which they can follow in preparing their own report. They can also use it to synthesize information to answer some of the questions they will be asked by CSA. Although the temptation is great to discuss the issue in detail, the content of the report (medical marijuana) is not particularly important with respect to the primary objective of **LegiQuest**. Students should stay focused on the process and not the medical marijuana issue.

Because this reading assignment can be challenging for students, readings on the medical marijuana issue and other background material should be divided up, or “jigsawed.” For groups that may have problems with the amount of reading or the vocabulary, put students in pairs and assign each pair a portion of the reading. Have students keep a log of the vocabulary words and terms they do not understand. Students then report out to their group a review of the section they read. Groups, at this time, can review and discuss the vocabulary words and terms they found difficult.



Students should now be formed into their research groups. These groups will be expected to write the first report reviewing legislation and justifying a position for CSA.

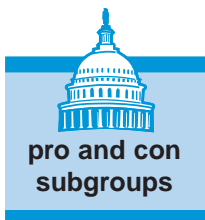


There are four separate issues. Students can be divided into groups of four to five, with two groups assigned to the military draft issue (one pro and one con), two groups assigned to the juvenile death penalty issue (one pro and one con), two groups assigned to the file sharing issue (one pro and one con), and two groups assigned to the gun control issue (one pro and one con). Try to make sure these issues are of interest to the students assigned to do the investigation, as they will continue to work on the same issue throughout the course of the unit.



Give the research groups copies of the overview, research resources, and questions for their issue. Students should be given time in their groups to read the overview and review the resources. Before answering the questions, students should review all court cases and prior laws affecting their issue.

This unit does require computer research skills and access to the Internet. Preparing answers for the report will require access to the Internet sites listed in the Research Resources section of the issue documents. It is important to keep in mind that fire walls from school may prevent entry into some of the web sites related to the file sharing issue. Students may need to do some of this research offsite. Encourage students to use the public library and state archives when doing this research. It is also worthwhile to prohibit printing off of the Internet sites. Students sometimes print massive amounts of information in the hope they might use it to answer the research questions. By prohibiting printing, students are forced to read the documents on screen, glean the important information, and record it in handwritten notes. This saves paper and teaches students how to synthesize information and take notes. This practice also discourages plagiarizing from web sites.



The students have been divided into groups for military draft, juvenile death penalty, file sharing, and gun control. They are now subdivided into pro and con sides on each issue. As an example, the group assigned to research and answer questions about the military draft would be divided into one group supporting the draft and one opposing it.



The final task of the groups is to write a report that answers the questions about their issue and draft a policy statement supporting the pro or con position. Each issue has a series of questions that could be answered by the full group (e.g., all those assigned to cover the military draft issue—both pro and con—could answer “Military Draft: Research Questions and Resources”). This portion of the assignment can be jigsawed among the full group. However, the policy statement, with the three statements about the stand CSA should take and why, is to be completed separately by the pro and con sides of each issue. Groups should follow the question and answer and proposal formats provided in the medical marijuana prototype.

The “Issue Overview” readings should answer all questions that are not addressed on the web sites. If students are having difficulty answering some of the questions, teachers can consult the *Teacher Keys* in Appendix III and use them to prompt students in their research. Keys with the answers to the research questions are provided for all four issues. They are also used if the class enters the unit at the end of the research phase.

TEACHER KEYS ARE LOCATED IN APPENDIX III



**second-part-
only entry**

Begin here if you plan to enter the unit with the students playing the role of lobbyists. Give students the entry document addressed to the chief lobbyist, which has the notation: *Use this entry document if you bypass the research portion of the unit.* A copy of the letter without the title is included in the *Student Handouts*. Divide students into the four issue groups, with a pro and con side for each issue, and give each group an “Issue Overview.” Students will also need the answers to the research questions. Give them a copy of “Research Questions and Resources” from the *Teacher Keys* in Appendix III. This version has the answers for their issue. Have the subgroups for each issue write answers to the three questions for the policy statement.



**present
findings and
debate
proposal**

Have the research groups present their findings and debate their proposals in front of the class. The teacher serves as the CSA representative and oversees the debate, which is conducted as follows:

- **Each member of the group takes a portion of the report and synthesizes the information into a brief statement, which is presented to the class.**
- **This is followed by a reading of the proposal. Presentation of the synthesis and proposal should take one minute.**
- **Once the first group has finished its synthesis and proposal, the opposing group gives its synthesis and reads its proposal.**
- **The pro and con opening statements and proposals are followed by three minutes of “sparring” by the two sides, in which group members can offer reasons why CSA should take a pro or con stance on the issue.**
- **Following the three-minute sparring, the two opposing sides have one minute each for a final summary statement or concluding remarks.**
- **This is followed by five minutes for full-class discussion and questions.**



**most
persuasive
stance**

Students in the class who are not involved in the debate will use a rubric to evaluate the opening statements, rationale for the pro and con sides, and overall conduct of the debate. The rubric is used to determine who was most persuasive in the debate. Remind students that CSA will support whichever side is most persuasive.

A COPY OF THE RUBRIC CAN BE FOUND AT WWW.BIE.ORG.



**second
problem log
entry**

It is important to keep the discussion focused on the legislative and judicial issues and the general history of each issue as a way of modeling for students how political scientists and political practitioners think. If the discussion digresses to opinion and unsubstantiated impressions, the lesson about public policy process is lost. It is helpful to remind students that this exercise requires them to ask analytical questions and to think like political scientists and political practitioners.

After the scoring sheets are tallied and students know which side of the issue CSA will support, a second problem log entry can be used to ask about the recourse likely taken by the side not chosen.

► **Potential Questions to Ask:** As representatives of an interest group, would you likely give up at this point? If not, what would you do next?



**second
memo**

Students, in their groups, receive a second memo from Richard Barley, Director of CSA. Barley tells the students that CSA members have reviewed the report and support the researchers' position on the issue. CSA supports whichever position, pro or con, won the class debate. The CSA membership wants to pursue a solution to this problem by drafting a bill that supports their position. CSA is now asking researchers to take on the role of lobbyists, to propose such a bill, and to offer a strategy that will get the legislation passed.

► **Potential Hurdle:** If the groups that lost the debate have a difficult time accepting the stand of the "winning" group, or if some students from the winning group do not actually believe their position, it may be wise at this point to keep the two groups, so that like-minded students can work together. This will require both pro and con groups in the second phase of the unit. The stand students have on these issues is not particularly important to the conduct of the unit, but the students do need to believe in what they are doing. No one wants to work hard to pass legislation they don't believe in.



**revise the
problem
statement**

The class as a whole should revisit the problem statement. Students are taking on a new role as lobbyists, and this will lead to an outcome that is different from the one described in the original problem statement. These changes should be reflected in a revised problem statement. The revised problem statement may look more like the statement at the beginning of this manual.



**revise the
know/need
to know**

How can we, as lobbyists for CSA, determine legislative action on recent controversial issues so that we can fulfill the mission of CSA.

Students may now have new issues to add to the lists of know and need to know. Some items listed in the original need to know may be eliminated.



**mini-lecture
on lobbying**

The role of lobbyist and the strategies used to lobby are explained in the mini-lecture in Appendix II. It is important to remind students that lobbying depends upon credibility. If they give erroneous information, facts, or figures to members of Congress, they will not be trusted again. Students often think lobbying is simply paying off members of Congress—a common theme in political movies. However, effective lobbying depends upon how well the issue is marketed, the consensus one can create around the issue, and the alliances interest groups can build. It is not simply, or always, a matter of who gives the most to congressional campaigns.

► **Potential Hurdle:** Students may be appreciative of the fact that democracies have lobbyists, but they would never want to be one. Lobbying to many is a necessary evil. It may be helpful to ask students what they think lobbyists earn, where they work, and what their lifestyle must be like. The film, *The American President*, is an interesting study of lobbying.

A topic that often arises in discussions about lobbying is campaign finance reform, or any attempt to dissuade legislators from favoring monied lobbyists. Remind students that lobbying often buys access to Congress, but it does not always buy votes.



**pro and con
prototype
reports**

Distribute a copy of the "Legislative Process for Preventing Legalization of Medical Marijuana" and the "Legislative Process for Legalization of Medical Marijuana." These two reports should be reviewed by the whole class. They serve as a prototype for the question-and-answer reports the lobbying groups will be expected to prepare. Medical marijuana is not one of the issues students will be reporting on. Explain that they are using these reports as prototypes and that their reports should follow a similar format.

The two marijuana reports respond to questions about the process used to change public policy: *How do we enact change? How do we get our legislation started? What will our bill say?* These are the questions students will need to answer for their issue. Much of the information they will need in order to answer CSA's questions is available in these two reports. This lesson is designed to teach students how to glean pertinent information from a research document, synthesize the information, and put it into their own words. The two medical marijuana reports can be used for this purpose.



**revise
know/need
to know**

Return to the know/need to know list and review what students now know about the legislative process as a result of the prototype reports. Remind students that it is not necessary to add content to the know list (e.g., the specific medical marijuana cases). Rather, the process used to try to change conditions, especially those that generalize to their issues, should be added to the know list.



**mini-lecture
on how a bill
becomes law**

Richard Barley is asking the lobbying groups for a strategy that will get CSA's legislation passed. As a result, students will need to know how a bill becomes law. Some of this information is reported in the marijuana prototype. However, for a review of the process, we have included a mini-lecture with descriptions of short, moderately complex, and complex versions of how a bill becomes law. The mini-lecture is in Appendix II.



**legislative
process and
questions**

Now give the lobbying groups the legislative process questions for their issue. Ask them to describe their proposed bill and to explain the process they recommend following in order to get the bill passed. Responses should be presented in question-and-answer format. The question prompts should help in fulfilling this task.

► **Potential Hurdle:** Students can gather information for answering the questions by revisiting the web sites they used to complete the first report. They can also use the library and state archives for information on potential legislation. State archives often have web sites as well. Textbooks also have pertinent information about committees and their legislative agendas.

Every congressional committee has a web site and these can be reached through:

<http://www.house.gov/house/CommitteeWWW.html> for the House of Representatives, and
http://www.senate.gov/committees/comm_about.html for the Senate.

For searching bills in California, go to: <http://info.sen.ca.gov/help/bilinfoh.html> or
http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information.

For federal legislation, review the Senate legislative site at:

<http://www.senate.gov/legislative/index.html>, and the House of Representatives at,
<http://www.house.gov/house/Legproc.html>

It may be necessary to coach students toward the committees and congressional representatives most likely to support their issue. This can be done by narrowing the choices and having lobbying groups investigate these specific committees. Students also can e-mail representatives and committee members with specific questions about similar legislation or likely supporters and dissenters.



**mini-lecture:
alternatives
to federal
legislation**

At this point, one group member should be assigned the task of researching the last question on the list about alternatives to federal legislation. This expert on alternatives will then be able to explain these alternatives to other group members. Explain to the lobbying groups that the job of lobbyists is to cover all bases, and that they need to know what to do if legislation fails. The student researching the alternatives can use examples from the medical marijuana report to aid in the research. It may also be helpful at this point to give the mini-lecture on judicial and state alternatives to federal legislation. The mini-lecture includes information on concurrent powers as a means of setting the stage for the debate over control of an issue, and the recourse individuals and states have to the federal exercise of power (or the lack thereof). The mini-lecture is in Appendix II.



jigsaw students

In order to divide up the work, students can be put in subgroups with representatives from each of the four issue groups. Assign specific questions to each subgroup to create experts on such problems as how a bill becomes law, the topics addressed by specific committees, or the alternatives to federal legislation. Students then return to their issue groups as experts on some of the problems raised in the questions. Experts can teach and share this information with other issue group members.



optional: mini-lecture

Students may ask for information about the relationship among bureaucracies that support particular causes, corporations or private agencies working for the same causes, and congressional representatives who benefit from interest group support. If this teachable moment arises, the optional mini-lecture about the Iron Triangle will help explain this relationship. The mini-lecture is in Appendix II.



write second report

Once students have completed the necessary research, they should answer the questions about the legislative process and how it relates to their issue. Part of the exercise requires each lobbying group to draft a bill that provides for the policy change they are endorsing. Groups should follow the same question-and-answer format as the medical marijuana prototype. Web sites are provided to help students select committees, structure the path their legislation is likely to take, and phrase the legislation they are expected to write. Some of this information is readily available in the medical marijuana prototype report, and students are encouraged to synthesize and use information from this source. This helps reinforce the process of lawmaking. However, the specific committees likely to handle the military draft, the juvenile death penalty, file sharing, or gun control will be different from medical marijuana. The groups likely to support or oppose these issues will be different as well. Students should be reminded of this.



final problem log entry

The problem log should be used for the final time to ensure that students have considered all hurdles that may be put in the path of their bill.

► **Potential Questions to Ask:** What problems, if any, do you envision your bill having in the House and Senate? Why do you think attempts to pass similar legislation have failed? What strategy are you going to use to avoid similar problems?



present a summary report

Have the lobbying groups present a review of their proposed legislation to the full class. Also have them report on the answers to the questions in the CSA document, including which committees are likely to consider their bill, the process the bill is likely to go through, the prognosis for its reaching the President, actions the President is likely to take and finally, their estimate on the amount of time it will take to get the bill passed into law. These reports should be brief (five minutes) and should allow time (five more minutes) for questions from classmates.

A TEACHER KEY WITH THE MOST LIKELY ANSWERS TO THE "LEGISLATIVE PROCESS" QUESTIONS IS PROVIDED IN APPENDIX III



instructions from Barbara Wilson

The last document students receive comes from the acting director of CSA, who informs the lobbyists that Richard Barley was asked to step down as director of CSA. The CSA board members, it appears, are frustrated by the lack of movement on the legislation the lobbying groups have been working on. They are blaming Richard Barley and the lobbyists for the fact that its legislation is stalled in Congress. The board is also considering firing the lobbyists. To avoid being fired, the lobbyists are being asked to attend a CSA board meeting and give a presentation that explains alternatives to federal legislation. The lobbyists also must recommend either judicial solutions or state legislation that will address the issue.



finalize problem statement

Explain to students that they will not receive any more information or resources to add to the know list. However, they may want to revisit the problem statement for a final time. Once students are satisfied with their final problem statement, they should begin preparations for their presentation to the CSA board.



alternatives to federal legislation

In the memo from Barbara Wilson, the lobbying groups are told that their legislation has been rejected in committee and that they need to suggest alternatives to the legislative solution. The groups may need to be reminded what legislative and judicial alternatives are available to them. At this point, the student who researched alternatives to federal legislation has the opportunity to revisit, with the rest of the group, the most logical alternatives.



presentations

EXIT FROM THE PROBLEM

Students, in their groups, are asked to prepare a presentation for the CSA board. They are required to have

- **An explanation of all alternatives to the proposed legislation, in case federal legislation fails**
- **A recommendation on whether CSA should pursue state legislation or judicial solutions to the problem**
- **A description of what these solutions would be**

Each lobbying group must adhere to a strict time limit of between 5 and 15 minutes. Make it clear to students prior to the presentations that boards often cut presenters off in mid-sentence when the presentation reaches its time limit. Remember, part of the skill-building in this lesson is to prepare a concise presentation within a strict time limit. Point out to students that casual presentations before legislative staff are generally longer than 15 minutes and are not timed. Formal presentations before a board are timed and brief.

Students are asked in the letter from CSA to bring visuals for the presentation. Visuals should be turned in to the teacher prior to the presentation so errors can be found and corrected. Teachers should stress that *all* members of the group must be prepared to make the presentation or to answer questions. One way to ensure this is to randomly select, at the time of the presentation, the group member who will make the presentation.

After the presentation, members of the board—including the teacher as president of the CSA board—will question students regarding their decisions. While members of the board may question students about issues, it is the teacher's role to stress the process students chose for getting legislation passed. To keep the presentations and questions focused, board members should be limited to three questions each. Potential questions for each of the four board members and the president of the board are included in Appendix IV. Students generally perform better and tend to take the assignment more seriously if adults from outside the school/classroom serve as board members. Suggestions for finding potential board members include: the local bar association, City Council, PTSA, retired teachers, student teachers from local colleges, and professors from local colleges. It is also advisable to have a professional lobbyist attend the meeting. Almost all organizations have a lobbying arm that is either paid or volunteer. Such organizations may be willing to send a member of their lobby to serve as a CSA board member.



assessment guidelines

Assessment guidelines are provided at www.bie.org to help the teacher assess student presentations. These guidelines can also be used to help students meet the expectations of the assignment.

When assessing students, remember that problem based learning is most effective when the students are placed in realistic situations. As a consequence, if students begin to alter the authenticity of the situation, the learning environment can easily be reduced to fun and games. This negates much of the validity of the technique and the knowledge gained from the unit. To prevent this digression, it must be stressed that responses must be accurate and reflect knowledge gathered from available resources. In other words, students cannot make up information and scenarios. They cannot give bogus answers to questions posed in the problem.

Students also must be coached to see that “I don’t know” is a legitimate answer to a question. This makes the unit authentic. When presented with a problem outside the classroom, there often may be more information available but limited time to research all possible resources. This is one of the lessons that problem based learning teaches. To enable students to gain this insight, they must learn to say they do not have the data to give an accurate answer to some questions that may arise. In other words, there are a limited number of answers because information is limited. *Students cannot make up answers. They must use the information that is provided.*



wrap-up and
debrief

WRAP-UP AND DEBRIEFING

It is critical that the wrap-up and debriefing section of the unit not be ignored. This is the part of the unit where students, as a class, reflect on the experience and are given feedback on both the process and content of the unit. *It is imperative that incorrect knowledge or statements be corrected at this point in the problem.* How the debriefing is conducted is less important than the fact that it is conducted.

Process Debriefing

It is important that students have a chance to discuss how they undertook the problem-solving process and how they felt about the process. This can be done with a series of questions, such as

- How do you think you did?
- Are there strategies or arguments you left out during your presentation that you wish you had used?
- What were the difficulties in giving a presentation with an exact time limit?
- What does an effective oral presentation entail?
- What was it like to have to think on your feet, rather than having the time to reflect and react in a written assignment?
- Is it difficult when there is not one right answer to the problem?

Content Debriefing

Understanding the complex process involved in changing public policy is an integral part of this unit. As such, it is important that students see that there are both legislative and judicial means for changing public policy. There are also strategic decisions that must be made about whether to pursue federal, state, or local legislative change. The debriefing is an opportunity to make sure students understand that these different methods are pursued by interest groups committed to changing public policy. It is also crucial that students understand that the system is intentionally cumbersome and difficult. The Founding Fathers expected the system to provide checks and balances and to prevent an overabundance of laws. Questions to ask include

- Why are debates over prospective solutions and compromise among competing groups essential to democracy?
- What are the best and worst parts about being a lobbyist?
- Could you see yourself doing this as a career?
- Are lobbyists to be valued or despised in our lawmaking system?
- Why is it necessary, as a lobbyist, to provide accurate information to legislative bodies?
- As a lobbyist, how would you use the media to attract attention to your issue?
- Now that you know about interest groups, PACs, lobbyists, and the lawmaking process, what, if anything, needs to be changed?

Do's and Don'ts

In reading through this unit, changes will inevitably come to mind. In this section, we highlight changes that have worked—and those that have not worked. Please do not try the ideas that have failed, even though the temptation may be great!

Ideas to try

In this unit students become knowledgeable about, and skilled at, enacting legislation. Learning about the four issues used in **LegiQuest** is secondary. Therefore, it is possible to add issues other than the ones we present here. Issues that pit federal powers against state jurisdiction are better-suited for this unit. Consider such issues as

- Limiting working hours for high school students
- Minimum wage
- Unreasonable search or surveillance on campus
- Minimum graduation requirements and standards
- Required volunteer work
- Mandatory drug testing

Ideas not to try

We would suggest avoiding issues that pit particular student populations against one another (e.g., immigrant rights or religious clubs on campus). Issues such as diversity in college admissions or freedom of student press could deflect the focus away from student understanding of the legislative process toward heated, personal debate, leaving some students offended by the opinions of others. It is also important to use issues that demonstrate a conflict between states and the federal government. Driving restrictions or distributing birth control at high schools are local or state issues not addressed by federal legislation.



Appendix I:

Student Handouts



C O U N C I L O F S T U D E N T A D V O C A T E S

CSA MISSION

The Council of Student Advocates represents the interests of high school students throughout the United States.

CSA works in partnership with state and national government to create public policy pertaining to issues the CSA members have deemed critical to their interests, and to the protection and enhancement of our quality of life now and in the future.

CSA advocates for education, juvenile justice, communications and technology, and social welfare as these issues affect high school students.

TO: Research Staff
FROM: Richard Barley, Director, Council of Student Advocates
RE: Recent Legislative Issues

Members of our council have questioned me about recent controversial issues that may require our taking a position and pursuing legislative action. Our membership is concerned that Congress is not responding to the needs and interests of high school students, and our involvement in these issues is urgent.

As researchers for CSA, the council would like you to review previous laws and court cases regarding these issues, answer questions about the issues, and recommend a position that will support the CSA mission.

I will be sending you a problem overview describing the issues and questions that our membership would like answered. Please do whatever research is necessary to prepare answers to these questions. I will expect to receive this information from you in three days.

Please keep in mind that CSA is a new organization dedicated to representing the concerns of high school students. Our organization needs to demonstrate that high school students — numbering more than 16 million in the United States — have a place in the political process. As high school students, we expect to be taken seriously as political participants, and we intend to accomplish meaningful change by taking advantage of the political tools available to us. This effort will require the active participation of our membership, as well as the dedication and expertise of staff members such as you.

Use this entry document if
you bypass the research
portion of the unit



C O U N C I L O F S T U D E N T A D V O C A T E S

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CSA advocates for education, juvenile justice, communications and technology, and social welfare as these issues affect high school students.

TO: Chief Lobbyists
FROM: Richard Barley, Director, Council of Student Advocates
RE: Recent Legislative Issues

Members of our council have questioned me about recent controversial issues that may require our taking a position and pursuing legislative action. Our membership is concerned that Congress is not responding to the needs and interests of high school students, and our involvement in these issues is urgent.

The council would like you to review information about these issues and recommend a position that will support the CSA mission.

I will be sending you a problem overview describing the issues, along with answers to questions about the issue. Please review this information and suggest a stand you think CSA should take on the issue.

Please keep in mind that CSA is a new organization dedicated to representing the concerns of high school students. Our organization needs to demonstrate that high school students — numbering more than 16 million in the United States — have a place in the political process. As high school students, we expect to be taken seriously as political participants, and we intend to accomplish meaningful change by taking advantage of the political tools available to us. This effort will require the active participation of our membership, as well as the dedication and expertise of staff members such as you.

LEGAL STATUS OF MEDICAL MARIJUANA

State vs. Federal

What has happened in the medical marijuana movement so far?

Manufactured substances fall under the jurisdiction of the federal government because they are transported by interstate commerce. In 1970, Congress passed Section 801, the Controlled Substance Act. It states, “The illegal importation, manufacture, distribution, and possession and improper use of controlled substances have a substantial and detrimental effect on the health and general welfare of American people.” Marijuana is listed as a Schedule 1 controlled substance and is, therefore, banned by the federal government from production, manufacture, distribution, and possession. The only exception to the ban is production for government-approved research. Thus far, government-approved research has found no medical benefits in marijuana.

Proposition 215 was an initiative passed by California voters in 1996. This proposition added the Compassionate Use Act, Section 11362.5, to the Health and Safety Code. The Compassionate Use Act ensures that seriously ill California citizens have the right to obtain marijuana for medical purposes deemed worthy by a physician. Patients and primary caregivers who use, grow, or distribute marijuana for medical purposes are not subject to criminal prosecution.

What happened as a result of this legislation?

Cannabis clubs, which were once underground organizations, began to function openly as a means of distributing marijuana for medicinal purposes. Clubs opened in San Francisco, Los Angeles, Oakland, and San Diego. Patients could receive marijuana for medical purposes if they presented a physician’s prescription to an accredited cannabis club nurse. This transaction made the sale of marijuana legal for that patient as far as the State of California law was concerned.

How did the federal government respond?

In 1998, the U.S. Attorney General sued the Oakland Cannabis Buyers Cooperative on the basis that it had violated the 1970 Controlled Substance Act. The case went to the District Court, which found the cooperative in contempt of court because cooperative members continued to sell marijuana after an injunction had been placed upon them.

The cooperative appealed to the Ninth Circuit Court of Appeals, which overturned the District Court’s ruling on the basis that there was a medical necessity for patients who rely on marijuana. The Attorney General appealed to the Supreme Court, claiming there was no medical necessity and that the court erred in lifting the injunction against the cooperative. On May 14, 2001, the Supreme Court accepted the case. It ruled 8-0 that the cooperative had violated the Controlled Substance Act. The court reasoned that the only exception allowing for the growth, use, and distribution of marijuana was government-approved research and since no government research has proven the medical benefits of marijuana, the Ninth Circuit Court should not have lifted the injunction against the cooperative. Therefore, the decision of the Appeals Court was reversed. Marijuana could no longer be considered a legal substance for medical purposes in California or any other state.

What has happened since the Supreme Court decision?

Nothing as of yet. The U.S. Drug Enforcement Administration (DEA) has not closed down cannabis clubs in California or in any other state.

Why has law enforcement not followed up on the court's decision?

There is a lack of law enforcement manpower to dismantle the medical marijuana industry. They may be able to take on large vendors, but getting rid of small dealers would be impossible and very costly.

Medical marijuana presents a political problem for federal law enforcement. Government departments are reluctant to confront the negative public relations that would result from AIDS and cancer patients being denied marijuana.

The majority of the population is unconcerned with the effects of legalizing medical marijuana. Only a handful of anti-drug and law enforcement organizations have called for immediate action against cannabis clubs and their patients.

What precedents give the federal government, and in particular the judicial branch, the authority to decide that a state law or code is unconstitutional?

It started over 200 years ago with the Marshall Court. Under the leadership of Chief Justice John Marshall, the Supreme Court defined its role in government through several landmark cases. *Marbury v. Madison* (1803) set the stage. The second U.S. President, John Adams, signed the Judiciary Act of 1800, which created several new judgeships. Adams gave each of the new seats to Federalists — members of his own party. Unfortunately for Adams, not all of his appointments were sent before the end of his term. In the election of 1800, the Republicans, the rival party of the Federalists, won both the presidency and control of Congress. The Republicans did not want any more Federalist judges. (The Federalists had appointed all of the judicial seats, which were guaranteed for life.) The Republicans repealed the Judiciary Act and did not award any of the remaining appointments. Marbury, one of the withheld appointees, sued James Madison, the Secretary of State.

Marbury appealed his case to the Supreme Court by asking them to extend a *writ of mandamus*, which would force the government to give him his rightful position. The Marshall court ruled that Marbury should have been delivered the commission, but that the Judiciary Act of 1789, which gave the Supreme Court the power to issue *writs of mandamus*, exceeded the authority of the court as specified by Article III of the Constitution. The Supreme Court hamstrung itself — that is, it denied itself the power to issue a *writ of mandamus* — in order to demonstrate that the Constitution allows each branch and level of government only certain powers and responsibilities. When a level or branch of government has been extended too much power, it is the job of the Supreme Court to arbitrate the powers vested in the Constitution.

What was the significance of Marbury v. Madison?

The decision gave the Supreme Court the authority to declare acts of Congress and the President as unconstitutional if they exceeded the powers granted by the Constitution. The decision made the Supreme Court the final authority on the meaning of the Constitution, and on how constitutional powers would be distributed among the branches of government.

Why is this case relevant to medical marijuana?

Marbury v. Madison is the precedent, which allows the Supreme Court the power of judicial review. In the case of medical marijuana, the ruling in *Marbury v. Madison* gives the court the ability to review the constitutionality of the Compassionate Use Act of 1996.

What gives the Supreme Court the right to review state laws, and what precedent gives federal laws sovereignty over state laws?

McCulloch v. Maryland (1819) was another Marshall triumph for the judicial branch. In addition to asserting the power of the judicial branch, it benefitted the federalist system as a whole by strengthening federal control over the states. In 1818, Maryland enacted a law taxing all non-state chartered banks within the state, including the congressionally created Bank of the United States. The law also imposed state procedures for how these non-state banks could issue bank notes. The state sued James McCulloch, the cashier of the Baltimore branch of the Bank of the United States, for failure to uphold state tax laws. The result of this case has been characterized as the most influential in American jurisprudence. John Marshall ruled that Congress may create a national bank, even though the Constitution makes no mention of it, for the reason that it may “make all laws which shall be necessary and proper for carrying into execution” the expressed powers in the Constitution. This case also overruled Maryland’s tax on the bank.

What is the significance of this case?

The court reaffirmed that the Constitution gives Congress the right to levy taxes, regulate commerce, and “make all laws which shall be necessary and proper for carrying into execution” the needs of the government. The court contended that the Constitution, and the laws made in pursuance thereof, are supreme and cannot be controlled by the various states. This decision forces states to comply with federal regulations. It leaves no room for states to act contrary to federal law.

Why is this significant to California’s pursuit to legalize medical marijuana?

This case is the precedent. It says that federal regulations are supreme over state laws. Furthermore, it demonstrates that the Constitution does not allow states to change federal regulations and institutions (i.e., levy a tax on a federal institution). In the medical marijuana case, California tried to create an exception to the Controlled Substance Act of 1970 for the production of marijuana as a medical product. In a sense, the citizens of California were not willing to meet the regulations set forth by Congress. The federal judicial branch, as it did 200 years ago, will not allow states to pick and choose which federal regulations they wish to follow. The Supreme Court maintained this stance by summarily rejecting the Oakland Cooperative’s case 8-0.

For current status see

<http://www.sfgate.com/cgi-bin/article.cgi?file=/news/archive/2003/02/04/state1358EST0061.DTL>

POLICY STATEMENT: SUPPORT LEGALIZATION OF MEDICAL MARIJUANA

1) We propose that CSA support the legalization of medical marijuana.

- Legalization would allow patients and their caregivers to have access to a product they deem beneficial.
- To support this finding, CSA should help design and support federal legislation that will protect patients' rights to medical marijuana.

2) We choose this stand because

- Many critically ill patients find marijuana to have beneficial effects.
- Many of the caregivers of critically ill patients concur.
- The majority of the population is unconcerned with the effects of legalizing medical marijuana, while only a handful of anti-drug and law enforcement organizations have called for immediate action against cannabis clubs and their patients. These law enforcement organizations benefit (in the form of jobs) from making medical marijuana illegal.
- The amount of law enforcement manpower needed to dismantle the medical marijuana industry is costly and prohibitive, given the current condition of the economy. The federal government would spend less money regulating the industry than it does trying to criminalize patients who use medical marijuana.

3) The ways this position supports the CSA mission statement are

- The issue affects all high school students, especially those with family members who may need medicinal marijuana.
- Protection and enhancement of our quality of life requires that we monitor the way government spends its resources, especially since current high school students are going to inherit a sizeable federal debt.

POLICY STATEMENT: PREVENT LEGALIZATION OF MEDICAL MARIJUANA

1) We propose that CSA support efforts to prevent the legalization of medical marijuana.

- Patients and their caregivers should abide by existing federal mandates that make medical marijuana illegal.
- Federal law enforcement agencies should enforce current bans on marijuana.
- In the absence of voluntary compliance and federal enforcement, CSA should assist in the design and support of federal legislation to specifically prevent patients and their caregivers from access to marijuana.

2) We choose this stand because

- *McCulloch v. Maryland (1819)* sets the precedent that federal regulations are supreme over state laws.
- The Constitution does not allow states to change federal regulations and institutions.
- California has tried to create an exception to the Controlled Substance Act of 1970 for the production of marijuana as a medical product and was not willing to meet the regulations set forth by Congress.
- The states are not allowed to pick and choose which federal regulations they wish to follow.

3) The ways this position supports the CSA mission statement are

- This issue affects high school students because medical marijuana may be subterfuge for recreational use of the drug.
- There is no scientific proof that medical marijuana is effective.
- There is evidence that marijuana is a gateway drug and that long-term use can have detrimental effects.

MILITARY DRAFT

MILITARY DRAFT

Issue Overview

On January 8, 2003, U.S. Representative Charles Rangel, a senior Democrat from New York, proposed bill H.R.163, which would reinstate the U.S. Selective Service draft. The bill reads as follows:

H.R.163: To provide for the common defense by requiring that all young persons in the United States, including women, perform a period of military service or a period of civilian service in furtherance of the national defense and homeland security, and for other purposes.

Similarly, Senator Ernest Hollings (D-South Carolina) introduced Bill S-89 for the Senate's consideration. S-89 is worded the same as H.R.163.

Although all males over the age of 18 must register with the U.S. Draft Board, a selective service draft has not been utilized since the Vietnam War ended in 1973. The current legislation differs greatly from previous drafts because the new draft would include women and would not give exemptions to college students.

Congress is reconsidering the draft because the U.S. Armed Forces are stretched to capacity. The U.S. military holds a significant presence in Iraq, Afghanistan, the Persian Gulf, and South Korea, among other places. Special Forces are operating on anti-terrorist missions throughout the world. The military relies heavily on reserve troops, which are on extended call-ups with, in some cases, forced retention. Proponents of the bills believe that a universal draft would strengthen the military's thin ranks and promote patriotism among young Americans.

What is selective service?

The U.S. Selective Service draft is the process of required conscription of eligible U.S. male citizens who are over the age of 18. The U.S. Selective Service System, which oversees both draft registration and administration, is an independent federal department with an annual budget of \$25 million. It is not a wing of the armed services and actually falls under the jurisdiction of the executive branch.

Under normal conditions, the U.S. military operates on an all-voluntary personnel basis. In the case of an extended conflict or unforeseen national event, the President may call for a draft. Before a draft can occur, the U.S. Selective Service must conduct a draft registration. All male U.S. citizens, on their eighteenth birthday, must sign a draft card and submit it to the draft board. Draft registration occurs during peacetime well before the President announces a need for the draft. The U.S. Selective Service Department states that currently 88% of eligible U.S. males have registered with the draft board. Roughly, 13.5 million males, aged 18-26, comprise the potential draftees.

In the event of a draft, the first step in the process is to administer a national draft lottery. The lottery is impartial and the results are random. There are two components to the draft lottery. First, a computer selects numbers 1 through 365, which represent the order in which induction groups will be considered. This number signifies the priority an individual will have in the draft — one being the highest and 365 the lowest. The second set of data incorporated into the lottery represents each day of the year. Every male is placed into an induction group, identifying each potential draftee by his date of birth. The results of the lottery are determined by selecting a priority number and a day

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of the year. For example, if the numbers selected are 8 and July 14th, then males born on July 14th would be given the eighth-highest priority. These individuals would be the eighth draftee group to be evaluated. The process is repeated until all of the 365 priority numbers and all 365 days of the year are called.

The final result of the lottery is known as the sequence of the call, and it is irreversible. When a draft is announced, the President and Congress most likely will agree upon a number of men needed to fulfill the needs of the armed forces. According to the sequence of the call, each priority group will be evaluated for eligible draftees. Priority groups will be notified of conduction until the number of conscripted men hits the target goal. If need be, the President can increase the number of needed soldiers.

Men who are selected for the draft must report to regional military entrance processing stations. After reporting, males undergo physical, psychological, and moral tests to ensure that they are truly eligible for the military service. Selected males have 10 days to contest their induction into service.

When was the first draft held?

The Union held the first draft during the Civil War in order to maintain its campaign against the secession of southern states. This draft was highly unpopular and led to riots in New York City.

The first modern draft was held during World War I. In 1917, the Selective Service System was created to execute the draft. The Military Selective Service Act of 1917 granted the federal government the ability to formulate a draft. In 1940, President Franklin D. Roosevelt signed the Selective Training and Service Act, which created the nation's first peacetime draft and formally established the Selective Services System. From the 1940s until 1973, during peacetime and war, males were drafted to serve in the armed forces.

What is the purpose of a peacetime registration?

Registration allows the U.S. government to keep a list of names of men from which to draw in case of a national emergency requiring rapid expansion of the armed forces. By registering all young men, the Selective Service ensures that a future draft will be fair and equitable.

When was the last draft?

The last draft was held for World War II, the Korean War, and the Vietnam War. It ended with the Vietnam War (waged from 1964-1973). More than 1.8 million American males were drafted during the Vietnam era. The most men ever drafted was during World War II, when 10.1 million men were selected to serve.

Why was the draft stopped?

In 1973 the draft ended and the U.S. military transitioned its operations to an all-voluntary military. The draft was ended due to intense public outcry against the Vietnam War. Congress and the military felt a continued draft after the Vietnam War would lead to further civil unrest. Draft registration was halted in 1975, but it resumed in 1980. Jimmy Carter called for males to begin registering for the draft in response to the Soviet Union's invasion of Afghanistan.

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Who is eligible for the draft?

Current draft legislation requires that virtually all men register with the Selective Service. Exceptions to this rule are very few and include: non-immigrant aliens on student, visitor, tourist, or diplomatic visas; men on active duty in the U.S. Armed Forces; and cadets and midshipmen in service academies and certain other U.S. military colleges. All other men must register upon reaching age 18 (or before age 26, if entering and taking up residence in the U.S. when already older than 18). Disabled men, clergymen, and men who believe themselves to be conscientiously opposed to war must register since there is currently no draft in effect, nor is there a program to classify men at this time. Should Congress and the President reinstate a draft, a classification program would begin. Registrants would be examined to determine suitability for military service; they would also have ample time to claim exemptions, deferments, or postponements. To be inducted, men would have to meet the physical, mental, and administrative standards established by the military services. Local boards would meet in every American community to determine exemptions and deferments for clergymen, ministerial students, and men who file claims for reclassification as conscientious objector.

What is a conscientious objector?

Beliefs that qualify a person as a conscientious objector may be religious in nature but do not have to be. They may be moral or ethical; however, one's reasons for not wanting to participate in a war must not be based on politics or self-interest. In the past, U.S. draft boards conducted rigorous oral examinations of men who applied to be conscientious objectors. "CO status" was given at the discretion of draft board members. Yet this status does not alleviate the men from selective service. CO's must serve in a non-military capacity, and in Vietnam they actually suffered very high casualty rates. They were members of units that attended to injured soldiers on the battlefield, and they died in battle, even though they never held weapons or engaged in fighting.

What non-military roles could draftees fill?

The U.S. Selective Service Department allows CO's to perform their duties by enrolling in an alternative service. Healthcare, conservation, caring for the very young or very old, and education are all acceptable forms of alternative service.

How is the new draft legislation different from the old draft system?

The new draft legislation differs from the old draft system in two major ways. First, women are included in the new proposals. Second, no deferments will be given to males or females who are enrolled in college.

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For Further Research

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

How the U.S. Draft Works:

<http://www.howstuffworks.com/us-draft2.htm>

Lawmaker Proposes Reinstating the Draft:

http://www.freep.com/news/politics/draft8_20030108.htm

U.S. Not Considering Draft:

http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=25170

Christian Science Monitor:

<http://www.csmonitor.com/explainers/Draft.html>

Why the Draft Would Help the U.S.:

https://www.patrick.af.mil/deomi/Library/EORadFile/Misc/Misc_Spring02/Why%20the%20draft%20would%20help%20the%20US.pdf

Women and the Draft:

<http://www.sss.gov/wmbkgr.htm>

US GAO Account of Draft Alternatives:

<http://www.fas.org/man/gao/nsiad97225.htm>

Teenwire Special—A Few Good Men and Women:

http://www.teenwire.com/index.asp?taStrona=http://www.teenwire.com/views/articles/wv_20021115p064_draft.as

Military Draft Should Include Women:

http://www.freep.com/voices/columnists/erdz12_20030112.htm

Women in the Military:

<http://userpages.aug.com/captbarb/>

Teens Challenge Selective Service:

<http://www.lexisone.com/news/nlibrary/b011003f.html>

Senate Bill S-89:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d108:s.00089:>

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MILITARY DRAFT

Research Questions and Resources

You have been asked by CSA to explain the history of the military draft, to describe its current status, and to project what can be expected in the near future. You must also determine what stand CSA should take on this issue. In order to do this, please prepare answers to the following questions:

1. *What steps have been taken to reinstate the draft?*

Lawmaker Proposes Reinstating the Draft:

http://www.freep.com/news/politics/draft8_20030108.htm

U.S. Not Considering Draft:

http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=25170

2. *What has Congress done thus far about reinstating the draft?*

Senate Bill S-89:

<http://thomas.loc.gov/cgi-bin/bdquery/z?d108:s.00089>:

US GAO Account of Draft Alternatives:

<http://www.fas.org/man/gao/nsiad97225.htm>

3. *What significant federal laws pertain to the draft?*

Federal Conscription Powers:

<http://www.howstuffworks.com/us-draft2.htm>

<http://supreme.lp.findlaw.com/constitution/article01/41.html#f1448>

4. *What kinds of court challenges have occurred regarding the draft?*

Findlaw.com:

www.findlaw.com (*O'Brien vs. U.S.*)

Cornell Law:

<http://www.law.cornell.edu/>

Thomas Finder:

<http://thomas.loc.gov/>

5. *What significant judicial cases or other decisions pertain to the draft?*

Ali case:

http://www.aavw.org/protest/ali_alivus_abstract08_full.html

6. *What provisions exist in the Constitution that give Congress the power to draft?*

See Article I, Sec. 8

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7. *How have executive orders affected the draft?*

How the Draft Works:

<http://www.howstuffworks.com/us-draft2htm>

8. *Has any legal recourse been taken against reinstating the draft?*

Teens Challenge Selective Service:

<http://www.lexisone.com/news/nlibrary/b011003f.html>

9. *Did the court decision resolve the conflict?*

Military Draft Should Include Women:

http://www.freep.com/voices/columnists/erdz12_20030112.htm

Women and the Draft:

<http://www.sss.gov/wmbkgr.htm>

Why the Draft Would Help the U.S.:

http://www.patrick.af.mil/deomi/Library/EORadFile/Misc/Misc_Spring02/why%20the%20draft%20would%20help%20the%20US.pdf

10. *What congressional, public, or academic support exists for reinstating the draft?*

A Few Good Men and Women:

http://www.teenwire.com/index.asp?taStrona=http://www.teenwire.com/views/articles/wv_20021115p064_draft.asp

Why the Draft Would Help the U.S.:

https://www.patrick.af.mil/deomi/Library/EORadFile/Misc/Misc_Spring02/Why%20the%20draft%20would%20help%20the%20US.pdf

US GAO Account of Draft Alternatives:

<http://www.fas.org/man/gao/nsiad97225.htm>

11. *What are the current restrictions on registration for the draft?*

How the Draft Works:

<http://www.howstuffworks.com/us-draft2.htm>

Women in the Military:

<http://userpages.aug.com/captbarb/>

MILITARY DRAFT**12. How does this conflict relate to high school students?**

A Few Good Men and Women:

http://www.teenwire.com/views/articles/wv_20021115p064_draft.asp

Teens Challenge Selective Service:

<http://www.lexisone.com/news/nlibrary/b011003f.html>

13. How will including women and college students affect reinstatement of the draft?

Christian Science Monitor:

<http://www.csmonitor.com/explainers/Draft.html>

Women in the Military:

<http://userpages.aug.com/captbarb/>

Military Draft Should Include Women:

http://www.freep.com/voices/columnists/erdz12_20030112.htm

Women and the Draft:

<http://www.sss.gov/wmbkgr.htm>

MILITARY DRAFT**POLICY STATEMENT: MILITARY DRAFT**

- 1) We propose that CSA support the following position:
- 2) We choose this position because:
- 3) The ways this position supports the CSA mission statement are:

JUVENILE DEATH PENALTY**JUVENILE DEATH PENALTY****Issue Overview*****What is capital punishment?***

Capital punishment, commonly referred to as the death penalty, has been a form of punishment for as long as there have been organized political communities. It is the severest sentencing that society can place on an individual. In the United States, the death penalty dates back to the Colonial Period (1608). It remained a sentencing option after the Revolutionary War and the establishment of a new government under the Constitution.

How long has capital punishment been a sentencing option in the United States?

From the birth of the U.S. until the 1960s, the death penalty was seen as a constitutionally acceptable form of punishment. However, in the 1960s a series of Supreme Court decisions began to cast doubt on the constitutionality of the death penalty. This movement culminated in the suspension of the death penalty in 1972. The issue of the arbitrariness of the death penalty was brought before the Supreme Court in 1972 in *Furman v. Georgia* (408 U.S. 238). Furman, using an Eighth Amendment challenge, argued that capital cases resulted in arbitrary and capricious sentencing. The Supreme Court held that Georgia's death penalty statute, which gave the jury complete sentencing discretion without any guidance as to how to exercise that discretion, could result in arbitrary sentencing. The court held that the scheme of punishment under the statute was therefore "cruel and unusual" and violated the Eighth Amendment.

What legal action reinstated the death penalty?

On June 29, 1972, the Supreme Court effectively nullified 40 death penalty statutes it deemed no longer valid. Subsequently, the sentences of 629 death row inmates around the country were overturned and the death penalty was suspended. This suspension lasted less than five years. States began to redefine the discretion given to juries by providing sentencing guidelines for the judge and jury when deciding whether to impose death. A series of three Supreme Court decisions—collectively referred to as the Gregg Decision, after *Gregg v. Georgia* (428 U.S. 153)—deemed that under these revised guidelines, the death penalty was not unconstitutional according to the Eighth Amendment. On January 17, 1977, Gary Gilmore was executed by firing squad in Utah, thus resuming exercise of the death penalty. To date, the Supreme Court has continued to uphold the use of the death penalty.

How long have juveniles been eligible for the death penalty?

A death sentence for a person convicted of a crime has always been a controversial issue, even during the Colonial Period. In particular, sentencing of a juvenile offender to death has been an especially inflammatory issue. Currently, the United States is one of five countries worldwide that legally allows the death sentence for a juvenile convicted of a crime. Since 1990, the United States joins Iran, Nigeria, Pakistan, and Saudi Arabia as nations that have executed juvenile offenders. With 21 executions of juvenile offenders since 1985, the U.S. criminal justice system has executed more than the rest of the world combined. In fact, the state of Texas, with 13 executions of juvenile offenders since 1985, has put to death more than any country in the world.

JUVENILE DEATH PENALTY

AGE-RELATED STATISTICS ON JUVENILE OFFENDERS EXECUTED IN THE U.S.

- 20 of the 21 juvenile offenders in the U.S. were 17 at the time of their crime
- 1 was age 16 at the time of the crime
- All 21 were over the age of 24 when executed

How do other nations view the juvenile death penalty?

Most other nations have abandoned the practice, due to United Nations Convention Article 37(a), which states, "Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age." The U.S. is the only major industrial power that does not abide by Article 37(a).

Is the juvenile death penalty a state issue or a federal issue?

Currently, the juvenile death penalty is used at the state level. States are given the right to decide their own sentencing options for criminal cases. Federal legislation has no jurisdiction over the sentencing of juveniles for state crimes.

No federal law exists that allows for a juvenile to be sentenced to capital punishment for a federal crime. In the recent "Beltway Sniper Killings," a 17-year-old male was allegedly involved in the murder of 10 people and injuring three others during a three-week, multi-state murder spree. Although the attacks took place across multiple states, constituting a federal crime, the suspect is being tried in a Virginia criminal court because capital punishment is an option in that state. If the suspect were tried in federal court, no such option would be available.

How do opponents of the juvenile death penalty plan on using federal legislation to deter the use of juvenile capital punishment?

Many opponents of the juvenile death penalty have begun to lobby Congress to place budgetary constraints on states that sentence juveniles to capital punishment. Juvenile advocates have called on Congress to eliminate federal funding for state prison construction programs in states that use the juvenile death penalty. In the past, the federal government has eliminated funding to states that did not comply with federal standards in some policy area. There is an environmental law that eliminated federal highway funds to states that did not comply with federal smog emissions standards. And highway funds were cut to states that did not comply with the maximum highway driving speed limit during the gas crisis in the 1970s. However, the federal government has not attempted to withdraw funds as a tactic for controlling the state when the state is acting within its purview.

JUVENILE DEATH PENALTY

For Further Research

Ohio Northern University, Professor Streib:

<http://www.law.onu.edu/faculty/streib/juvdeath.htm>

<http://www.law.duke.edu/journals/lcp/articles/lcp61dAutumn1998p55.htm>

Amnesty International:

<http://www.amnestyusa.org/abolish/juvexec.html>

<http://www.amnestyusa.org>

Justice Learning:

<http://www.justicelearning.org/>

<http://justice.policy.net/ipa/>

American Civil Liberties Union:

<http://www.aclu.org/death-penalty/>

Justice for All:

<http://www.prodeathpenalty.com>

Ethics Update Death Penalty:

<http://ethics.acusd.edu/Applied/deathpenalty/>

East Tennessee State:

<http://faculty.etsu.edu/blankenm/deathlinks.htm>

Eastern Kentucky University Department of Justice and Political Science:

<http://dpa.state.ky.us/library/advocate/nov99/juvdp.html>

Freedom House:

<http://www.freedomhouse.org>

Coordinating Council on Juvenile Justice and Delinquency Prevention:

<http://www.ncjrs.org/html/ojjdp/coordcouncil>

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

<http://www.deathpenaltyinfo.org>

JUVENILE DEATH PENALTY

JUVENILE DEATH PENALTY

Research Questions and Resources

You have been asked by CSA to explain the history of the juvenile death penalty issue, to describe its current status, and to project what can be expected in the near future. You must also determine what stand CSA should take on this issue. In order to do this, please prepare answers to the following questions:

1. *What federal laws or constitutional amendments allow for use of the death penalty?*

Ohio Northern University, Professor Streib:

<http://www.law.onu.edu/faculty/streib/juvdeath.htm>

2. *What Supreme Court decisions have affected the use of the death penalty?*

Ohio Northern University, Professor Streib:

<http://www.law.duke.edu/journals/lcp/articles/lcp61dAutumn1998p55.htm>

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

3. *What court decisions relate to use of the death penalty in the case of a juvenile criminal?*

Amnesty International:

<http://www.amnestyusa.org/abolish/juvexec.html>

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

4. *What are the current restrictions on the power to sentence juveniles to the death penalty?*

Justice Learning:

<http://www.justicelearning.org/>

5. *Which government bodies decide if the death penalty may be used?*

American Civil Liberties Union:

<http://www.aclu.org/death-penalty/>

6. *Do the states or federal government decide the punishments for minors?*

Justice for All:

<http://www.prodeathpenalty.com>

JUVENILE DEATH PENALTY**7. What states allow the death penalty for juveniles?**

<http://www.deathpenaltyinfo.org>

8. Is the death penalty for juveniles limited to certain crimes?

East Tennessee State:

<http://faculty.etsu.edu/blankenm/deathlinks.htm>

9. What age must a person be to be eligible for the death penalty?

Eastern Kentucky University Department of Justice and Political Science:

<http://dpa.state.ky.us/library/advocate/nov99/juvdp.htm>

Ohio Northern University, Professor Streib:

<http://www.law.onu.edu/faculty/streib/juvdeath.htm>

10. Does this age vary from jurisdiction to jurisdiction?

Coordinating Council on Juvenile Justice and Delinquency Prevention:

<http://www.ncjrs.org/html/ojjdp/coordcouncil>

11. How many juveniles are currently on death row?

Coordinating Council on Juvenile Justice and Delinquency Prevention:

<http://www.ncjrs.org/html/ojjdp/coordcouncil>

JUVENILE DEATH PENALTY**POLICY STATEMENT: JUVENILE DEATH PENALTY**

- 1) We propose that CSA support the following position:
- 2) We choose this position because:
- 3) The ways this position supports the CSA mission statement are:

FILE SHARING**FILE SHARING****Issue Overview**

The digital music revolution has created a clash between two types of American corporate industries. The principle combatants in this battle are the personal computer (PC) industry and the Recording Industry Association of America (RIAA). The PC industry is comprised of corporations such as Microsoft, Dell, Hewlett Packard, SBC Pacific Bell, and Gateway. The RIAA represents music artists, producers, and distributors. Examples of RIAA clients are Metallica, Dr. Dre, Interscope Records, Sony Music, and Maxwell, Inc. The main cause of this fight is the development of new technologies by the PC industry that affect the music industry. These technologies are digital music programs, which can be downloaded for free via the Internet and allow computer owners to access file sharing communities. In these communities, users trade MP3 files that contain the copyrighted recording materials of popular music artists.

What is an MP3 file?

An MP3 file is a type of compression-formatted audio file. It is a recorded sound wave that can be played through a computer program. The number of MP3 files that one can have on a computer is limited by the amount of memory (known as RAM) that the computer has available. The amount of information a computer can hold is measured in bytes.

Why are people downloading MP3 files instead of buying CDs?

The average compact disc (CD) is the equivalent of 50 or 60 MB of computer memory. The average new computer, which costs between \$1,000 and \$2,000, has at least several gigabytes of memory (let's just say 20 gigs). In mathematical terms, one gigabyte equals 1,000 megabytes (MB).

A three-minute MP3 file (about the length of one pop song) equals around 4 MB of RAM. A computer that costs \$1,000 to \$2,000 can hold at least 2,000 songs, which is equivalent to more than 160 full-length CDs.

With these equations in mind, one can begin to consider that the average retail cost for a CD is roughly \$16. To collect 160 CDs (the amount an average computer can hold), it would cost \$2,560, not to mention the cost of a CD player. The consumer who buys a computer instead of CDs saves \$1,060 for the same amount of music. Of course, a computer is not just for playing music. The consumer would be able to use the computer for a number of other tasks. In economic terms, buying a computer is a much better investment than buying CDs.

How are MP3 files created?

MP3 files are made possible by downloading free programs such as MusicMatch JukeBox or Winamp from the Internet. These programs allow users to create MP3 files from CDs or any other kind of audio output. One simply places a CD in a CD-ROM drive, and the computer program records its contents onto the computer. The programs split up the songs into individual tracks, which are converted into individual MP3 files.

FILE SHARING

How are they shared?

The sharing of MP3 files is where the problem arises. Shawn Fanning, a 19-year-old from the San Francisco Bay Area created Napster, Inc. in 1997. His small start-up was simplistic yet ingenious. Napster was a downloadable program that added each participant's computer to an MP3 sharing network. Napster acted as the infrastructure. It mediated the community by connecting its users to one another so they could download each other's MP3 files. With the onset of high-speed cable and DSL connections, it took a relatively short period of time to download a file. Napster contained search engines, so a user could search for specific songs, artists, and genres. Napster became an overnight success, and high school and college students in particular, were its loyal fans. Music of almost any kind was available for free.

So, what was the problem?

The problem began after RIAA members, such as Dr. Dre and Metallica filed lawsuits against Napster, Inc. for copyright infringement. The RIAA reasoned that a company that allows its users to reproduce copyrighted materials without paying the correct royalties to the artists and their distributors violates Section 117 of the Copyright Act. This section of the Copyright Act deals with the limitations on exclusive rights: computer programs. The law states that a copy of a copyrighted program may be created, as long as it is essential in order to utilize the program or it is made for archival purposes. It is illegal, however, for anyone to lease, sell, or transfer the exact additional copy without authorization of the copyright owner.

Since the Napster program architecture placed Napster as a middle entity between users, Napster was seen as an integral part of the process. It located specific users and identified where their songs were located on their computers. Therefore, the RIAA felt that Napster was breaching the Copyright Act, because without Napster's direction, users would be unable to create unauthorized copies.

The courts backed up the RIAA and ruled that Napster had violated the Copyright Act on the basis that it could potentially hurt commercial sales, and that the Napster system did not allow for authorization of the copyright owner. It was determined that an MP3 falls under the scope of copyrighted materials. Therefore, any reproduction of an MP3 must have explicit pre-authorization. Napster was shut down and forced to create a new infrastructure in which users paid royalties to artists for their work.

Where are the battle lines drawn, and why are they fighting?

The basic idea behind Napster was to create a community that swaps MP3 files among users for free. This premise is in line with a general notion that many hold within the information technology industry. They feel that the Internet forms an "information superhighway," with computers giving individuals access to vast amounts of information through the Internet in mere seconds. This allows Internet users to access information on practically anything they can dream up. In the eyes of Internet proponents — and Napster — music falls under the scope of information. Therefore, any user has the right to seek out music — in particular, specific songs created by specific artists — just as they would seek any other kind of information. This altruistic view, however, does not describe the whole picture. For the majority of Napster users, the program was not about access to "information." It was about downloading as much free music as one could possibly hold. Although Napster did not charge its users, there was still serious revenue to be made from the free music revolution. The computer industry, as a whole, benefits from consumers choosing computers as

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their format for collecting music. This is primarily due to the fact that MP3 files create demand for various kinds of computer products, such as newer and better MP3 programs, portable MP3 players, additional RAM slots, speaker systems, DSL connections, recordable CDs, modems, memory cards, and additional drives. With this in mind, one can begin to understand why “free” music has become such an important topic for computer industry executives at companies like AT&T, Yahoo, and Oracle. They gain from the individual’s ability to access “free” information.

Although the Ninth District Court placed an injunction against Napster, the free music movement has continued to grow. Napster-like programs have been created and one emerged as a leader in community sharing programs. Morpheus, created by MusicCity.com, not only allowed its community to share MP3 files, but also image files (JPEG), movies (MPEG), software programs, and documents. The difference between Morpheus and Napster is in the design of the program’s architecture. Morpheus did not mediate the downloading process. Its program simply allowed users to connect to one another, therefore taking Morpheus out of the possible copyright loop. Furthermore, the burden of making sure that any downloaded file or program complied with copyright laws would be placed upon the user and not the company.

Morpheus became so popular that its distributors actually abandoned the file sharing community without notifying its users. Many legal experts believe the company dropped the popular program because they were close to being indicted by the federal government. Some months later, a new program, nearly identical to Morpheus, sprung onto the Internet scene. The name of this program is Kazaa. Some have suggested that, in fact, Morpheus and Kazaa are one in the same. Morpheus was simply used as a shield against indictment. The general theory is that the core engineers of the company left Morpheus and created Kazaa. Any legal actions would have to be taken against Morpheus and not the new Kazaa program, thus allowing them to be one step ahead of the law.

What is the complaint of the RIAA?

The RIAA is a union comprised of musicians, recording artists, and the major record labels that produce and distribute those artists. The purpose of the RIAA is to protect the interests of those artists and labels. The RIAA believes that companies such as Napster hurt the record sales of its artists because Napster-like programs allowed illegal copies of music to be accessed by the public without proper compensation for the artists. It feels that consumers are more compelled to seek free MP3 files that can be burned on to a recordable CD, than to pay full price for a legitimately distributed CD. It also feels that its artists are being cheated because companies within the computer industry are exploiting the products of the musicians.

The RIAA believes that CD sales have slumped because of free music, estimating the lost revenue in the billions of dollars. Whether or not Napster or Morpheus caused the decline of CD sales, one thing is certain: the RIAA does not like being cut out of the music loop. The MP3 revolution completely eliminates the RIAA from getting its share of the profit. Every other form of communications or multimedia pays royalties to the RIAA for sampling their artists’ music. Movies, television, radio, and advertising give the RIAA compensation for allowing them to use copyrighted materials, which is often referred to as intellectual property. The computer industry, before the Napster settlement, gave the RIAA nothing for allowing its copyrighted materials to be downloaded. After the courts ruled against Napster, it changed its format. Customers paid a subscription to use the Napster community. This fee compensated the RIAA and its artists for access to their copyrighted materials. The only songs that could be shared in the community were songs that had been approved by the RIAA. Napster eventually filed for bankruptcy and is no longer in business.

FILE SHARING

The problem, however, has not gone away. New programs, such as Kazaa, allow users to download unauthorized copyrighted materials. The goal of the anti-free music coalition is to create new legislation blocking the use of community sharing programs because these programs inherently lead to copyright law infringements. If these programs were not available, MP3 files would be much harder to distribute illegally in the public domain.

For Further Research

Napster Article:

<http://archive.salon.com/directory/topics/napster/>

Napster Homepage:

<http://www.napster.com>

MusicCity (Creator of Morpheus) Homepage:

<http://www.musiccity.com>

Ruling Against Napster:

<http://www.cnn.com/2000/LAW/09/08/napster.justice/>

United States Code Title 17, Chapters 1-13, the Copyright Act:

<http://caselaw.lp.findlaw.com/cascode/uscodes/17/toc.html>

The Ninth Circuit Court of Appeals Ruling Against Napster:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/9th/0016401.html>

Article About RIAA and College Students:

http://story.news.yahoo.com/news?tmpl=story&u=/usatoday/20030505/tc_usatoday/5128633

Article About the Effects of File Swapping:

http://story.news.yahoo.com/news?tmpl=story&u=/usatoday/20030506/en_usatoday/5131583

Virtual Recordings:

<http://virtualrecordings.com/mp3.htm>

National Music Publishers' Association:

<http://www.nmpa.org/nmpa.html>

Victoria Advocate:

<http://www.thevictoriaadvocate.com/24hour/entertainment/story/483230p-3858621c.html>

The Foundation Center:

http://fdncenter.org/sanfrancisco/spotlight/sf_spotlight_091001.html

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

FILE SHARING

FILE SHARING

Research Questions and Resources

You have been asked by CSA to explain the history of the file sharing issue, to describe its current status, and to project what can be expected in the near future. You must also determine what stand CSA should take on this issue. In order to do this, please prepare answers to the following questions:

1. *What has happened in the file sharing revolution so far?*

Napster Article:

<http://archive.salon.com/directory/topics/napster/>

2. *What has happened between Napster and the RIAA?*

Virtual Recordings:

<http://virtualrecordings.com/mp3.htm>

3. *What significant federal laws pertain to this conflict?*

MusicCity (Creator of Morpheus) Homepage:

<http://www.musiccity.com>

United States Code Title 17, Chapters 1-13, the Copyright Act:

<http://caselaw.lp.findlaw.com/cascode/uscodes/17/toc.html>

4. *What significant judicial cases or other decisions were reached in regard to this conflict?*

Ruling Against Napster:

<http://www.cnn.com/2000/LAW/09/08/napster.justice/>

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

5. *What were the outcomes of these decisions?*

United States Code Title 17, Chapters 1-13, the Copyright Act:

<http://caselaw.lp.findlaw.com/cascode/uscodes/17/toc.html>

Ruling Against Napster:

<http://www.cnn.com/2000/LAW/09/08/napster.justice/>

Cornell University for Case Reviews:

<http://www.law.cornell.edu/>

FILE SHARING

6. *Has any legal recourse been taken against these businesses?*

The Ninth Circuit Court of Appeals Ruling Against Napster:

<http://caselaw.lp.findlaw.com/scripts/getcase.pl?navby=search&case=/data2/circs/9th/0016401.html>

7. *Did the court decision resolve the conflict?*

Article About Kazaa and RIAA:

http://story.news.yahoo.com/news?templ=story&u=/usatoday/20030505/tc_usatoday/5128633

8. *How are the Morpheus and Kazaa programs different from the Napster program?*

Virtual Recordings:

<http://virtualrecordings.com/mp3.htm>

Article About Effects of File Swapping:

http://story.news.yahoo.com/news?templ=story&u=usatoday/20030506/en_usatoday/5131583

9. *How will these differences affect future lawsuits?*

National Music Publishers' Association:

<http://ww.nmpa.org/nmpa.html>

10. *How will these differences affect future legislation?*

Victoria Advocate:

<http://www.thevictoriaadvocate.com/24hour/entertainment/story/483230p-3858621c.html>
http://story.news.yahoo.com/news?templ=story&u=/usatoday/20030505/tc_usatoday/5128633

11. *Are the second-generation programs (Morpheus and Kazaa) illegal?*

The Foundation Center:

http://fdncenter.org/sanfrancisco/spotlight/sf_spotlight_091001.html

12. *Are the federal laws and judicial decisions made about file sharing being enforced?*

Article About the Effects of File Swapping:

http://story.news.yahoo.com/news?templ=story&u=/usatoday/20030506/en_usatoday/5131583

FILE SHARING**POLICY STATEMENT: FILE SHARING**

- 1) We propose that CSA support the following position:
- 2) We choose this position because:
- 3) The ways this position supports the CSA mission statement are:

GUN CONTROL

GUN CONTROL

Issue Overview

On April 9, 2003, the U.S. House of Representatives voted 285-140 to pass H.R. 1036, a bill that effectively exempts the gun industry from current and future lawsuits. Sixty-eight Democrats joined with Republican colleagues to pass the bill. The Senate will now take up the measure. A number of lawsuits filed by American states, cities, municipalities, and individuals against gun makers and distributors could potentially be dismissed if this legislation passes. H.R. 1036, known as the “Protection of Lawful Commerce in Arms Act,” seeks to

- **Prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products for the harm caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended**
- **Preserve a citizen’s access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting**
- **Guarantee a citizen’s rights, privileges, and immunities, as applied to the states, under the Fourteenth Amendment to the Constitution, pursuant to Section 5 of that amendment**

The gun control issue has been hotly debated for the last 10 years, and is one of the most heavily lobbied issues in Congress. Historically, gun control vs. gun rights has been a partisan issue. The Democratic Party and liberal organizations have mainly supported gun control, while the Republican Party and conservative groups have fiercely defended an individual’s gun rights. The political contributions given to each side of the gun control issue demonstrate this partisan split. From 1990 to 2000, gun control PACs have donated \$1.3 million in soft money to congressional representatives. Approximately 92% of the contributions went to Democrats. During the same period, gun rights PACs have donated more than \$13 million in soft money to congressional representatives, with more than 90% of the contributions going to Republicans.

What has happened so far in the gun control movement?

Tragic national events, such as the assassinations of Robert Kennedy, Martin Luther King, and John Lennon, and the shootings at Columbine High School in Littleton, Colorado, have fueled the resolve of members of the gun control movement. Since the 1960s, gun control advocates have successfully lobbied several pieces of legislation through Congress. In 1968, Congress passed the Gun Control Act, and in later congressional sessions, approved the National Firearms Act and the Arms Export Control Act. In 1993, Congress passed the Brady Handgun Violence Prevention Act, which obligates handgun vendors to conduct instant national criminal background checks on all firearms sales or transfers. Gun control lobbyists have also passed many state and local laws, which limit criminals and minors from receiving firearms. Yet, studies have shown that gun control legislation has done little to curb gun violence. An overwhelming majority of guns used to commit crimes are purchased illegally and are not registered.

GUN CONTROL

Where have gun control advocates taken their fight?

Gun control advocates have taken their battle to the courts and have begun filing civil suits against gun manufacturers. In a 1994 landmark civil case, *Merrill v. Navegar, Inc.*, the victims and families of a downtown San Francisco shooting spree filed suit against the makers of TEC-9 military assault pistols, which were used in the crime. The case was finally decided in 2002 by the California Supreme Court. Although the case failed to hold the makers of the TEC-9 responsible for marketing violent weapons to criminals, this case has opened a floodgate of litigation against gun manufacturers nationwide.

What is the legal basis for gun rights advocates against gun control?

The legal basis for gun rights advocates comes directly from the Constitution. The Second Amendment states, “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” Gun rights lobbyists firmly believe that the clause “the right of the people to keep and bear arms” allows individual citizens to own firearms for leisure activities, such as hunting and skeet shooting, or for their personal protection. To gun rights lobbyists, attempts to enact gun control legislation violates the Second Amendment. The strongest and most vocal gun rights organization is the National Rifle Association (NRA). The NRA lobbies against gun control legislation that is presented to Congress. Similarly, the NRA and other gun rights groups actively lobby state and local legislators to prevent gun control at the state and local levels. Furthermore, much like the gun control lobbyists, gun rights advocates have taken their battle to the courts in order to protect gun manufacturers.

For Further Research

The Brady Campaign to Prevent Gun Violence:
<http://www.handguncontrol.org/>

The Jurist — Pittsburgh University Law School Journal — Gun Laws, Gun Control, and Gun Rights:
<http://jurist.law.pitt.edu/gunlaw.htm>

Gun Control vs. Gun Rights:
<http://www.opensecrets.org/news/guns/>

The ACLU's Stance on Gun Control:
<http://archive.aclu.org/library/aaguns.html>

Gun Control in the United States: A Comparative Survey of State Firearm Laws:
<http://www.soros.org/crime/guncontrol.htm>

Facts About Gun Control:
http://www.justfacts.com/gun_control.htm

ATF Online: Firearms:
<http://www.atf.treas.gov/firearms/index.htm>

GUN CONTROL

U.S. Ninth Circuit Court of Appeals: *Nordyke v. King*:

<http://www.potowmack.org/nordyke.html>

National Center for Policy Analysis:

<http://www.ncpa.org/bothside/crime.html>

Student Pledge Against Gun Violence:

<http://www.pledge.org/>

UCLA Law School— Sources on the Second Amendment and the Right to Bear Arms:

<http://www1.law.ucla.edu/~volokh/2amteach/sources.htm#TOC36>

National Rifle Association:

<http://www.nra.org/>

National Rifle Association Institute for Legislative Action:

<http://www.nraila.org/index.asp>

Gun Rights Directory:

<http://www.free-market.net/directorybycategory/homepages/T10/#1>

The Libertarian Party's Stance on Gun Rights:

<http://www.lp.org/issues/gun-rights.html>

Women for Gun Rights:

<http://www.womenshooters.com/>

The Firearm News Network:

<http://www.firearmnews.com/>

The Legal Action Project:

<http://www.gunlawsuits.org/docket/>

Connected for Kids:

http://www.connectforkids.org/usr_doc/newcolumbine.html

GUN CONTROL

GUN CONTROL

Research Questions and Resources

You have been asked by CSA to explain the history of the gun control issue, to describe its current status, and to project what can be expected in the near future. You must also determine what stand CSA should take on this issue. In order to do this, please prepare answers to the following questions:

1. What steps have been taken to create gun control?

Facts About Gun Control:

http://www.justfacts.com/gun_control.htm

National Center for Policy Analysis:

<http://www.ncpa.org/bothside/crime.html>

2. What has Congress done thus far about gun control and gun rights?

The Jurist — Pittsburgh University Law School Journal — Gun Laws, Gun Control, and Gun Rights:

<http://jurist.law.pitt.edu/gunlaw.htm>

Gun Control vs. Gun Rights:

<http://www.opensecrets.org/news/guns/>

3. What significant federal laws pertain to gun control and gun rights?

UCLA Law School — Sources on the Second Amendment and the Right to Bear Arms:

<http://www1.law.ucla.edu/~volokh/2amteach/sources.html#TOC36>

The Jurist — Pittsburgh University Law School Journal — Gun Laws, Gun Control, and Gun Rights:

<http://jurist.law.pitt.edu/gunlaw.htm>

4. What kinds of court challenges have occurred regarding gun control and gun rights?

The Legal Action Project:

<http://www.gunlawsuits.org/docket/>

U.S. Ninth Circuit Court of Appeals: *Nordyke v. King*:

<http://www.potowmack.org/nordyke.html>

5. Did the court decisions resolve the conflicts?

The Legal Action Project:

<http://www.gunlawsuits.org/docket/>

U.S. Ninth Circuit Court of Appeals: *Nordyke v. King*:

<http://www.potowmack.org/nordyke.html>

National Rifle Association Institute for Legislative Action:

<http://www.nraila.org/index.asp>

GUN CONTROL

6. *What provisions exist in the Constitution regarding gun control and gun rights?*

UCLA Law School—Sources on the Second Amendment and the Right to Bear Arms:

<http://www1.law.ucla.edu/~volokh/2amteach/sources.htm>TOC36

7. *How have executive orders affected gun control and gun rights?*

National Center for Policy Analysis:

<http://www.ncpa.org/bothsides/crime.html>

8. *What congressional, public, or academic support exists for gun control?*

Student Pledge Against Gun Violence:

<http://www.pledge.org/>

The Brady Campaign to Prevent Gun Violence:

<http://www.handguncontrol.org/>

Gun Control vs. Gun Rights:

<http://www.opensecrets.org/news/guns/>

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National Rifle Association:

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The Firearm News Network:

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Women for Gun Rights:

<http://www.womensshooters.com/>

Gun Rights Directory:

<http://www.free-market.net/directorybycategory/homepages/T10/#1>

10. *What current legislation is being considered regarding gun control and gun rights?*

National Rifle Association Institute for Legislative Action:

<http://www.nraila.org/index.asp>

The Jurist—Pittsburgh University Law School Journal—Gun Laws, Gun Control, and Gun Rights:

<http://jurist.law.pitt.edu/gunlaw.htm>

11. *How does this conflict relate to high school students?*

Student Pledge Against Gun Violence:

<http://www.pledge.org/>

Connected for Kids:

http://www.connectforkids.org/usr_doc/newcolumbine.html

GUN CONTROL**POLICY STATEMENT: GUN CONTROL**

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C O U N C I L O F S T U D E N T A D V O C A T E S

CSA MISSION

The Council of Student Advocates represents the interests of high school students throughout the United States.

CSA works in partnership with state and national government to create public policy pertaining to issues the CSA members have deemed critical to their interests, and to the protection and enhancement of our quality of life now and in the future.

CSA advocates for education, juvenile justice, communications and technology, and social welfare as these issues affect high school students.

TO: Chief Lobbyists
FROM: Richard Barley, Director, Council of Student Advocates
RE: Suggested Legislative Action

Thank you for your research and suggestions on the position we should take regarding this recent controversial issue. Our membership has reviewed your findings, and we support your suggested position on the issue.

I have been asked by our membership to pursue a solution to this problem. However, I cannot do this without the support of lobbyists. The CSA board of directors has decided to cut our research staff in order to add staff to our lobbying team. We are transferring you to the lobbying office, where you will be expected to bring about the policy changes you encouraged CSA to support.

Please provide us with the following:

- 1) A description of a bill that supports our position and paraphrases what our bill will say, and
- 2) A strategy that will get our legislation passed.

Once again, you can follow the pattern of the enclosed medical marijuana example.

Use this entry document if
you bypass the research
portion of the unit



C O U N C I L O F S T U D E N T A D V O C A T E S

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Please follow the example of the enclosed medical marijuana report.

MEDICAL MARIJUANA

Legislative Process for Preventing Legalization of Medical Marijuana

How do we enact change?

We are seeking legislation to halt the use of marijuana for medical purposes, and to prevent primary caregivers from providing marijuana for patients in their care.

The easiest way to create legislation is by gaining the support of a congressional representative who will sponsor an anti-medical marijuana bill. This bill will be presented to Congress for debate and vote.

By passing the 1970 Controlled Substance Act, Congress showed its support for the anti-marijuana cause. The U.S. Supreme Court in 2001 has reinforced this stand. We seek to bolster our cause by getting Congress to approve a bill that summarily rejects marijuana as a medicine.

How do we get our legislation started?

The first step in getting our legislation passed is to garner the support of a member of Congress. Our sponsoring member can be either from the House of Representatives or the Senate. Since there are currently anti-marijuana bills on the record, congressional committees on our side, and strong judiciary and executive support, we can lobby a number of organizations and elected representatives in order to get our legislation reviewed on Capitol Hill.

What will our bill say?

S-7457: Dismantling of medical marijuana and “cannabis clubs”

Congress declares that

- (a) Marijuana contains no medical benefits.
- (b) Any state that has legalized marijuana for medical means is violating Section 801 of the Controlled Substance Abuse Act. The U.S. Supreme Court has ruled in *United States v. Oakland Cannabis Buyer's Cooperative* by a vote of 8-0 that any law, such as California's Section 11362.5 of the Health and Safety Code, has not created a federal exception to the Controlled Substance Act. Therefore, there are no legal grounds for cannabis clubs to operate in the United States.
- (c) Although cannabis clubs are illegal, little has been done to dismantle them. Congress declares that state and federal agencies must reduce the capacity of cannabis clubs to function by the year 2010. This goal will be achieved through a cooperative effort between state and federal drug enforcement agencies.
- (d) In order to generate the necessary enforcement of marijuana trafficking and distribution laws, \$25 million has been allotted to the Drug Enforcement Agency for the fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007.

Should we send our proposal to the Senate or the House of Representatives?

We should send our proposal to both chambers of Congress. By sending our bill to both houses, we greatly increase the chances that one of our proposals will be approved. The fact that we can send the bill to either house will prove crucial further into the process, because a bill may be postponed in either house for any number of reasons. If our proposal gets stuck in committee in the Senate, it does not necessarily mean our proposal will be burdened in the House of Representatives. The houses are independent of one another, and each house decides which bills are to be reviewed.

What are the different types of proposals we can sponsor?

A proposed measure may come in one of four forms:

- 1) A bill, which starts in either the House or the Senate, must receive a majority vote by both houses and be signed by the President. It is the most common measure.
- 2) A joint resolution, which also can start in either house, must receive a two-thirds majority vote in both houses. This measure goes straight to the Administrator of General Services to be put directly into law, and does not need the authorization or signature of the President.
- 3) A concurrent resolution, which is enacted by both houses at the same time, deals with matters that directly affect the operations of the House of Representatives and the Senate.
- 4) A simple resolution, which pertains to only one house, usually decides the rules that govern the debates over bills within that house.

What kind of proposal shall we employ?

Although we will be sending our proposal to both houses of Congress, we should not attempt to create a joint resolution. A joint resolution requires a hefty two-thirds majority of both houses. This is a very tall order, no matter how much support one may have. Furthermore, joint resolutions are usually reserved for very important issues or bills that the President refuses to sign. A resolution may not be necessary since a Republican president probably would support our cause. Although our issue is important, it is not crucial to the survival of the nation. A regular bill will suit our needs perfectly. We must also consider the fact that we only need a simple majority to pass a bill.

How do we get our proposal into the congressional system so that it can be voted on?

A proposal must first be given to a member of Congress. Since our proposal is going to both houses of Congress, we must get both a member of the House and a Senator to sponsor our bill. In fact, they will each be sponsoring independent bills. They will have no real connection to each other, because the houses do not share bills or any other part of the decision-making process until one house has already approved the bill. Our congressional representatives will each sign the proposal and introduce it into legislation. Our proposals will be given a number HR-### (in the House of Representatives) or S-### (in the Senate), and then filed with the appropriate chamber clerk.

The House clerk and Senate clerk will each transform our proposal into bill form. In the House, the bill is given to the Speaker of the House; in the Senate, the bill is given to the Majority Leader. Each leader will decide the appropriate committee to address the bill.

What is a congressional committee and what effect does it have on our bill?

Congressional committees are a key part of the legislative process. A congressional committee is a smaller group of house members or senators, who deal with specific types of legislation.

Committees are an essential part of the legislative process because they delegate specific aspects of government to a small group of highly knowledgeable legislators. This ensures that the most qualified and educated legislators deal with the issues that directly pertain to their expertise. Bills are generally referred to the committee with jurisdiction over the content of the bill. If the bill might logically fall into more than one committee's jurisdiction, the Speaker exercises a good deal of power in deciding which committee will get the bill.

A committee's main function is to scrutinize a bill before it is debated on the House or Senate floor. In fact, congressional committees decide if Congress will address the issue at all. Committees are made up of subcommittees, and bills are generally sent to subcommittees for consideration before they are reviewed by the full committee. Most bills die at this point in the process, as subcommittees table the bill or some members actively block the bill. Bills that subcommittees decide to consider have hearings — testimony from experts, interest groups, Executive Department secretaries, and other members of Congress. The subcommittee deliberates and votes the bill back to the full committee.

A committee will usually hold hearings again on the bill. In this case, Congress is investigating medical marijuana. Therefore, they will hear expert testimony from leading scientists, advocates, law enforcement agents, and a host of other authorities on the issue, often repeating the subcommittee hearings. When the committee members feel they have sufficiently examined the issue, they will decide what to do. They could do nothing and drop the matter. They could also choose to table the issue for a later session, or proceed with a “mark-up” session.

In a “mark-up” session, the committee picks over the bill with a fine-toothed comb. They look at the language used in the bill, discuss its merits, and decide whether or not any amendments should be added. During this phase of the legislative process, a bill may change greatly from its original or intended form. It is solely up to the committee to decide how the bill will be presented to the House or Senate floor. A “mark up” session is the most intensive part of the legislative process. This is the period that can make or break a bill because the committee dictates how strong or dynamic a bill will be. If a relatively weak or unorganized bill is agreed upon, it will stand little chance of getting through a congressional debate.

In the past, the majority of congressional committees have supported our cause. In the House of Representatives, the issue has come before the Government Reform and Oversight Committee and the Judiciary Committee. In both instances, the committee rejected the call for reform on the medical marijuana stance. Senate committees — including the Health, Education, Labor, and Pensions Committee and the Commerce, Science, and Transportation Committee — have held similar hearings with the same result. Based on these facts, we can surmise that any number of committees would support a proactive rejection of medical marijuana.

When the details of our bill are finally decided, the committee will take a final vote. If the committee approves the bill, a thorough report will be developed based upon the committee's hearings. The subsequent report will be given to members of Congress to review before the debate. A floor debate date will be set. In the House, the Rules Committee, which is highly responsive to the Speaker of the House, sets the calendar. In the Senate, floor debate is determined by the date a bill passed out of committee.

How do we gain support for our bill?

It is now our job to get support for our bill. First and most rudimentary, we can call the offices of members of Congress and remind them of when our bill is being debated and voted upon. Washington is a very busy place. Often there are several issues or decisions being made at the same time. Promoting general awareness among congressional members can make a credible difference in passing a bill.

Second, we can try to garner support from interest groups that believe in maintaining a ban on medical marijuana. We have very strong support from major medical and law enforcement advocacy groups. These organizations include the American Medical Association, American Cancer Society, National Multiple Sclerosis Association, American Glaucoma Association, National Institute for Neurological Disease and Stroke, California Narcotics Officer's Association, New York Sheriff's Association, and many others.

Third, and perhaps most important, it is up to our congressional sponsors to raise awareness about our issue. Our senator and representative must have congressional staff on the phones and in the chambers drumming up support for our bill. Favors, such as voting for a colleague's legislation, may be cashed in as support for our bill. Furthermore, our senator or representative must champion our cause and be ready to defend its merits.

What happens during a debate on the floor of Congress?

The process of debating a bill is different in the Senate than it is in the House of Representatives. On the whole, the Senate is more lax about their rules of debate. Filibustering is allowed, and it often can slow the legislative process to a halt. Furthermore, the Senate does not usually put limits on the rules of debate. The House of Representatives, on the other hand, has over 300 more members, so it must be more particular as to how the debate will be handled. Limits on the time of debate, number of pro or con speeches, etc. must be determined before the debate begins. The Speaker of the House, or the Majority Leader in the Senate, sets the rules for debate. Members of Congress can also submit simple resolutions which may contain the rules for how a particular debate will be conducted.

After the parameters of debate are decided upon, members of Congress will test the bill's merits. The pro and con arguments will be heard. It is hard to say how long or how hard a bill may be debated. It varies depending upon the importance of the issue and how many congressional representatives are present during the debate.

Voting on the bill's amendments is a crucial part of the debate. Senators or representatives may make motions on whether to add an amendment or not. Amendments, often referred to as "riders," can have a great impact on legislation. A "rider" from the opposition can take the strength out of a bill or make the bill undesirable. This type of rider is called a "poison pill." These riders may have nothing to do with the legislation they are attached to. (State legislative bodies sometimes operate differently than Congress. Some state governments have provisions to limit riders to issues that relate solely to the bill. This is not the case with Congress.) Once the amendments have been decided upon, the bill is ready for a vote.

The houses can "recommit" a bill. This means the bill will be sent back to committee to be reinvestigated in the hope that a new, better bill will be developed. If the houses decide to go ahead with the vote, there are several acceptable ways of casting a vote. Sometimes an informal call vote will be held, in which no actual votes are cast. Representatives or senators simply yell out

their votes. A raise of hands can be called for if the vote seems close. Informal calls are for bills that either have little opposition, or are voted on by only a small number of representatives. A formal ballot vote is the normal option for a high-profile bill. In this case, a timetable will be created for how long the vote will go on. The vote of each representative or senator is formally recorded, and these votes are published in the respective house's daily journal.

How does the bill get to the other chamber of Congress?

If a majority of representatives approves our bill, it will be sent to the Senate for consideration. The Senate can send our bill to committee or straight to the floor. Whatever the Senate does with the bill, it must approve the exact same bill as the one approved by the House. If the Senate amends the bill and approves it, the bill must go back to the House, and the newly amended bill must be voted on. Sometimes bills can bounce back and forth between the Senate and House several times in several different forms. Basically, whichever chamber approves the bill first gives the bill to the other house. If both bills pass, they may be given to a joint committee. This committee is called a Conference Committee and is made up of select members from the House and Senate. This committee will decide on one comprehensive bill. This bill will be sent back to the floors of both houses to be voted on again. It must be voted on in the exact form approved by the joint committee. Assuming both houses have agreed on the same bill, it will be submitted to the President for his approval.

What options does the President have?

The President can sign the bill into law if he supports its merits. He can also allow it to become law without a signature on the bill. In this case, the President will hold onto the bill without signing it, and the bill will become law automatically after 10 legislative days. Presidents often use this tactic when they know there is a chance of a veto override but they want to go on record as not approving of the legislation. The President can also pocket-veto the bill, which means he simply holds onto the bill until the current session of Congress ends, assuming he receives the bill with less than 10 days left in the legislative session. A pocket veto refers to the President's authority to kill a bill submitted within 10 days of the end of a legislative session by not signing it. Pocket vetoes cannot be overridden because Congress has adjourned. In this case, Congress has to wait until the next session to create a new bill and pass it through both houses again. A president can outright veto a bill as well. In this case, the bill is sent back to the house from which it originated with a letter from the President explaining his objections to the bill. Congress can override a veto, but it takes a two-thirds majority vote of both houses to do so.

What are the chances our bill would make it all the way through the legislative process?

Fewer than 10% of the bills presented to Congress ever make it into law. However, we actually have a very good chance of getting our legislation passed. Simply stated, we are asking the federal government to reaffirm something that it already believes in. This may sound redundant, but it is not unusual for a bill like ours to be presented as legislation — even though similar bills are already on the congressional record. We are simply helping to better define Congress's stance on medical marijuana so that it would be difficult for other federal and state branches, such as the judicial branch, to misinterpret the government's ban on marijuana for medical purposes.

Medical marijuana may benefit AIDS and cancer patients, but it also creates many problems for government institutions and American citizens. Many government agencies — such as the FBI, the DEA, and the Office of the Attorney General — would be affected by medical marijuana legalization. Law enforcement officials would be forced to spend millions of dollars regulating marijuana traffic for non-medical purposes. Furthermore, as of today there is no mechanism to detect if a person has been smoking marijuana. This means that police would not have a way of telling if a driver is under the influence of marijuana. The passage of legislation to allow for medical use of marijuana would make non-medical marijuana traffic more difficult to control and prosecute. Parents who have lost children due to drug overdoses will be very critical of any law that legalizes any narcotic for any use. Due to this burden, we could expect strong lobbying allies and outright support from congressional members.

MEDICAL MARIJUANA

Legislative Process for Legalization of Medical Marijuana

How do we enact change?

In this case, we are seeking legislation to ensure a patient's right to use marijuana for medical purposes, and furthermore, to allow primary caregivers the right to provide marijuana to patients.

The easiest way to create legislation is by gaining the support of a congressional representative who will sponsor a medical marijuana bill that will be presented to Congress.

In the Oakland Cannabis Buyers Cooperative case, the Supreme Court specified that an exception could be created if government-sponsored scientific research proved that marijuana has medical benefits.

How do we get our legislation started?

We must persuade a member of Congress to sponsor a bill that would create government-sponsored research on the benefits of marijuana as a medicine. This research would deal specifically with the benefits of marijuana to AIDS and cancer patients.

If the subsequent government-sponsored research found that marijuana possessed benefits to AIDS and cancer patients, the Supreme Court's decision in the Oakland Cannabis Buyers Cooperative case would be severely undermined. Our legislation would then have created an exception to the Section 801 Controlled Substance Act.

What will our bill say?

HR21105: Research on the benefits of medical marijuana for AIDS, cancer, and multiple sclerosis patients

Due to the public outcry and subsequent passing of state laws allowing the use of marijuana for medical purposes, the secretary requests that research be done on the benefits of medical marijuana for AIDS, cancer, and multiple sclerosis patients. Research shall be conducted specifically on the relationship between *tetrahydrocannabinol* (THC) and the ability to stimulate a patient's appetite. This research shall be conducted by a government-sponsored organization and shall comply with all known and accepted scientific methodologies.

- (a) The purpose of this research is to give definitive proof on the issue of medical marijuana. Congress seeks resolution on the medical marijuana issue, which has been disputed in state legislatures and federal courts.
- (b) This research will also determine the safest and most cost-effective manner of consuming marijuana. Furthermore, research will help determine if an oral pill-form can be developed.
- (c) If research can definitively prove that marijuana has benefits as a medicine, Congress will determine if marijuana has cause to be taken off the 801 Controlled Substances Act's list of Schedule I controlled substances.
- (d) For the purpose of providing the assistance required by this subsection, \$1 million has been allotted for research on medical marijuana for the fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004, 2005, 2006, and 2007.

What are the different steps a bill must go through in order to be passed by both houses of Congress?

The first step in getting legislation created at the federal level is to enlist the support and sponsorship of a U.S. congressional representative. A bill may be brought to either the House of Representatives or the Senate, or to both houses if one has strong support.

A proposed measure may come in one of four forms:

- 1) A bill, which starts in either the House or the Senate, must receive a majority vote by both houses and be signed by the President. It is the most common measure.
- 2) A joint resolution, which also can start in either house, must receive a two-thirds majority vote in both houses. This measure goes straight to the Administrator of General Services to be put directly into law, and does not need the authorization or signature of the President.
- 3) A concurrent resolution, which is enacted by both houses at the same time, deals with matters that directly affect the operations of the House of Representatives and the Senate.
- 4) A simple resolution, which pertains to only one house, usually decides the rules that govern the debates over bills within that house.

What type of measure shall we propose?

A bill seems the most reasonable choice. In general, the medical marijuana issue is very weak at the national level. Only a handful of states have laws that legalize the use of medical marijuana. There are currently no federal laws that lend any credence to the medical marijuana campaign. Therefore, we cannot expect to garner an overwhelming majority of support from representatives. With these facts in mind, we must choose the form that needs the least amount of support in order to succeed. A bill is the best way to go.

Should we take our proposal to the House of Representatives or the Senate?

Deciding which is the correct house for our proposal is key to our chances of successfully passing our legislation. In this case, we would like immediate change in federal procedure so that patients can receive marijuana for medical treatments. Since time is a factor, we should send our proposal to the House because it has a reputation for getting legislation passed more quickly.

The prevailing notion on Capitol Hill is that the House of Representatives approves legislation faster than the Senate. The reason is quite simple: representatives serve a two-year term in office, while senators serve a six-year term. Basically, representatives have a greater incentive to see bills get passed because their constituencies need to see that they have tackled serious issues while in office. Senators, on the other hand, have six years to kick ideas and proposals around. Furthermore, the Senate is much more lax with their rules of debate. This means they can spend far more time picking over issues and bills. Therefore, we should concentrate our efforts on getting our bill through the House of Representatives.

How does our bill get to the floor of the House of Representatives in order to be voted on?

The next step in the legislative process is to file our proposal. It is drafted and presented to our sponsoring representative. The sponsoring representative then presents the bill to the House Clerk. The House Clerk retypes the proposal into “bill form” and gives it a number. Our proposal will be given a number HR-### to identify it as a House bill. Senate bills are identified as S-###. The bill is

then given to the Speaker of the House, who in turn, delegates the bill to the appropriate committee for consideration.

Our bill must now go to committee before it ever has a chance of getting to the floor of the House of Representatives. Our bill would most likely go to a committee that deals with health and science issues.

What happens in a congressional committee?

A congressional committee is a smaller group of House or Senate members who deal with specific types of legislation. Committees are an essential part of the legislative process because they delegate specific aspects of government to a small group of highly knowledgeable legislators. This ensures that the most qualified and educated legislators deal with the issues that directly pertain to their expertise.

The House of Representatives has 20 different committees that range in purpose to meet all of the responsibilities of the legislative branch. The Speaker of the House decides which committees get which bills, and can send the bill wherever he likes. Where a bill is sent can greatly determine its outcome. Some committees are conservative, others liberal, and some are bipartisan. The committee is where “politics” really start to come into play. The Speaker can often help a bill get started by sending it to a committee that will treat it favorably, but this favor might cost our representative a vote for another issue somewhere down the road.

If our bill is sent to an undesirable (in the medical marijuana case, a conservative) committee, our bill can be stuck there for a very long time. The committee chairman decides which bills are looked at and which ones get left in the pile. If a particular committee chairman chooses to ignore the medical marijuana issue, it may never get to the House floor.

The issue of medical marijuana has been brought before several House and Senate committees. In the House of Representatives, the Judiciary Committee and the Committee on Government Reform have both recently held hearings on medical marijuana, but no pro response has come from either of those committees. This is probably because both committees have strong ties to law enforcement and the judicial system. A best-case scenario would be that our bill goes to a committee that does not have law enforcement ties. A good committee might be the Science Committee.

Committees are made up of subcommittees, and bills are generally sent to subcommittees for consideration before they are reviewed by the full committee. Most bills die at this point in the process, as subcommittees table the bill or some members actively block the bill. Bills that subcommittees decide to consider have hearings — testimony from experts, interest groups, Executive Department secretaries, and other members of Congress. The subcommittee deliberates and votes the bill back to the full committee.

Once a bill has been handed to committee, it is the job of the committee to thoroughly scrutinize the bill. The committee holds public hearings similar to those held by the subcommittee. In these hearings, experts and witnesses from both sides of the issue testify and answer questions. The committee, and in many cases a subcommittee, decides the language of the bill and whether or not any amendments will be added.

After the language and amendments have been decided, the committee conducts one last vote to approve the final bill, and it then goes to the House floor for debate. The committee can also decide to end the investigation without sending a bill to the floor, or table the issue until another session.

What happens to our bill when it finally is debated on the House floor?

How a particular bill is treated on the House floor varies widely, depending upon the issue and circumstances. A number of factors—such as the importance of the issue, date of the vote, partisan rally of support, or upcoming elections—are determinants that can affect the outcome of the vote.

In the House, either the Speaker or simple resolutions set the rules of debate. If a resolution specifies the terms of debate, the process specified must be voted on by the representatives. Once the parameters of the debate have been set up, the Speaker chooses who addresses the House, but usually both pro and con are allotted time to plead their case.

The next step is to add amendments. This is another key point in the viability of a bill. “Riders,” which are amendments added to a bill on the floor, can have serious effects on the power and credibility of a particular bill. A weak or erroneous “rider” can often be used by the opposition as a way of degrading support for a bill or shifting the focus away from what is important. This type of rider, if it is intended to kill the bill, is called a “poison pill”.

Once all amendments have been added or defeated, the House decides whether to vote on the bill or not. The House can “recommit” a bill, which means it will be sent back to committee to be reinvestigated in the hope that a new, better bill will be developed. If the House decides to go ahead with the vote, there are several acceptable ways of casting a vote. Sometimes an informal call vote will be held, in which no actual votes are cast. Representatives simply yell out their votes. A raise of hands can be called for if the vote seems close. Informal calls are for bills that either have little opposition, or are voted on by only a small number of representatives. A formal ballot vote is the normal option for a high-profile bill. In this case, a timetable will be created for how long the vote will go on. As the representatives cast their votes, they are formally recorded and reported in the House’s daily journal.

If the House approves our bill, does it go to the Senate?

If we get a majority of representatives to approve our bill, it will be sent to the Senate for consideration. The Senate can send our bill to committee or straight to the floor. Whatever the Senate does with the bill, it must approve the exact bill the House approved. If the Senate amends the bill and approves it, the bill must go back to the House and the Senate-amended bill must be voted on by the House. Sometimes bills can bounce back and forth between the Senate and House several times in different forms. It is also possible that both houses will agree to send the bill to a conference committee made up of select senators and representatives. This committee will reconcile the differences between the two versions of the bill. When agreement is reached, a compromise bill is sent to both houses for a vote. Once the bill has been agreed upon and approved by both houses, it is passed on to the final step in the process, the desk of the President.

What options does the President have?

The President can sign the bill into law if he supports its merits. He can also allow it to become law without a signature on the bill. In this case, the President will hold onto the bill without signing it, and the bill will become law automatically after 10 legislative days. Presidents often use this tactic when they know there is a chance of a veto override but they want to go on record as not approving of the legislation. The President can also pocket-veto the bill, which means he simply holds onto the bill until the current session of Congress ends, assuming he receives the bill with less than 10 days

left in the legislative session. A pocket veto refers to the President's authority to kill a bill submitted within 10 days of the end of a legislative session by not signing it. Pocket vetoes cannot be overridden because Congress has adjourned. In this case, Congress has to wait until the next session to create a new bill and pass it through both houses again. A president can outright veto a bill as well. In this case, the bill is sent back to the house from which it originated with a letter from the President explaining his objections to the bill. Congress can override a veto, but it takes a two-thirds majority vote of both houses to do so.

How long might it take for our bill to become law?

It is really anyone's guess how long or how many times it might take us to get our bill onto one floor of Congress, let alone both. The legislative system was designed so that laws are fairly difficult to get passed. As one can clearly see, there are many rigorous steps. The Founding Fathers felt that if a law were to be created in the United States, it must be able to have the support and strength of merit to last through several intensive steps.

It may take as long as 15 or 20 years to develop a strong enough congressional coalition and lobbying foundation to shift drug policy in the U.S. There are many private and public groups that think the adverse effects of allowing production and sale of marijuana outweigh the benefits gained by AIDS and cancer patients. This will make it very difficult to pass legislation protecting patients' rights to medical marijuana.

Who could we go to for support of our medical marijuana cause?

The struggle to legalize medical marijuana is relatively small as far as national movements go, and the people who are involved and actively support the issue are tenacious in their approach to legalization. Groups such as the November Coalition, WAMM (Women/Men's Alliance for Medical Marijuana), Marijuana Medical Project, and a host of other groups are networks of cancer and AIDS patients and primary caregivers who organize state initiatives around the country. These organizations are grassroots efforts, and are put together by people directly affected by the situation.

In order to have an extensive lobbying network, the medical marijuana movement must gain the support of a broader group of lobbyists. As of yet, no mainstream lobbying organization (such as AARP or ACLU) has stepped forward to join in the medical marijuana cause. If this resource could be tapped, it would mean a good deal more money, publicity, and credibility.

There have been no high-profile politicians who have backed the medical marijuana movement. It is essentially a non-issue in major state and federal elections. It would greatly help the medical marijuana issue if it were taken up during a national election.

MILITARY DRAFT**MILITARY DRAFT****Legislative Process**

You have been asked by CSA to develop a bill that will solve the problems caused by the potential re-institution of the military draft. You must also develop a strategy that will get this legislation passed. Please describe your proposed bill, and explain the legislative process you will use to get the bill passed. You can do this by answering the questions below:

- 1. How do we enact change?**
- 2. How do we get our legislation started?**
- 3. What type of measure shall we propose?**
- 4. What will our bill say?**
- 5. Should we take our proposal to the House of Representatives or to the Senate?**
- 6. What would be the profile of a congressional representative who would sponsor our bill?**
- 7. Is there a congressional representative who would sponsor our bill?**
- 8. What committees are likely to be assigned our bill?**
- 9. Have they recently held hearings, and what were the outcomes of those hearings?**
- 10. What strategies can we develop to get our bill through committee hearings?**
- 11. What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?**
- 12. What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?**
- 13. Can we expect to have broad public support for our legislation?**
- 14. How does our legislation get to the floor of Congress?**
- 15. What happens to our bill after one house approves it?**
- 16. How does our bill get to the President?**
- 17. What options does the President have?**
- 18. How long might it take for us to get our legislation passed?**
- 19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative action can we take?**
 - How could we pass a state law?
 - What is an initiative?
 - What is a referendum?
 - How could we pursue a civil case in federal court?
 - How would we participate in an *Amicus Curiae* brief?
 - How could we change the Constitution to favor our issue?
 - How could an executive order help us?
 - What problems would we have with concurrent powers?

MILITARY DRAFT**Military Draft Web Resources:**

House of Representatives Committees:

<http://www.house.gov/house/CommitteeWWW.html>

Senate Committees:

http://www.senate.gov/committees/comm_about.html

Senate Legislation:

<http://www.senate.gov/legislative/index.html>

House Legislation:

<http://www.house.gov/house/Legproc.html>

California Senate:

<http://info.sen.ca.gov/help/bilinfoh.html>

California Legislation:

http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information

JUVENILE DEATH PENALTY

JUVENILE DEATH PENALTY

Legislative Process

You have been asked by CSA to develop a bill that addresses capital punishment for juvenile offenders. You must also develop a strategy that will get this legislation passed. Please describe your proposed bill, and explain the legislative process you will use to get the bill passed. You can do this by answering the questions below:

1. How do we enact change?
2. How do we get our legislation started?
3. What type of measure shall we propose?
4. What will our bill say?
5. Should we take our proposal to the House of Representatives or to the Senate?
6. What would be the profile of a representative who would sponsor our bill?
7. Is there a representative who would support our bill?
8. What committees are likely to be assigned our bill?
9. Have they recently held hearings, and what were the outcomes of those hearings?
10. What strategies can we develop to get our bill through committee hearings?
11. What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?
12. What interest groups, political parties, government departments, or congressional committees will most likely oppose our legislation?
13. Can we expect to have broad public support for our legislation?
14. How does our bill get to the floor of Congress?
15. What happens to our bill after one house approves it?
16. How does our bill get to the President?
17. What options does the President have?
18. How long might it take for us to get our legislation passed?
19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative actions can we take?
 - How could we pass a state law?
 - What is an initiative?
 - What is a referendum?
 - How could we pursue a civil case in federal court?
 - How would we participate in an *Amicus Curiae* brief?
 - How could we change the Constitution to favor our issue?
 - How could an executive order help us?
 - What problems would we have with concurrent powers?

JUVENILE DEATH PENALTY

Juvenile Death Penalty Web Resources:

House of Representatives Committees:
<http://www.house.gov/house/CommitteeWWW.html>

Ohio Northern University, Professor Streib:
<http://www.law.onu.edu/faculty/streib/juvdeath.htm>
<http://www.law.duke.edu/journals/lcp/articles/lcp61dAutumn1998p55.htm>

Amnesty International:
<http://www.amnestyusa.org/abolish/juvexec.html>
<http://www.amnestyusa.org>

Justice Learning:
<http://www.justicelearning.org/>
<http://justice.policy.net/ipa/>

American Civil Liberties Union:
<http://www.aclu.org/death-penalty/>

Justice for All:
<http://www.prodeathpenalty.com>

Ethics Update Death Penalty:
<http://ethics.acusd.edu/Applied/deathpenalty/>

East Tennessee State:
<http://faculty.etsu.edu/blankenm/deathlinks.htm>

Eastern Kentucky University Department of Justice and Political Science:
<http://dpa.state.ky.us/library/advocate/nov99/juvdp.html>

Freedom House:
<http://www.freedomhouse.org>

Coordinating Council on Juvenile Justice and Delinquency Prevention:
<http://www.ncjrs.org/html/ojjdp/coordcouncil>

Cornell University for Case Reviews:
<http://www.law.cornell.edu/>

FILE SHARING

FILE SHARING

Legislative Process

You have been asked by CSA to develop a bill that solves the problems caused by the digital music revolution. You must also develop a strategy that will get this legislation passed. Please describe your proposed bill, and explain the legislative process you will use to get the bill passed. You can do this by answering the questions below:

1. How do we enact change?
2. How do we get our legislation started?
3. What type of measure shall we propose?
4. What will our bill say?
5. Should we take our proposal to the House of Representatives or to the Senate?
6. What would be the profile of a representative who would sponsor our bill?
7. Is there a congressional representative who would sponsor our bill?
8. What committees are likely to be assigned our legislation?
9. Have they recently held hearings, and what were the outcomes of those hearings?
10. What strategies can we develop to get our bill through committee hearings?
11. What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?
12. What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?
13. Can we expect to have broad public support for our legislation?
14. How does our legislation get to the floor of Congress?
15. What happens to our bill after one house approves it?
16. How does our bill get to the President?
17. What options does the President have?
18. How long might it take for us to get our legislation passed?
19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative actions can we take?
 - How could we pass a state law?
 - What is an initiative?
 - What is a referendum?
 - How could we pursue a civil case in federal court?
 - How would we participate in an *Amicus Curiae* brief?
 - How could we change the Constitution to favor our issue?
 - How could an executive order help us?
 - What problems would we have with concurrent powers?

FILE SHARING**File Sharing Web Resources:**

Senate Committees:

http://www.senate.gov/committees/comm_about.html

Senate Legislation:

<http://www.senate.gov/legislative/index.html>

House Legislation:

<http://www.house.gov/house/Legproc.html>

California Senate:

<http://info.sen.ca.gov/help/bilinfoh.html>

California Legislation:

http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information

GUN CONTROL

GUN CONTROL

Legislative Process

You have been asked by CSA to develop a bill that solves the problem of gun control. You must also develop a strategy that will get this legislation passed. Please describe your proposed bill, and explain the legislative process you will use to get the bill passed. You can do this by answering the questions below:

1. How do we enact change?
2. How do we get our legislation started?
3. What type of measure shall we propose?
4. What will our bill say?
5. Should we take our proposal to the House of Representatives or to the Senate?
6. What would be the profile of a representative who would sponsor our bill?
7. Is there a congressional representative who would sponsor our bill?
8. What committees are likely to be assigned our bill?
9. Have they recently held hearings, and what were the outcomes of those hearings?
10. What strategies can we develop to get our bill through committee hearings?
11. What interest groups, religious groups, political parties, government departments, or congressional committees can we turn to support our cause?
12. What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?
13. Can we expect to have broad public support for our legislation?
14. How does our legislation get to the floor of Congress?
15. What happens to our bill after one house approves it?
16. How does our bill get to the President?
17. What options does the President have?
18. How long might it take for us to get our legislation passed?
19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative actions can we take?
 - How could we pass a state law?
 - What is an initiative?
 - What is a referendum?
 - How could we pursue a civil case in federal court?
 - How would we participate in an *Amicus Curiae* brief?
 - How could we change the Constitution to favor our issue?
 - How could an executive order help us?
 - What problems would we have with concurrent powers?

GUN CONTROL

Gun Control Web Resources:

Senate Committees:

http://www.senate.gov/committees/comm_about.html

Senate Legislation:

<http://www.senate.gov/legislative/index.html>

House Legislation:

<http://www.house.gov/house/Legproc.html>

California Senate:

<http://info.sen.ca.gov/help/bilinfoh.html>

California Legislation:

http://info.sen.ca.gov/cgi-bin/pagequery?type=sen_bilinfo&site=sen&title=Bill+Information



C O U N C I L O F S T U D E N T A D V O C A T E S

CSA MISSION

The Council of Student Advocates represents the interests of high school students throughout the United States.

CSA works in partnership with state and national government to create public policy pertaining to issues the CSA members have deemed critical to their interests, and to the protection and enhancement of our quality of life now and in the future.

CSA advocates for education, juvenile justice, communications and technology, and social welfare as these issues affect high school students.

TO: Chief Lobbyists
 FROM: Barbara Wilson, Acting Director, Council of Student Advocates
 RE: Changes at CSA

As you may have already heard, Richard Barley was asked to step down as director of the Council of Student Advocates. The council is greatly concerned about the inability of our last administration and our lobbyists to bring about legislative change on issues important to us. Currently, we are sponsoring legislation, proposed by you, that has been voted on in committee and rejected.

Our membership is extremely disappointed by our inability to get a bill passed, and by you, our lobbyists. We were led to believe we had a chance at passing this bill. Mr. Barley has been fired as a result of this failure. To be candid with you, he took the fall for you this time, but now your job is on the line. We are considering a change in our lobbying strategies. In the meantime, the council would like you to provide the following for us:

- 1) An explanation of our alternatives now that federal legislation has failed.
- 2) Your recommendation as to whether we should pursue state legislation, an initiative, a lawsuit, or constitutional amendment, and what these would be.
- 3) An explanation as to why your recommendation will have the best possibility for success, and why other choices are less likely to work.

The deadline for a state initiative is fast approaching, and time is of the essence. Therefore, we have set a meeting between you and the CSA board for tomorrow. Be prepared to present your explanation and recommendations at tomorrow's meeting. The board will expect a five-minute report with visual presentation materials from you. Following your report, please allow five minutes for questions from the board.

Please be advised that quitting at this point is not an option.

PRESENTATION TO THE CSA BOARD

Please prepare answers to the following questions:

- 1)** If federal legislation fails, what are our alternatives at the state legislative level?
- 2)** Can we pursue an initiative or a referendum?
- 3)** What judicial alternatives do we have?
- 4)** Do you recommend that we pursue state legislation or judicial solutions to the problem?
- 5)** Could an Executive Order help us?
- 6)** Please describe the solution you propose.
- 7)** Please explain why you think your proposal is the best solution.



Appendix II:

Lesson Materials

I. WHAT ARE INTEREST GROUPS?

General Overview

Interest groups are organizations whose members share common political goals and work to influence public policy decisions. They play an important role in a democratic government by assuring that broad public interests are heard in the lawmaking process. Interest groups give citizens a venue for participation, and through open competition, they assure that no one group will become too powerful.

Types of Interest Groups

Political scientists classify or cluster interest groups by the interests they serve or the benefit they seek for their members. However, there is no agreement on how interest groups should be classified. One way is to look at economic interest groups, civil rights interest groups, public interest groups, and government interest groups.

- **Economic Interest Groups** — These groups influence policymaking for the economic benefit of their members. These are usually groups that represent particular occupations, including unions, agriculture, and business and industry. Some large corporations, like General Electric or Bank of America, have their own interest groups with offices in Washington, D.C. and in the capitols of major cities. Other smaller companies, like bicycle manufacturers, band together and form economic interest groups. Such groups form industry associations, such as the National Frozen Pizza Institute or the National Small Business Association. Membership is generally limited to those who have a job in the particular industry or business.
- **Civil Rights Interest Groups** — These groups organize to promote the civil and economic rights of people who have traditionally been underrepresented or disadvantaged because of who they are — immigrants, women, the elderly, young children, or high school students. These groups organize around age, race, ethnic group, gender, physical or other disabilities, and sexual orientation. They generally see themselves as victims of discrimination but they do not limit their membership to members suffering from such discrimination. They seek the help and support of others interested in helping them improve their situation.
- **Public Interest Groups** — These groups organize to benefit the general public. They are committed to such causes as clean air, prevention of lung disease, safe highways, or gun control. Public interest groups include environmental groups, consumer groups, religious groups, and groups devoted to protecting specific amendments to the Constitution. They include such groups as the Sierra Club, National Rifle Association, and National Wildlife Federation.
- **Government Interest Groups** — Both domestic governments (like states and counties) and foreign governments maintain interest groups that lobby the federal government. Even though campaign finance laws restrict the acceptance of money from foreign interests, other countries continue to maintain interest groups in Washington, D.C. to influence foreign policy and U.S. contributions to other nations. All 50 states maintain lobbying offices in Washington, D.C. as well.

Interest Group Activities

Interest groups play an important role in several areas of lawmaking.

- **Representation** — Interest groups represent their members' views to Congress, the President, and government agencies. They use lobbyists to make sure the group's interests are heard.
- **Education** — Interest groups educate policymakers (including Congress, the President, and leaders of government agencies) about the issues important to their group. Congress does not have the staff or funding to gather all the expertise needed to formulate policy. Committees of Congress thus depend upon interest groups to provide research and anecdotal and historical information. Interest groups also educate their membership and the public at large about issues that may affect them.

- **Public Awareness** — Interest groups keep issues in the news and fight to make issues high priorities for political action. They create a need, a fear, or a sense of urgency about the issues as a means of gathering grassroots support and pressuring policymakers to act.
- **Participation** — Interest groups give citizens a way to participate in policymaking. They allow like-minded people to pool resources and coordinate efforts for a collective action.
- **Alternatives** — Interest groups provide suggestions for how issues should be handled. Competing interest groups may suggest different plans of attack for a particular problem. As an example, although many groups may want to find a solution to drug abuse, some interest groups may favor spending resources to pursue those who traffic and sell drugs, while others may favor spending resources to prevent or cure drug abuse. Generally, probation officers and prison guards favor pursuing those who traffic drugs, while doctors and social service workers favor prevention and cure. Interest groups will favor solutions that benefit their membership.
- **Monitoring** — Once laws are enacted, interest groups track their enforcement and effects. This type of monitoring helps lawmakers decide if government agencies are doing an adequate job of carrying out the laws, and if particular policies are having the desired effect. Both winning and losing interest groups will often carry out the research that determines if policies are having the desired effect.

Political Action Committees

The activities of political action committees (PACs) are limited to collecting money for and distributing money to political candidates and the legislative causes they support. Some PACs are fund raising arms of interest groups, while others are independent and act as interest groups in their own right. PACs have the advantage of loopholes in the Federal Election Campaign Act that allow them tremendous latitude in raising and distributing campaign funds for political candidates, whereas individuals and corporations have more restrictions on campaign donations. In addition to providing these fund raising loopholes, PACs are often used to camouflage goals and viewpoints by forming around an innocuous name that helps hide the identity of its members. As an example, to pass legislation in one northeastern state campaign that would allow small communications companies to compete for long-distance service, the small companies formed a PAC entitled “Consumer Access to Fair Rates.” Citizens would have to read the small print to know that the group was not formed by consumers, but rather a group of small companies. There are more than 4,500 PACs in the U.S. today, representing everything from business and manufacturing to farming, ranching, and the environment. A considerable portion of the money raised for political campaigns in the U.S. comes through PACs.

Federal Election Campaign Act

The number of interest groups accelerated after 1974 due to the passage of the Federal Election Campaign Act. The Campaign Act provided for PACs to serve as a fund raising arm for interest groups. Loopholes in the law allow PACs to get around restrictions on the amount of money they can donate to a candidate. As a result, interest groups using PACs for collecting and distributing campaign money have become powerful political players.

Bill Moyers’ *Free Speech for Sale* is an interesting video for supplementing the mini-lecture and class discussion on interest groups. Information on the video can be found at www.pbs.org.

THE SKATEBOARDING EXAMPLE

As a way of demonstrating the importance of interest groups in influencing government, suggest the following scenario to students:

Their community has banned skateboarding, and skateboarders want to fight to have the ban lifted. There is no skateboarding allowed on city sidewalks. Skateboarders are against this and want to skateboard on any public street or sidewalk. Ask students:

- 1) Could skateboarders, operating on their own, influence their community to change this policy?
- 2) What course of action could they take?
- 3) What other groups might skateboarders get to join their cause? What groups would support legislation to improve conditions for skateboarding?
- 4) What are the advantages of forming this type of coalition?

After listing possible coalition members, ask students if the people or groups on their list are interest groups.

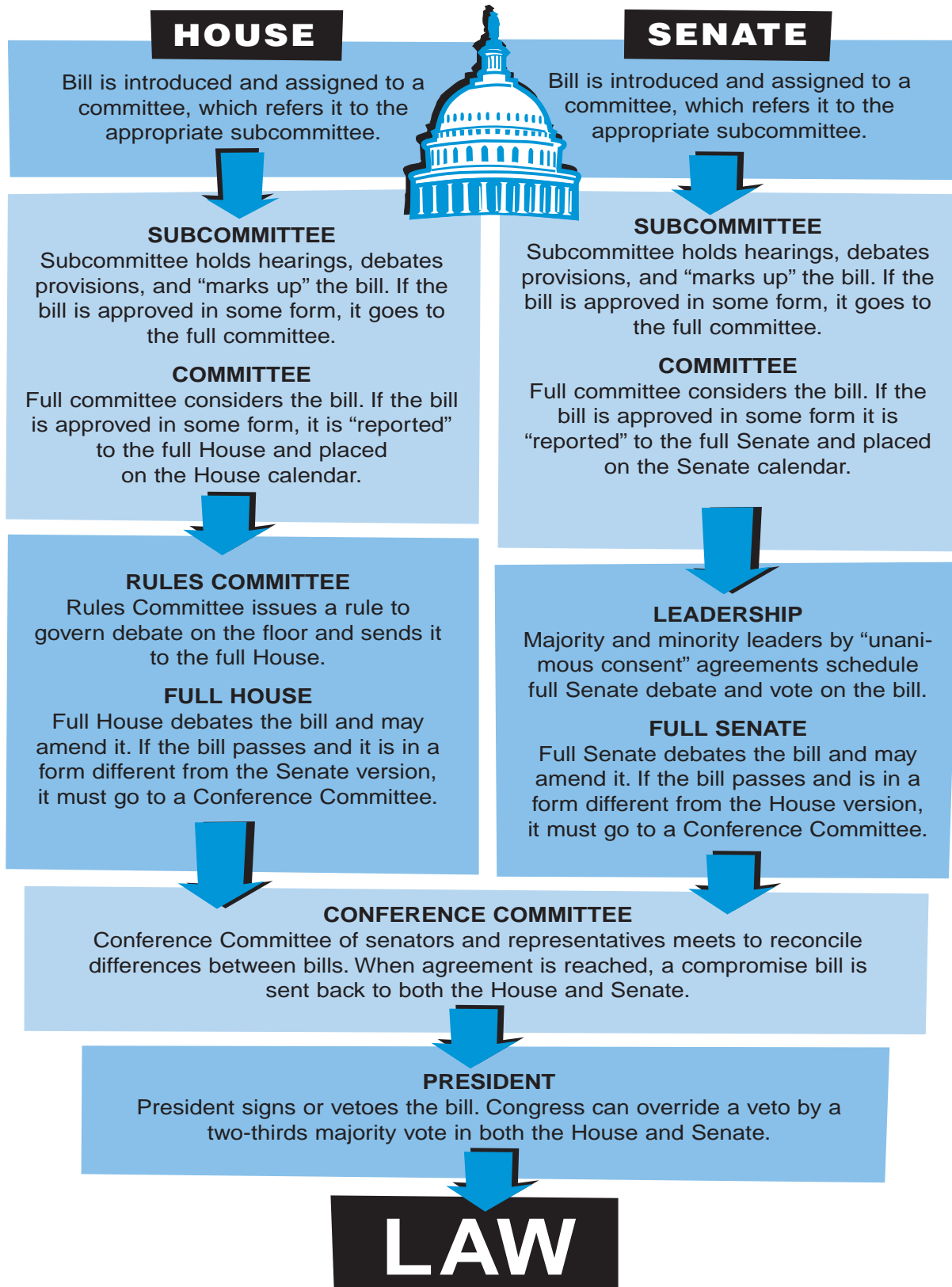
II. HOW DOES A BILL BECOME LAW?

All potential laws are presented to the House or Senate as bills. A bill is introduced in the House or Senate by members of Congress. Even policy representing the President's agenda must be introduced as a bill in Congress. Bills are then given a number (for the House, an example would be HR832, and for the Senate S433), and begin a long journey that may end with the bill becoming a law. More often, the bill dies somewhere during its long journey. Of the approximately 10,000 pieces of legislation introduced in Congress in each session, only 300 make it out of committee. Even fewer become law.

The following figures depict simple and complex ways of looking at how a bill becomes law.

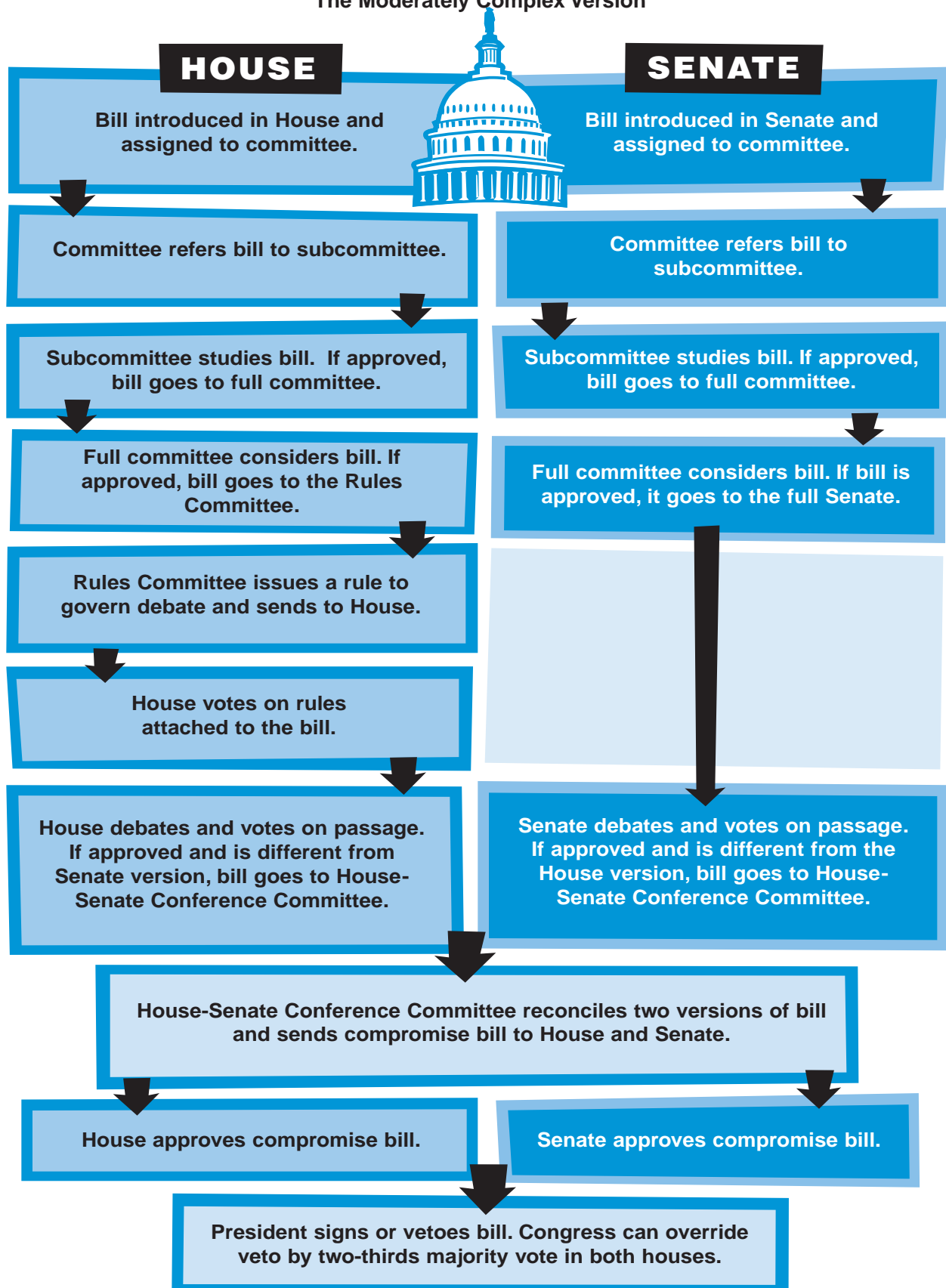
HOW A BILL BECOMES LAW

The Simple Version



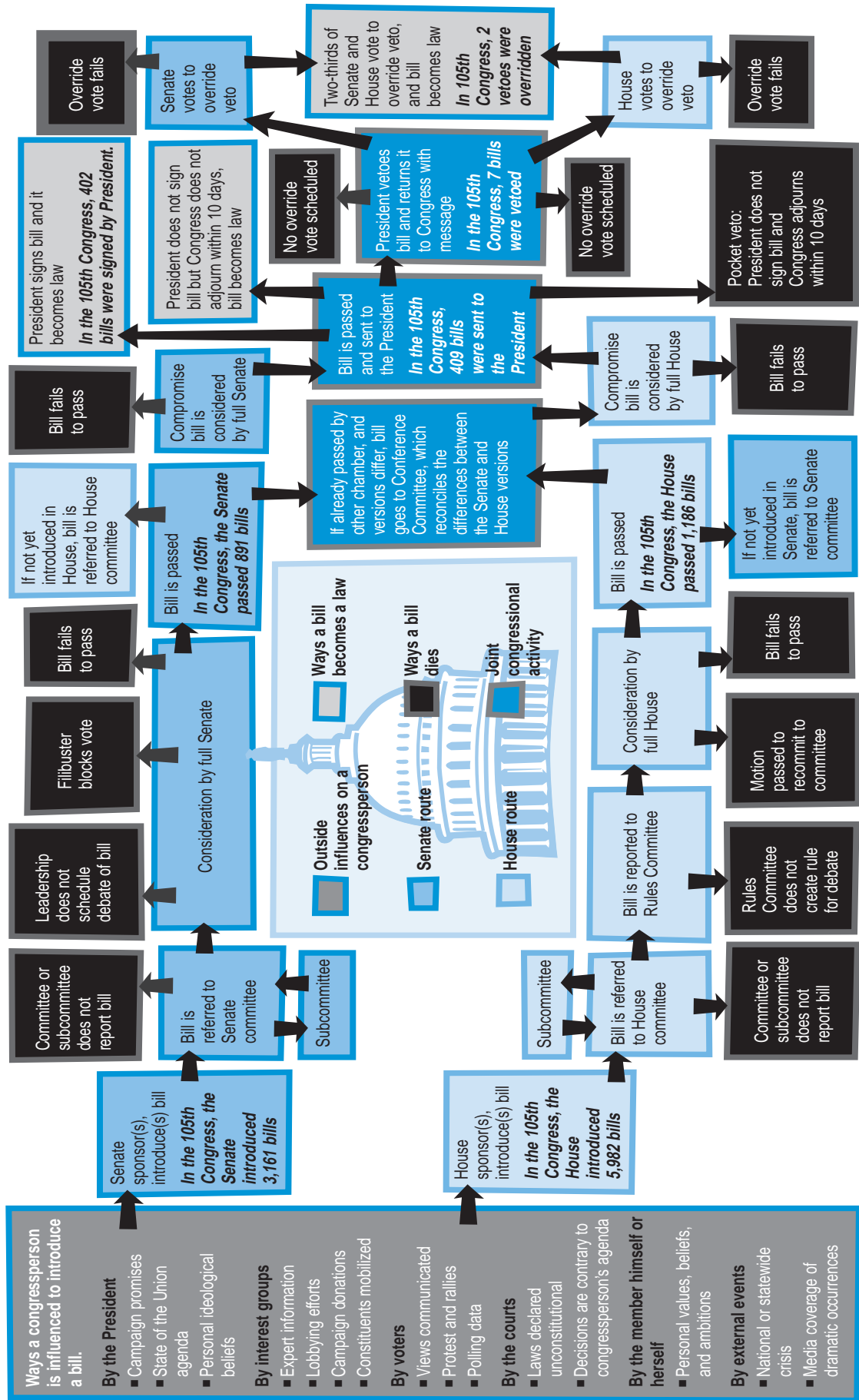
HOW A BILL BECOMES LAW

The Moderately Complex Version



HOW A BILL BECOMES LAW

The Complex Version



KEY WORDS FOR HOW A BILL BECOMES LAW

Cloture	A vote to end a Senate filibuster, which requires a three-fifths majority (60 votes)
Committee System	The work of the House and Senate is broken up by policy areas and handled by smaller groups called committees. Committees gather information through hearings, staff reports, and investigations. They consider policy alternatives and determine who will support different policy options.
Filibuster	The practice in the Senate of allowing unlimited debate in order to prevent or delay a vote on a bill
Judicial Review	The Supreme Court's power to rule on the constitutionality of laws
Lawmaking	The creation and passing of laws that address national social and economic problems
Legislative Power	The power to make laws, which is reserved to the legislative branch of government. However, the President, according to the Constitution, has some legislative power via the veto and by using the State of the Union address to set a policy agenda.
Public Policy	A plan of action to address a social or economic problem
Rider	A proposal introduced as an amendment to a bill. The proposal "rides on the coattails" of the main piece of legislation, and sometimes, if it is a "poison pill," is expected to kill the legislation. Other riders are expected to slip by unnoticed, and thus bring into law unpopular or pork barrel proposals.
Veto	The President's power, granted in the Constitution, to reject a bill passed by Congress
Veto Override	The power of Congress to reverse a presidential veto by a two-thirds majority vote in both houses

III.WHAT IS THE IRON TRIANGLE?

The term “iron triangle” originally was used to describe the relationship between military defense contractors, the Pentagon, and Congress. In this relationship, contractors lobby members of Congress and fund their campaigns in exchange for congressional legislation that provides money to the military for equipment and research. Many of the same contractors who lobby Congress receive government contracts to perform such work. All government agencies — and the private agencies and businesses that benefit from them — engage in this mutually beneficial phenomenon. As an example, medical research facilities lobby Congress, which allocates funds to the Centers for Disease Control, which then funds research projects conducted by medical research facilities. The triangle is described as iron because taxpayers, who are left out of the triangle, pay the bill but have little say in the process. To placate the taxpayers, Congress, industry, and the bureaucracy must justify the expenditures. These groups use statistics (the projected number of people who will die from AIDS if we do not spend on medical research), scare tactics (the potential of losing our military superiority if we do not spend on missile defense), and self interest (funding energy or transportation improvements will bring jobs into the state) to influence the public.

The notion of an iron triangle dates back to the 1950s. Today political scientists see the situation as being more complex. Political scientists refer to the relationship of mutually supportive groups as “issue networks,” which are more complex than the iron triangle suggests. Iron triangles have very specific players, whereas issue networks are clusters of interest groups, policy analysts, consultants, research groups, mid-level bureaucrats, and congressional staffers. These groups cluster together around an issue and splinter on others. Issue networks compete against other networks, as is the case with the competition between environmentalist networks and industrial networks, or tobacco farmers and health organizations. In the issue networks model, the role of interest groups is to form alliances with like-minded groups, even if they only share a very specific, one-time policy goal. These related groups can then pool resources to influence Congress. Keep in mind that like-minded groups may include bureaucratic agencies, state and local governments, and famous individuals as well as organized interest groups.

IRON TRIANGLE USING MEDICAL MARIJUANA AS AN EXAMPLE



IV. WHAT IS A LOBBYIST AND WHAT ARE LOBBYING STRATEGIES?

Lobbying

The term lobbying originated in England in the 1600s, when representatives of special interests would corner members of the House of Commons in the lobby of the House floor to argue for their cause. Modern-day lobbying goes far beyond meeting with representatives in the lobby of the House or Senate. Now, in addition to meeting directly with lawmakers, interest groups send representatives to meet with heads of government agencies, members of the executive branch, the press, and the public. Lobbyists work directly with congressional staff and agency bureaucrats more than they work with members of Congress. They include a diverse group of political consultants, rank-and-file interest group members, and professionals who either directly or indirectly attempt to persuade bureaucrats, citizens, and politicians. There are lobbyists representing almost every side to every issue.

There are two main lobbying strategies: direct and indirect lobbying. Direct lobbying requires communication with decision-makers within government; indirect lobbying refers to attempts to influence public opinion so the general public will contact decision-makers about a specific issue. Conventional lobbying techniques—such as meetings, press conferences, and mailings—have recently been expanded to include the use of e-mail, talk radio, television, and marches or protests.

Keep in mind that lobbying is an attempt to sell ideas and solutions. Ideas are often sold on the basis of the common good, consensus building, and alliance building rather than by simply providing elected officials with campaign money. Lobbying is an involved, long-term process aimed at persuading elected officials to sponsor legislation or vote a particular way. Lobbyists cannot avoid this process by merely paying off representatives.

The ability to lobby depends upon credibility. If a lobbyist gives erroneous information, facts, or figures, he or she will not be trusted a second time. Therefore, lobbyists gain trust—and a reputation—over a period of time.

Strategies for Direct Lobbying

Lobbyists use the following strategies to directly contact, inform, and persuade legislative bodies.

- **Personal Contact**—This may involve personal appointments, parties or luncheons, or casual conversation at official gatherings. During these meetings, lobbyists provide information, answer questions, or try to persuade lawmakers.
- **Professional Lobbyists**—Major firms and individuals with political contacts serve as “hired guns” to argue the case of their clients.
- **Expert Testimony**—Lobbyists provide expert testimony when they have more information than government agencies or elected representatives. In some cases, congressional staff will call upon lobbyists to serve as experts and to actually draft legislation. As an example, representatives interested in anti-smoking legislation will call upon the American Lung Association’s medical experts for statistical and medical information about the effects of smoking, or about specific wording for medical-related bills.
- **Campaign Contributions**—Lobbyists give money to candidates as a way of gaining access and votes. While some groups favor one party or the other (unions tend to spend more on Democrats than on Republicans), other groups support both sides so that regardless of which side is in the majority, the interest group will be able to gain access.

Lobbyists target Congress, the executive branch, the courts, and government agencies with direct lobbying. Congressional representatives and their staff are contacted and relationships are cultivated by lobbyists. Government agency staff and judges are similarly contacted. In the executive branch, the Office of Public Liaison is generally the point of contact for lobbyists. However, private or personal contacts are made between White House staff members and lobbyists as well.

Strategies for Indirect Lobbying

Lobbyists use the following strategies to indirectly affect legislation.

- **Grassroots Lobbying**—In theory, grassroots refers to spontaneous movements by the people. However, most grassroots lobbying is generated, or planned, by interest groups who spur the public on to draw attention to a cause or issue. Grassroots lobbying requires educating and mobilizing the public to directly contact officials, protest, or vote in block.
- **Educating the Public**—Interest groups use research findings, personal stories, and visuals to demonstrate the problem to the public and to solicit public support. This is done through advertisements, mass mailers, and television and radio appearances. Issue advocacy ads are becoming a popular way for interest groups to influence or educate the public. Ads about the relationship between SUVs and terrorists, or about the effects of teenage drinking are issue advocacy ads. They do not attempt to influence voting, but do expect to persuade the public and thus, indirectly affect voting and lawmaking.
- **Mobilizing the Public**—This effort generally involves encouraging members of an interest group to write letters, send e-mails or faxes, make phone calls, or march and carry signs. Lobbying groups will also attempt to get voters in particular districts to contact their representatives during crucial legislative votes. It is generally considered essential in any effective lobbying effort to have the voters from a representative's district contact the representative's office as a form of persuading a vote.
- **Forming Coalitions**—The impact of lobbying is greater if interest groups form coalitions and lobby together. Building such coalitions has become an important strategy in lobbying. Often, interest groups with conflicting agendas will come together around a single issue and lobby for that single issue. As an example, unions and manufacturers, often at odds about such issues as minimum wage or safety legislation, will lobby together for a government-funded job training program.

Practical Steps for Lobbying

Conducting a lobbying effort would include the following steps. Many of the steps are performed simultaneously or in roughly the following order:

- Identify the problem and conduct research
- Identify prospective solutions
- Poll prospective interest group partners, and build alliances among interest groups around the specific problem or issue
- Identify and recruit prospective supporters within the general public
- Provide research findings and prospective solutions to members of your interest group, other interest groups, legislative staff, bureaucrats from affected agencies, and staff members of the judiciary
- Identify legislative supporters

- Use letter writing, print media (newspaper, magazine, and blast-fax), e-mail, television advertisements, interviews, and media events to publicize the issue or problem
- Make repeated contacts with legislative staff, and develop trust among legislative supporters
- Be available for questions and additional information, keeping oneself and the issue in the public eye and on the legislative radar screen

Use of the Media in Lobbying

A cornerstone to lobbying is use of television, radio, and print media for exposing the public to the issue and gaining support for the cause. The broader the base of support, the more likely the issue will be addressed by the government. Therefore, lobbyists use

- Television and radio advertisements
- Newspaper and magazine advertisements
- Television and radio interviews
- Newspaper and magazine articles (lobbyists often supply the copy to journalists)
- Blast-faxes to constituents, other interest groups, politicians, and bureaucrats
- E-mail to constituents, other interest groups, politicians, and bureaucrats
- Media events, such as staged rallies, that are covered by the press
- Letters to the editor
- Press releases
- Printed flyers and promotional packages
- Speakers at open meetings, conferences, and political gatherings

Web Sites of Successful Lobbying Groups

For the Greek Occupation of Cyprus:

<http://www.lobbyforcyprus.org/>

For the Women's Electoral Lobby for Women's Rights in Australia:

<http://www.wel.org.au/>

For the Teamsters Union Legislative Action for Organized Labor:

<http://www.teamster.org/governmt/update.htm>

For Green Peace Action Center for Legislative Action on Environmental Issues:

<http://www.greenpeaceusa.org/takeaction/>

For the Children's Defense Fund lobby for Child-Related Legislation:

<http://www.childrensdefense.org/issues.php>

V. WHAT ARE THE ALTERNATIVES TO FEDERAL LEGISLATION?

If federal legislation fails, there are state legislative solutions that can be considered by interest groups, including an initiative or referendum process and executive and judicial action.

What Are State Legislative Solutions?

State governments function similarly to the federal government. Each state has a constitution, which entitles the state to a republican form of government. States, like the federal government, have the power to

- Make laws
- Administer, or carry out, the laws
- Adjudicate, or interpret, the laws

Like the federal government, each state has a legislative branch that makes laws; an executive branch of government, headed by the Governor, that carries out the laws; and a judicial branch that adjudicates the laws.

Each state has a different set of legislative bodies and rules that are unique to the state. Laws passed at the state level in one state do not directly affect other states. If, for instance, Oregon passes a law to use car license plate taxes to offset environmental cleanup costs, this will not affect how California or Nevada tax their car license plates or use such taxes.

Interest groups can approach the state legislature to sponsor legislation that will further their cause.

The advantages of using state legislative solutions include

- The system may be more responsive, since state legislative districts have less population, and constituent groups may have better access to legislators
- It may be a faster and less-expensive process to get a state or states to pass a law
- Success in one state can help build momentum for the cause

There are also disadvantages to state legislative solutions, including

- A campaign for legislative change, if it is to be pervasive, will require repeating the procedure in all 50 states
- The proposed state legislation may infringe on the power of the federal government, leading to lengthy legal battles if the legislation is passed
- States entrenched in the status quo cannot be forced to change, as they would be if federal legislation were to pass

What Is an Initiative?

Some states allow citizens to become directly involved in the passage of laws through an initiative and referendum system. The initiative and referendum came about as a result of reforms made during the Progressive Era. The Progressive movement of the early 1900s was, in large part, a response to the corruption in state and local governments and the dominance of political party machines. Reformers felt state politics were not serving the interests of the people and that it was necessary to break the stranglehold party bosses had on state politics. As a result, reformers succeeded in initiating several changes that gave citizens more direct control over the political process. In addition to the creation of a civil service system and use of secret ballots, many states adopted forms of direct democracy that allow voters to take control of lawmaking. Two of these reforms are the initiative and referendum.

By using the initiative, citizens can petition to place a (state) constitutional amendment or prospective law on the ballot, to be adopted or rejected in a statewide election. The process requires gathering signatures from registered voters, equal to between 3% and 15% of the number of voters who cast votes in the previous governor's election. This qualifies the measure to be put on the ballot. Once on the ballot, an initiative is either approved or rejected by a majority vote and becomes law. This system bypasses the state legislature and the Governor, and allows the people to create and pass laws. Initiatives only affect state laws and cannot be used to pass federal laws. About half of the states have an initiative process.

California actively uses the initiative process, and in 1995, as an example, passed initiatives that

- Limited contributions to state Senate and Assembly campaigns
- Prohibited affirmative action by colleges and universities
- Permitted the use of medical marijuana

What Is a Referendum?

Citizens can use the referendum to override existing state laws. Signatures are gathered in a manner similar to the initiative process, and the law is put on the ballot for voters to approve or reject. In addition, state constitutional amendments have to be submitted for a referendum vote in most states. In some states, measures regarding taxation are submitted to the voters as referendums. Also, state legislators can use the referendum process if they want voters to decide directly on a piece of legislation.

The initiative and referendum are tools that can be used by interest groups to change state laws. Both of these tools can be considered if federal legislation fails and if state lawmakers are ineffective in bringing about desired changes. One major constraint to the initiative and referendum is the time limit placed on these campaigns. Most states that have the initiative and referendum limit the time allowed for the signature-gathering phase.

What Are the Judicial Alternatives?

Another method of resolving conflict is to use the state and federal court system. In court, judges can interpret what the law means and courts can resolve legal conflicts. Individual citizens, interest groups, corporations, and the government use the courts to arbitrate disputes over laws.

- **Criminal Law**— Prohibits behavior that the government has determined is harmful to society. Anyone who violates a criminal law, as is the case with current medicinal use of marijuana, is called a criminal and is subject to fines, jail time, community service, or even death. Since crimes are considered to be against the state, it is the government that prosecutes criminal cases. Interest groups can put pressure on prosecutors, or the district attorney, to file criminal charges, but they cannot take court action on their own. As an example, it is possible for law enforcement groups, such as the Police Officers Union, to advocate for criminal charges against those using medical marijuana, but they cannot initiate a criminal case.
- **Civil Law**— Regulates interactions between individuals or among groups. An individual or group can file a suit against others for property damage, physical harm, failing to fulfill the terms of a contract, or emotional harm. The court in these cases is not prosecuting one side or the other, but is providing a forum in which citizens can peacefully resolve differences. Government agencies can be involved in civil lawsuits as one of the parties either being sued or initiating the suit. A citizen or an interest group could file a lawsuit against the local sheriff, or the Environmental Protection Agency could file a lawsuit against a corporation.

In the federal system, criminal and civil cases begin at the district courts and may continue on to appeals courts and, on occasion, to the Supreme Court.

- **District courts** preside over all cases involving federal law, or any issue that involves the Constitution, Congress, or any other aspect of the federal government. District courts hear any dispute between parties or between the federal government and individuals or interest groups. These courts try to determine which laws are relevant to the case, and whether those involved are guilty of a crime or responsible for violating a civil law.
- **Appeals courts** handle cases appealed beyond the district court level. There are 12 appeals court districts within the U.S., divided among 11 of the districts. The twelfth U.S. Court of Appeals is in Washington, D.C., and it hears all appeals involving government agencies. These courts hear appeals from lower federal courts, and review the legal reasoning behind the decisions. Lawyers present written briefs summarizing their arguments and make oral arguments, but no evidence is presented and no new witnesses are called. It is the legal reasoning that is scrutinized and not the facts of the case.
- **The Supreme Court** considers cases from lower courts. Almost all cases heard by the Supreme Court arrive in the form of a petition, or *Writs of Certiorari*, in which the losing party in a lower court case explains why the Supreme Court should hear its case. The Court can either grant or deny a *writ*.

Interest groups not necessarily named in the case can file an *Amicus Curiae* brief, or “friend of the court” document. An *Amicus Curiae* brief is intended to influence the justices to grant or deny *certiorari*, or to persuade the court to decide a case in a particular way. This is an effective tool for persuading the court to hear cases, and to decide the case in a way that is satisfactory to the particular group. It is most often used by interest groups that have the resources to pursue this alternative.

Can We Change the Constitution?

The Constitution has been changed 27 times. This is done by adding amendments, the last of which was ratified in 1992. The method for changing the Constitution is outlined in Article V of the Constitution:

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose Amendments to this Constitution, or on the Application of the Legislatures of two-thirds of several States, shall call a Convention for proposing Amendments (which shall be valid) when ratified by the Legislatures of three-fourths of the several States...

All of the amendments passed thus far have been proposed by Congress, rather than by two-thirds of the legislatures of the states. The states, however, play a critical role in the amendment process, as it is the legislative bodies of the states that must approve amendments. It takes the consent of the legislatures of three-fourths of the states to approve an amendment. The major constraint to a constitutional amendment is reaching consensus among three-fourths of the states. This accounts for why, over the history of the U.S. government under the Constitution, we only have 27 amendments.

What About Executive Orders?

An executive order is a clarification of congressional policy issued by the President. Executive orders have the full force of law. According to the Constitution, Congress has the power to make laws and the President carries out the laws. However, the President’s power to make laws has grown through the power of executive orders. Executive orders are intended to clarify how laws passed by Congress are to be implemented by government agencies. As an example, President Clinton issued an executive order establishing the “don’t ask, don’t tell” policy on gays in the military, which prevented the military from asking about a person’s sexual orientation. Executive orders need only be binding during the administration of the issuing president.

VI. HOW WILL THE CONFLICT OVER CONCURRENT POWERS AFFECT OUR STRATEGY?

The Constitution designates powers that are national, state, or concurrent. Concurrent powers are those powers exercised by both the states and the federal government. Concurrent powers include the power to

- Collect taxes
- Borrow and spend money
- Regulate commerce and charter corporations and banks
- Regulate the use of private property
- Regulate the environment, health, and safety
- Establish courts
- Pass and carry out laws

The Constitution is vague and contradictory about the extent of the powers of the federal government and the powers of the states. The strongest statement in the Constitution that establishes the power of the federal government is Article I, Section 8, which lists the specific powers belonging to Congress (e.g., “To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water”). The list of enumerated powers ends with the “necessary and proper clause” which states: “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

The necessary and proper clause is often called the “elastic clause” because it expands the power of the federal government to do what Congress feels is necessary and proper. Congress has taken powers formerly reserved to the states, like the chartering of a national bank, and justified it as necessary and proper.

The “supremacy clause” in Article VI also supports federal power over the states. The supremacy clause states: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” As a result of the supremacy clause, when state laws conflict with national laws, the national laws prevail.

The states have some protections of their powers in the Constitution. States have the power to amend the Constitution, and the Tenth Amendment says that all powers not given to the national government are reserved to the states. But many state powers are overridden by the necessary and proper clause and the supremacy clause (and the fact that the federal government has more money than the states, and therefore, can determine how that money will be spent at the state level). As a result, the federal government has extended its reach. State powers have been eroded, but state and local governments still have powers over issues relating specifically to their jurisdictions.

The states and the central government have traditionally wrangled over concurrent powers and the limits of state or federal powers. The Supreme Court has become crucial in this conflict, often establishing limits and determining if state laws are exercising concurrent powers or attempting to supersede federal jurisdiction.

In summary, it is important to keep in mind the difference between law and practice. Local districts often ignore federal mandates in favor of local practice, and the federal government often ignores that its laws are being ignored. This is especially true if the federal government cannot use the withholding of funds as a means of forcing local districts to comply with federal mandates.



Appendix III:

Teacher Keys

I. TEACHER ANSWER SHEETS FOR THE RESEARCH QUESTIONS AND RESOURCES

Military Draft

1. *What steps have been taken to reinstate the draft?*

Thus far, Rep. Charles Rangel has introduced bill, H.R. 163, into the House of Representatives for consideration. Sen. Ernest Hollings has introduced a similar bill, S-89, into the Senate for consideration.

2. *What has Congress done thus far about reinstating the draft?*

Congress has not taken any further steps to reinstate the draft. The bill has not been assigned to a committee, nor have any hearings been planned.

3. *What significant federal laws pertain to the draft?*

The 1917 Selective Services Act grants the federal government the ability to formulate a draft. The 1940 Selective Training and Service Act created the current Selective Service System.

4. *What kinds of court challenges have occurred regarding the draft?*

Many cases have been brought to the courts regarding the draft. The most famous conscientious objector case would have to be Muhammad Ali's refusal to serve in the Vietnam War. In *Clay (aka Ali) v. the United States* (403 US 698), the Supreme Court ruled 9-0 in favor of Ali that his religious beliefs allowed him to object to serving in the Vietnam War.

5. *What significant judicial cases or other decisions pertain to the draft?*

The Supreme Court has addressed draft issues in other cases, such as *Ehlert v. United States* (402 US 99) and *Gillette v. United States* (401 US 437).

6. *What provisions exist in the Constitution that give Congress the power to draft?*

Article 1, Section 8, allows Congress to "raise and support armies, but no appropriation of money to that use shall be for a term longer than two years; To provide and maintain a navy; To make rules for the government and regulation of the land and naval forces; To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions; To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress."

7. *How have executive orders affected the draft?*

In 1980, President Carter ordered all men to register for the draft.

8. *Has any legal recourse been taken against reinstating the draft?*

No, at this juncture, no legal recourse has been taken against reinstating the draft.

9. *Did the court decision resolve the conflict?*

The courts have made no such decisions yet.

10. *What congressional, public, or academic support exists for reinstating the draft?*

Aside from Senator Hollings and Representative Rangel, very little support exists for reinstating the draft. Secretary of Defense Donald Rumsfeld has stated that the military should remain voluntary. The public has offered very little support for reinstating the draft.

11. What are the current restrictions on registration for the draft?

Currently, only U.S. male citizens from the ages of 18-26 are eligible to be drafted.

12. How does this conflict relate to high school students?

High school students would be directly affected by the draft if it were reinstated because they would be the people selected for service.

13. How will including women and college students affect reinstatement of the draft?

Including women and college students would greatly expand the pool of applicants eligible to be drafted. Conversely, including women and college students will greatly increase anger at the draft's reinstatement. Many citizens feel that women should not serve in war, and many students would rather go to college than be forced into selective service.

The Juvenile Death Penalty**1. What federal laws or constitutional amendments allow for use of the death penalty?**

Capital punishment has always been a form of punishment used in the United States. The Constitution allows for such punishment, as long as it does not violate the Eighth Amendment by being cruel or unusual punishment.

2. What Supreme Court decisions have affected use of the death penalty?

There have been many Supreme Court cases that have affected use of the death penalty. In 1972, the Supreme Court ruled that the death penalty constituted "cruel and unusual punishment" in *Furman v. Georgia* (408 US 238). In 1977, the Supreme Court reversed this decision and reinstated capital punishment under the Gregg Decision—*Gregg v. Georgia* (428 US 153).

3. What court decisions relate to use of the death penalty in the case of a juvenile criminal?

In 1988, the Supreme Court ruled, in *Thompson v. Oklahoma* (487 US 815), that it was constitutional to deliver a capital punishment sentence to a person 16 years of age or older who had committed first-degree murder. In 1989, the Supreme Court ruled, in *Stanford v. Kentucky* (492 US 361), that it was unconstitutional to sentence a person 15 years of age or younger to a capital punishment sentence.

4. What are the current restrictions on the power to sentence juveniles to the death penalty?

The only restrictions placed on states is that they can only give the death sentence to minors who are 16 years or older.

5. What government bodies decide if the death penalty may be used?

The Supreme Court ultimately decides whether or not the death penalty may be used. Yet, Congress can pass legislation that places a moratorium on the death penalty for a number of years.

6. Do the states or federal government decide the punishments for minors?

States are given the power to decide how they will punish both minors and adults. The federal government only decides what punishment will be given if the minor or adult has committed a federal crime.

7. What states allow the death penalty for juveniles?

The following states allow the death penalty at age 17: Texas, Georgia, Florida, New Hampshire, and North Carolina. The following states allow the death penalty at age 16: Alabama, Arizona, Arkansas, Delaware, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Pennsylvania, South Carolina, South Dakota, Utah, Virginia, and Washington.

8. Is the death penalty for juveniles limited to certain crimes?

The death penalty is limited to first-degree murder, and some states require special circumstances in addition.

9. What age must a person be to be eligible for the death penalty?

A person must be 16 years of age or older.

10. Does this age vary from jurisdiction to jurisdiction?

Yes, it is up to each individual state to decide the age and circumstances that warrant the death penalty.

11. How many juveniles are currently on death row?

As of May 1, 2003, there are 77 juveniles on death row.

File Sharing**1. What has happened in the file sharing revolution so far?**

With the creation of file sharing programs such as Napster and Kazaa, Internet users have gained the ability to transfer copyrighted materials. In 2000, the Ninth Circuit Court of Appeals found that Napster violated Section 117 of the Copyright Act, and an injunction was placed against Napster, Inc. Yet, the courts have failed to stop other file sharing programs such as Kazaa and Morpheus from thriving on the Internet.

2. What has happened between Napster and the RIAA?

The RIAA successfully won an injunction against Napster and effectively drove the company out of business.

3. What significant federal laws pertain to this conflict?

U.S. Code Title 17, Chapters 1-13, of the Copyright Act prohibit the lease, sale, or transfer of the exact additional copy of copyrighted materials without the authorization of the copyright owner.

4. What significant judicial cases or other decisions were reached in regard to this conflict?

The main court case regarding this issue is *Napster, Inc. v. RIAA* (00-16401).

5. What were the outcomes of these decisions?

The Ninth Circuit Court of Appeals ruled that Napster, Inc. committed copyright infringement because the design of the software program directly assisted users in reproducing copyrighted materials without the authorization of the copyright owner.

6. Has any legal recourse been taken against these businesses?

Other file sharing programs began to follow Napster's lead. The RIAA has tried to bring several cases against these entities as well.

7. Did the court decision resolve the conflict?

No, the court decisions found that the other file sharing programs are different than Napster and do not directly assist in copyright infringement.

8. How are the Morpheus and Kazaa programs different from the Napster program?

The Napster program formed a middle entity between users. The program stored information that allowed users to illegally share copyrighted materials. Morpheus and Kazaa work differently and do not act as a middle entity. They simply allow users to connect with one another. It is up to users to make sure that they are not breaking any copyright laws.

9. How will these differences affect future lawsuits?

These differences make it very difficult for the RIAA to bring lawsuits against the companies that create these programs. The RIAA must now go after individual users of these programs — and there are millions of users.

10. How will these differences affect future legislation?

These differences do not affect future legislation because users are still breaking copyright laws.

11. Are the second-generation programs (Morpheus and Kazaa) illegal?

As of now, the programs are considered legal, but copyright infringement constantly occurs through these programs.

12. Are the federal laws and judicial decisions made about file sharing being enforced?

The judicial decision against Napster and MP3.com are being enforced, but the federal copyright laws have not been enforced against individual users because it would be too costly to do so.

Gun Control

1. What steps have been taken to create gun control?

Many different steps have been taken to create gun control. Gun control advocates have gotten federal, state, municipal, and local laws passed, which create greater gun control. They have also filed lawsuits against the gun industry on behalf of victims and families of gun violence.

2. What has Congress done thus far about gun control and gun rights?

Congress has addressed this issue on many levels. It has passed laws that limit the types of guns that can be bought. Furthermore, it has created laws that require criminal background checks for people who wish to buy firearms.

3. What significant federal laws pertain to gun control and gun rights?

Congress has passed many laws that favor gun control, such as the 1968 Gun Control Act, the Brady Bill, and the Firearms Act. Currently, Congress is trying to pass the Protection of Commerce in Arms Act, which would protect the gun industry from civil lawsuits.

4. What kinds of court challenges have occurred regarding gun control and gun rights?

There are many court cases being heard on both sides of the argument. Gun control advocates are seeking lawsuits against gun manufacturers that market weapons that are suitable for committing crimes and provide no positive benefits to society. Gun rights advocates are seeking litigation against gun control laws that infringe upon the Second Amendment. Some famous cases include *Nordyke v. King* and *Merrill v. Navegar*. There are many more cases that are in current litigation.

5. Did the court decisions resolve the conflicts?

No, the decisions are usually very narrowly defined and cannot be used as broad legal precedents.

6. What provisions exist in the Constitution regarding gun control and gun rights?

There are no provisions in the Constitution regarding gun control. However, the Second Amendment gives the people the right to bear arms.

7. How have executive orders affected gun control and gun rights?

Executive orders have not affected gun control or gun rights because these are mainly legislative and judicial issues.

8. What congressional, public, or academic support exists for gun control?

There is a broad range of support for gun control. Liberal groups and the Democratic Party favor gun control. Studies have shown that academics and students also favor gun control.

9. What congressional, public, or academic support exists for gun rights?

A broad range of support exists for gun rights as well. Conservative organizations and the Republican Party favor one's right to bear arms. Yet, some liberal parties, such as the Libertarian Party, also favor gun rights. The most vocal supporter of gun rights is the National Rifle Association, which lobbies Congress and state legislatures to maintain lax gun regulations.

10. What current legislation is being considered regarding gun control and gun rights?

The House of Representatives has passed H.R. 1036, which protects the gun industry from civil lawsuits. The measure is now in the Senate as S-659, where it is being debated.

11. How does this conflict relate to students?

With tragic shooting sprees in high schools, such as the Columbine High School shootings, students are being more and more affected by gun violence. In 2001, some 7,000 guns were confiscated from U.S. high schools.

II. TEACHER ANSWER SHEETS FOR LEGISLATIVE PROCESS QUESTIONS

Military Draft

1. *How do we enact change?*

Pro: We are seeking legislation to reinstate the military draft. We should begin by supporting the current legislation that Charles Rangel has introduced into the House of Representatives (H.R. 163) and the legislation introduced in the Senate by Ernest Hollings (S-89). We should develop a campaign to enhance support among military organizations, student groups, and patriotic associations.

Con: We are seeking a joint resolution of Congress to prevent the military draft unless there is a declared state of war. We must gain the support of a congressional representative who will sponsor our bill. Alternatively, we could add the statement, "No military draft will be enacted unless Congress has declared war," as a rider to H.R. 163. This rider could be added in committee or on the floor of Congress while the bill is being debated.

2. *How do we get our legislation started?*

Pro: Since our legislation has already been introduced into Congress, our job is to build support among congressional representatives, lobbying them and their staffs to support H.R. 163 and S-89. Furthermore, we must gain a broad coalition of interest groups who are sympathetic to reinstatement of the draft. In particular, we must gain support among the various divisions of the military.

Con: We must develop a strategy to promote an anti-draft bill or a rider. We must first find a congressional representative who is sympathetic to our cause. We should look for a representative who has expressed an anti-draft opinion in the past. We must lobby other organizations to join our cause. We should target groups whose cause is similar or adjacent to our anti-draft agenda. Key allies will be pro-peace organizations, college student organizations, and student associations.

3. *What type of measure shall we propose?*

Pro: We should support H.R. 163 in the House and S-89 in the Senate.

Con: We should support a rider or bill in both houses that says, "No military draft will be enacted unless Congress has declared war."

4. *What will our bill say?*

Pro: We will support the bills sponsored by Senator Hollings and Representative Rangel.

Con: Our bill or rider will state, "No military draft will be enacted unless Congress has declared war."

5. *Should we take our proposal to the House of Representatives or to the Senate?*

Pro: Our bills have already been introduced into both houses.

Con: In this case, our bill will be going to both houses of Congress.

6. *What would be the profile of a congressional representative who would sponsor our bill?*

Pro: We should lobby our bill to congresspersons who have served in the military or who come from states with a strong military presence.

Con: We should lobby our bill to a congressperson who has supported the peace movement in the past or has supported anti-military legislation.

7. *Is there a congressional representative who would sponsor our bill?*

Pro: Senator Hollings and Representative Rangel have already sponsored our bill.

Con: Representative Barbara Lee (D) from Oakland, California, is a good example of a congresswoman who would likely support our bill. She was the only congressperson to vote against military action in Afghanistan. In the past, she also has stated that she opposes a military draft of any kind.

8. *What committees are likely to be assigned our bill?*

Both sides: In the past, the Senate Armed Services Committee has addressed the military draft issue. Other Senate committees that could review our legislation are Judiciary and Veteran Affairs. In the House of Representatives, the Committee on Armed Services, Committee on Government Reform, or the Committee on Judiciary could address our issue.

9. *Have they recently held hearings, and what were the outcomes of those hearings?*

Both sides: The Senate Armed Services Committee has been petitioned twice to address reinstating the military draft, but it has declined to address the issue.

10. *What strategies can we develop to get our bill through committee hearings?*

Pro: We should lobby high-ranking members of the armed services to testify that the U.S. military is understaffed and overworked. They should testify that voluntary service is instrumental in assuring the nation's security interests.

Con: We can start an anti-draft petition. If we obtain one million signatures against a draft, we will have demonstrated that the public is opposed to reinstating the draft. We can use this petition to persuade the Armed Services Committees to review our legislation.

11. *What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?*

Pro: We need pro-military organizations and veterans associations to support our cause. We need the Departments of Defense and Homeland Security to support our cause. We also need all of the branches of the armed services to support reinstatement of the draft. We can expect conservative groups to embrace our cause because military service enhances civic duty and public morals.

Con: Religious groups tend to take a more peaceful approach to solving problems. We can seek their support. Student and college associations will be adversely affected by a mandatory Selective Service System. We should lobby them heavily to join our cause. We can also seek support from former veterans of the military draft whose lives were greatly affected by having to go to war. A draft would increase federal spending, and we may be able to gain support from groups that oppose increased debt or increased taxes.

12. *What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?*

Pro: Student groups and teachers associations may not support our legislation. Universities may be adversely affected by our bill. Pro-peace, some religious groups, and liberal groups will most likely not support our cause.

Con: Pro-military organizations will oppose our legislation. Departments in the government, like the Defense Department, and departments in the military, such as recruitment and the Core of Engineers, may oppose our legislation. Furthermore, far-right political organizations will also probably oppose our legislation.

13. Can we expect to have broad public support for our legislation?

Pro: No, currently few people support our cause. Even military departments have said that a voluntary draft is not necessary.

Con: Yes, few people currently support reinstating the draft. If the issue were being seriously discussed, it would not be hard for us to gain a broad coalition against a selective service system. Because both males and females would be affected by a military draft, everyone between 18 and 26 has a vested interest in the draft. Therefore, it will be easy to find people who do not want to be required to serve in the military.

14. How does our legislation get to the floor of Congress?

Both sides: Our legislation will first be assigned to a committee. Committee members will review our proposal and mark up the bill. They may add amendments or delete clauses to our bill. Once the bill is voted out of committee, it will be assigned a time to be heard by the full House or Senate. In the House of Representatives, the Rules Committee will determine the time the bill will be heard and the rules of debate. In the Senate, bills are scheduled to be heard as they come out of committee.

15. What happens to our bill after one house approves it?

Both sides: After one house passes our legislation, the other house must pass an identical piece of legislation before it is passed on to the President. If the second house passes a different piece of legislation, it must be considered by a Conference Committee of members of both houses.

16. How does our bill get to the President?

Both sides: After both houses pass our bill, it is sent to the President for his signature.

17. What options does the President have?

Both sides: The President has four options: 1) veto the bill; 2) sign the bill; 3) accept the bill but not sign it, and after 10 days it will pass into law; 4) perform a pocket veto.

18. How long might it take for us to get our legislation passed?

Pro: It might take us years to get our bill passed. Due to the anti-draft sentiment of the 1970s, it would be doubtful that a pro-draft bill would make it to the floor of Congress. We need to form a broad coalition that can defend against resistance from the groups that oppose our cause, and this process could take several years.

Con: If Congress were considering the military draft, it would not take long for our legislation to be addressed. Our anti-draft bill could be passed quickly if the public felt selective service might be reinstated.

19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative action can we take?

- How could we pass a state law?

Both sides: The military draft is a federal, not a state issue. States would have to comply with a draft if it were initiated at the national level.

■ What is an initiative?

Both sides: An initiative is a piece of legislation that allows citizens to bypass the state legislature and the Governor. By gaining a certain number of signatures, citizens can get initiatives placed before the voters during state elections. If the initiatives win, they are passed into law by the voters and bypass the legislature and the Governor.

■ What is a referendum?

Both sides: A referendum is the review of a piece of state legislation during state elections. Gathering a predetermined number of signatures to create a referendum allows citizens to challenge state laws they oppose.

■ How could we pursue a civil case in federal court?

Pro: It would be difficult to develop a case to bring back the draft because that power is expressly given to Congress under the Constitution.

Con: At this juncture, a federal court case would be unnecessary. If the Selective Service System were reinstated, then we could pursue such an option. If that were the case, we could sue on behalf of a person who is selected for mandatory service.

■ How would we participate in an *Amicus Curiae* brief?

Both sides: If a case regarding our issue were being heard by a court, we could write an *Amicus Curiae* brief. In our brief, we would lay out our reasons for opposing, or supporting, the military draft. Furthermore, we would list all of the groups who support our position on the draft and how many signatories are on our petition. An *Amicus Curiae* brief—“friend of the court” document—is filed by interested parties and is meant to influence the court hearing the case.

■ How could we change the Constitution to favor our issue?

Both sides: In this case, we could begin a national campaign to create a Constitutional amendment to ban the Selective Service System. This approach would be more difficult than getting a bill through Congress, so it would be best to concentrate our efforts on a congressional measure.

■ How could an executive order help us?

Pro: An executive order would help us because the President, as Commander-in-Chief of the Armed Services, could order a peacetime draft. President Franklin Roosevelt made such an order in 1940, and it lasted until 1973.

Con: There is already an executive order in place that has placed the draft in hiatus.

■ What problems would we have with concurrent powers?

Both sides: The problem of concurrent powers does not arise between the state and federal governments since the Constitution gives the power to declare and conduct war to the federal government. However, there is a potential conflict between the President and Congress. A problem may arise if the President issues an executive order that would conflict with legislation that Congress has passed. Currently no such conflict has arisen.

Juvenile Death Penalty

1. *How do we enact change?*

Pro: We are seeking legislation that would authorize the juvenile death penalty for persons over the age of 16 who commit a federal crime. We must gain the support of a congressional representative who will sponsor our bill. We should seek a broad coalition of support from criminal justice groups, conservative political parties, and families of murder victims.

Con: We are seeking legislation that would eliminate budget resources to state prison building projects in states that sentence juveniles to the death penalty. We must gain the support of a congressional representative who will sponsor our bill. We should seek a broad coalition of support from juvenile advocacy groups, student associations, and anti-death penalty organizations.

2. *How do we get our legislation started?*

Pro: We must first find a congressional representative who supports our position and who will sponsor our bill. We must simultaneously develop a campaign to boost support for a federal juvenile death penalty bill. We should focus our efforts on the fact that the recent murders by the “Beltway Sniper” were allegedly committed by a juvenile. Under current federal laws, a minor cannot be subject to the death penalty. We must convince the public that such a sentencing option should be available to protect the public and deter future multi-state murder sprees.

Con: We must first find a congressional representative who supports our position and who will sponsor our bill. We must simultaneously develop a campaign to end the juvenile death penalty. Many organizations are currently arguing for such a ban. We must mobilize these groups into a single cohesive campaign. We should focus our efforts on the fact that the United States is one of a handful of nations that allows capital punishment for persons under 18.

3. *What type of measure shall we propose?*

Both sides: A bill is a sufficient start for our cause and the easiest approach to creating change.

4. *What will our bill say?*

Pro: Our bill should say, “Due to the increase of violent juvenile crimes that occur across multiple states, the federal government shall have the option of sentencing a person over the age of 16 to capital punishment. The juvenile must commit first-degree murder in multiple states in order to be eligible for capital punishment.”

Con: Our bill should say, “Any state that sentences a juvenile to capital punishment will lose federal resources for prison building programs for a 10-year period.”

5. *Should we take our proposal to the House of Representatives or to the Senate?*

Both sides: Either house is an acceptable place to send our proposal.

6. *What would be the profile of a congressional representative who would sponsor our bill?*

Pro: We should lobby a congressperson who has gone on record in support of the death penalty. In general, conservative Republican congresspersons favor the death penalty. We should seek the support of a congressperson whose constituents were affected by the “Beltway Sniper” or other multi-state murder cases involving a juvenile.

Con: We should lobby a congressperson who has gone on record as opposing the death penalty. In general, liberal congresspersons do not support the death penalty. We can also target congresspersons who have previously supported child or juvenile advocacy legislation.

7. *Is there a congressional representative who would sponsor our bill?*

Pro: Although many congressional representatives take a strong stance on crime, no congressperson has openly advocated the federal use of capital punishment for juveniles.

Con: Representative Jesse Jackson, Jr. has sponsored previous legislation calling for a moratorium on the death penalty. In the Senate, Senators Russ Feingold and John Corzine have introduced anti-death penalty legislation.

8. *What committees are likely to be assigned our bill?*

Both sides: In all likelihood, a bill of this nature would be sent to the Senate Judiciary Committee or the House Judiciary Committee.

9. *Have they recently held hearings, and what were the outcomes of those hearings?*

Both sides: Both the Senate and House Judiciary Committees frequently discuss capital punishment. No committee has ever discussed the juvenile death penalty issue. In June 2002, the House Judiciary Committee discussed capital punishment in association with the Innocence Protection Act, but there were no references to juveniles in those hearings.

10. *What strategies can we develop to get our bill through committee hearings?*

Pro: With conservatives controlling the presidency and both houses of Congress, we should be able to lobby support for our legislation. We should focus our efforts on gaining the support of conservative members of the Judiciary Committee.

Con: We should appeal to the committee, claiming the public's sentiment has increasingly opposed capital punishment. We can cite the recent repeal of dozens of death sentences by the Governor of Illinois. Furthermore, we can promote our legislation by claiming that the elimination of federal prison-building budgets would save taxpayer dollars.

11. *What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?*

Pro: We can expect support from law enforcement associations, conservative groups, anti-violence groups, victims' rights groups, and most likely the Republican Party.

Con: We could turn to juvenile advocacy groups, public defenders, the American Bar Association, liberal groups, anti-death penalty groups, Amnesty International, and the Democratic Party.

12. *What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?*

Pro: We may face opposition from juvenile advocacy groups, public defenders, the American Bar Association, liberal groups, anti-death penalty groups, Amnesty International, and the Democratic Party.

Con: We may face opposition from law enforcement associations, conservative groups, anti-violence groups, victims' rights groups, and most likely the Republican Party.

13. *Can we expect to have broad public support for our legislation?*

Both sides: This issue is very polarized. We can expect public support based upon individual political ideology. Currently, the nation is split almost fifty-fifty between conservatives and liberals. Therefore, we can expect a diverse range of public support on Both sides:— but neither side has a clear majority.

14. How does our bill get to the floor of Congress?

Both sides: Our legislation will first be assigned to a committee. Committee members will review our proposal and mark up the bill. They may add amendments or delete clauses to our bill. Once the bill is voted out of committee, it will be assigned a time to be heard by the full House or Senate. In the House of Representatives, the Rules Committee will determine the time the bill will be heard and the rules of debate. In the Senate, bills are scheduled to be heard as they come out of committee.

15. What happens to our bill after one house approves it?

Both sides: After one house passes our legislation, the other house must pass an identical piece of legislation before it is passed on to the President. If the second house passes a different piece of legislation, it must be considered by a Conference Committee of both houses.

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Both sides: After both houses pass our bill, it is sent to the President for his signature.

17. What options does the President have?

Both sides: The President has four options: 1) veto the bill; 2) sign the bill; 3) accept the bill but not sign it, and after 10 days it will pass into law; 4) perform a pocket veto.

18. How long might it take for us to get our legislation passed?

Pro: This issue is so volatile that it would probably take years to get such legislation passed. There would be a long national debate over juvenile justice and capital punishment.

Con: The Supreme Court has been leaning toward eliminating the juvenile death penalty, according to its recently delivered opinions. Momentum seems to be building in our favor. We could get our legislation passed in a matter of months to a couple of years. In general, juvenile capital punishment is not heavily favored among the public. It would not be difficult to generate sufficient support to pass our legislation.

19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative action can we take?

■ How could we pass a state law?

Pro: Currently, a state has the right to decide its own punishment options for criminal cases within the state. Although a state cannot create legislation to mandate a federal death penalty for juveniles, it can create juvenile capital punishment laws for crimes committed against their state. Capital punishment for state crimes is within the purview of the state and not the federal government. The federal government cannot pass a law to disallow a state-mandated death penalty. However, the federal government can pass a law to allow the death penalty for federal crimes.

Con: The federal government cannot pass a law to disallow a state-mandated death penalty. However, states can create legislation that would ban the sentencing of juveniles to the death penalty for state crimes.

■ What is an initiative?

Both sides: An initiative is a piece of legislation that allows citizens to bypass the state legislature and the Governor. By gaining a certain number of signatures, citizens can get initiatives placed before the voters during state elections. If the initiatives win, they are passed into law by the voters and bypass the legislature and the Governor.

- What is a referendum?

Both sides: A referendum is the review of a piece of state legislation during state elections. Gathering a predetermined number of signatures to create a referendum allows citizens to challenge state laws they oppose.

- How could we pursue a civil case in federal court?

Pro: Congress must first pass legislation to authorize federal use of the death penalty for juveniles. A civil case would be difficult to develop without such legislation.

Con: Many civil cases have been brought in the past on behalf of juveniles sentenced to death. The Supreme Court decided in *Thompson v. Oklahoma* (487 U.S. 815), that juveniles under the age of 15 cannot be sentenced to capital punishment. The Supreme Court has allowed the sentencing of capital punishment for persons over the age of 16 in *Stanford v. Kentucky* (492 U.S. 361).

- How would we participate in an *Amicus Curiae* brief?

Both sides: If a case regarding our issue were being heard by a court, we could write an *Amicus Curiae* brief. In our brief, we would lay out our reasons for supporting, or opposing, the juvenile death penalty. Furthermore, we would list all of the groups who support our position on the issue and how many signatories are on our petition. An *Amicus Curiae* brief — “friend of the court” document — is filed by interested parties and is meant to influence the court hearing the case.

- How could we change the Constitution to favor our issue?

Both sides: In this case, we could begin a national campaign to create a Constitutional amendment to ban (or protect) the death penalty. This approach would be far more difficult than getting a bill through Congress, so it would be best to concentrate our efforts on a congressional measure.

- How could an executive order help us?

Both sides: An executive order would not help our cause. This issue is restricted to the legislative and judicial branches.

- What problems would we have with concurrent powers?

Both sides: The federal government cannot pass laws that mandate the states to repeal the death penalty for state crimes. Punishment for state crimes is under the jurisdiction of the states and not the federal government. However, the federal government does have the power to allow or disallow the death penalty for federal crimes. In addition, the federal government can withhold funding for specific programs in response to states allowing a juvenile death penalty. This would not force the states to end the death penalty, but it might discourage them because they would lose funding.

File Sharing

1. *How do we enact change?*

Pro: We are seeking legislation that would legalize computer file sharing programs. We must gain the support of a congressional representative who will sponsor our bill. We should seek a broad coalition of support from computer manufacturers, software developers, music lovers, and freedom-of-information advocates.

Con: We are seeking legislation that would make all computer file sharing programs illegal. The easiest way to create legislation is by gaining the support of a congressional representative who will sponsor our bill. We should seek a broad coalition of support from the Recording Industry Artists Association, musicians, copyright advocates, and audio/movie producers and manufacturers.

2. *How do we get our legislation started?*

Pro: We need to establish permanent rights for file sharing programs. Recent civil court cases have found that file sharing programs, in and of themselves, do not constitute copyright infringement. It is up to users of these programs to ensure that they are not sharing copyrighted materials. The best way to establish these rights is to create a federal law stating that such programs are legitimate.

Con: We need to pressure Congress to act against software companies that create file sharing programs. It is common knowledge among the public that these programs are used to pirate copyrighted materials. The music industry has lost billions of dollars in revenue. Congressional action must be taken in order to deter companies from encouraging copyright infringement.

3. *What type of measure shall we propose?*

Both sides: A bill is a sufficient start for our cause and the most direct approach to creating change.

4. *What will our bill say?*

Pro: Our bill will say, "File sharing computer programs are legally acceptable entities. These programs have legitimate purposes, such as exchanging information, promotion, and advertisement. Any infringement of copyrighted materials is culpable to the users of file sharing programs and not the companies that have created them."

Con: Our bill will say, "Due to continued and pervasive copyright infringement, the creation and use of file sharing computer programs are illegal."

5. *Should we take our proposal to the House of Representatives or to the Senate?*

Both sides: Either house is an acceptable place to send our proposal.

6. *What would be the profile of a congressional representative who would sponsor our bill?*

Pro: We should seek the support of a congressional representative who advocates freedom of speech and freedom of information. Our representative should have close ties to the software industry.

Con: We should seek the support of a congressional representative who advocates copyright compliance. Furthermore, our representative should have close ties to the recording industry and/or movie industry.

7. *Is there a congressional representative who would sponsor our bill?*

Pro: Representative Bill Tauzin (R-LA) has expressed support for the concept of file sharing programs. He has stated that he sees benefits to their existence, but also concedes that some users have blatantly participated in copyright infringement.

Con: Representative Howard Coble (R-NC), chairman of the Subcommittee of Courts and Intellectual Property, has gone on record against file sharing programs such as Napster and MP3.com.

8. *What committees are likely to be assigned our bill?*

Both sides: In the House of Representatives, our bill could go to the Committee on Energy and Commerce, Committee on Judiciary, or Joint Committee on Commerce. In the Senate, our bill could go to the Committee on Commerce, Science, and Transportation or the Committee on Judiciary.

9. *Have they recently held hearings and what were the outcomes of those hearings?*

Both sides: The House Subcommittee of Courts and Intellectual Property has held hearings on Napster. They tried to put together several bills, such as the Digital Millennium Copyright Act, but failed to get these bills to the floor of Congress.

10. *What strategies can we develop to get our bill through committee hearings?*

Pro: We can appeal to the committee, claiming that recent court decisions have recognized the right of file sharing programs to exist. We should try to move the issue away from the legality of file sharing programs to how intellectual property rights can be better protected.

Con: We can appeal to the committee that file sharing programs blatantly infringe on copyrighted materials. Our legislation needs to be passed in order to protect the economic viability of the recording and movie industries.

11. *What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?*

Pro: We can expect support from the software industry, college students, underground musicians, and advocates for freedom of speech and information. In general, Internet users support the right to use file sharing communities.

Con: We can turn to the Recording Industry Association of America, intellectual property rights advocates, recording artists, movie and television production companies, and film and television stars. We can also turn to religious groups and petition them, based upon the moral wrongness of stealing another's hard work.

12. *What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?*

Pro: We can expect opposition to our legislation from the Recording Industry Association of America, intellectual property rights advocates, recording artists, movie and television production companies, and film and television stars.

Con: We can expect opposition from the software industry, college students, underground musicians, and advocates for freedom of speech and information. In general, Internet users support the right to use file sharing communities and will probably oppose our legislation as well.

13. Can we expect to have broad public support for our legislation?

Pro: With millions of file sharing program users in the United States, broad public support for our legislation already exists.

Con: Although many people use these programs, we could generate public support by using popular recording artists as advocates for our legislation. They could use their public spotlight to create support for our cause.

14. How does our legislation get to the floor of Congress?

Both sides: Our legislation will first be assigned to a committee. Committee members will review our proposal and mark up the bill. They may add amendments or delete clauses to our bill. Once the bill is voted out of committee, it will be assigned a time to be heard by the full House or Senate. In the House of Representatives, the Rules Committee will determine the time the bill will be heard and the rules of debate. In the Senate, bills are scheduled to be heard as they come out of committee.

15. What happens to our bill after one house approves it?

Both sides: After one house passes our legislation, the other house must pass an identical piece of legislation before it is passed on to the President. If the second house passes a different piece of legislation, it must be considered by a Conference Committee of both houses.

16. How does our bill get to the President?

Both sides: After both houses pass our bill, it is sent to the President for his signature.

17. What options does the President have?

Both sides: The President has four options: 1) veto the bill; 2) sign the bill; 3) accept the bill but not sign it, and after 10 days it will pass into law; 4) perform a pocket veto.

18. How long might it take for us to get our legislation passed?

Pro: It might take several years to rally sufficient support among congressional leaders. The music industry contributes large amounts of money to congressional campaigns. It would be difficult for congresspersons to give up these contributions and support our legislation. Furthermore, most congresspersons view file sharing programs as illegal but uncontrollable. It would take significant lobbying to change this perception.

Con: It would not take very long for our legislation to be passed. Most congresspersons feel that file sharing programs are illegal but uncontrollable. With adequate lobbying, we could get our legislation passed through Congress in under two years.

19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative action can we take?

■ How could we pass a state law?

Pro: State laws would not do us much good. Internet issues are viewed as federal issues because the transferred information can cross state lines.

Con: We could lobby states to pass laws that would ban the use of file sharing programs in their respective states. The difficult part would be creating software mechanisms to enforce these state laws.

- What is an initiative?

Both sides: An initiative is a piece of legislation that allows citizens to bypass the state legislature and the Governor. By gaining a certain number of signatures, citizens can get initiatives placed before the voters during state elections. If the initiatives win, they are passed into law by the voters and bypass the legislature and the Governor.

- What is a referendum?

Both sides: A referendum is the review of a piece of state legislation during state elections. Gathering a predetermined number of signatures to create a referendum allows citizens to challenge state laws they oppose.

- How could we pursue a civil case in federal court?

Both sides: Currently, civil suits are taking place on Both sides: of the issue. It would be wise to support civil cases on copyright infringements in order to build support for our legislation.

- How would we participate in an *Amicus Curiae* brief?

Both sides: If a case regarding our issue were being heard by a court, we could write an *Amicus Curiae* brief. In our brief, we would lay out our reasons for supporting, or opposing, file sharing technology. Furthermore, we would list all of the groups who support our position on the issue and how many signatories are on our petition. An *Amicus Curiae* brief—“friend of the court” document—is filed by interested parties and is meant to influence the court hearing the case.

- How could we change the Constitution to favor our issue?

Both sides: In this case, we could begin a national campaign to create a Constitutional amendment to ban (or protect) the use of file sharing technology. This approach would be far more difficult than getting a bill through Congress, so it would be best to concentrate our efforts on a congressional measure.

- How could an executive order help us?

Both sides: An executive order would not help either side for this issue. The President has a very limited role in copyright infringement. Copyright infringement is delineated by the legislative branch and is reviewed by the judicial branch.

- What problems would we have with concurrent powers?

Both sides: There are currently no problems with concurrent powers in the file sharing issue. States have very little control over file sharing, as this information is readily shared across state lines.

Gun Control

1. *How do we enact change?*

Pro: We are seeking legislation that would authorize civil cases to be brought against gun manufacturers who negligently market weapons whose sole purpose is to conduct crimes. The easiest way to create legislation is by gaining the support of a congressional representative who will sponsor our bill. We should seek a broad coalition of support from criminal justice groups, liberal political groups, and families of murder victims.

Con: We are seeking the passage of H.R. 1036 and S-659, which would eliminate frivolous lawsuits against the gun industry. We must develop a lobbying campaign to gain enough support in the Senate to pass our legislation. We must gain the approval of 60 members of the Senate in order to break the current Democratic filibuster against our legislation.

2. *How do we get our legislation started?*

Pro: We must develop a strategy to counteract the current gun rights legislation in the Senate. Furthermore, we must create legislation that would guarantee families and victims of negligent criminal acts the right to sue the gun manufacturers and distributors who market guns and allow them to get into criminals' hands.

Con: Because our legislation has already been introduced into Congress and passed through the House of Representatives, we need to focus our efforts on the Senate. We must convince at least 10 Democrats to change their position on our legislation and allow a vote to take place.

3. *What type of measure shall we propose?*

Both sides: A bill is a sufficient start for our cause and the easiest approach to creating change.

4. *What will our bill say?*

Pro: Our legislation will say, "The families and victims of violent firearm crimes have the right to sue gun manufacturers, distributors, and retailers who negligently market or distribute firearms for criminal purposes."

Con: We do not need to write a new bill. We can simply support H.R. 1036 and S-659.

5. *Should we take our proposal to the House of Representatives or to the Senate?*

Pro: Because the House of Representatives passed the pro-gun rights legislation with a clear majority, we should take our bill to the Senate, which has not passed any such legislation.

Con: Our bill has already passed through the House and is now in the Senate.

6. *What would be the profile of a congressional representative who would sponsor our bill?*

Pro: We should target a congressional representative who has supported gun control legislation in the past. We should target Democratic senators because they currently are blocking S-659.

Con: We should target a congressional representative who has supported gun rights legislation in the past. We should focus our support on conservative members of Congress. Currently some 50 senators have sponsored S-659.

7. *Is there a congressional representative who would sponsor our bill?*

Pro: Senator Hillary Clinton (D-NY), Senator Mel Carnahan (D-MO), and Senator Edward Kennedy (D-MA) all have supported gun control measures in the past.

Con: Senator George Allen (R-VA), Senator Bill Frist (R-TN), and Senator Orrin Hatch (R-UT) all have supported gun rights measures and are co-sponsors of the current legislation.

8. What committees are likely to be assigned our bill?

Both sides: Our legislation will likely go to several committees, due to the importance of the issue. First, it may go to the Senate Committee on Judiciary or the Subcommittee on Urban Affairs. Next, it will likely go to the Committee on Rules and Administration in order to limit amendments and break any potential filibusters.

9. Have they recently held hearings, and what were the outcomes of those hearings?

Both sides: Congress holds hearings on gun control issues in nearly every congressional session. The Committee on Judiciary has addressed this legislation in both houses. The Committee on Budgeting and Finance has also addressed elements of the legislation. Furthermore, the House Committee on Rules has set specific parameters for the debate and amendments that could be added to the legislation.

10. What strategies can we develop to get our bill through committee hearings?

Pro: We must hope that our legislation is sent to a committee that is controlled by senior Democratic congresspersons. If our legislation is sent to a Republican-controlled committee, it will be killed.

Con: Our legislation has already passed through committee.

11. What interest groups, religious groups, political parties, government departments, or congressional committees can we expect to support our cause?

Pro: We can expect support from the Democratic Party and liberal groups. Many law enforcement agencies support stiffer gun control measures. We can also turn to pro-gun control advocacy groups, and to the victims and families of violent firearm crimes.

Con: We can expect support from conservative groups and the Republican Party. The Libertarian Party also supports an individual's right to bear arms. We can turn to the NRA and other pro-gun rights advocates. Lastly, we can turn to gun manufacturers and retailers to support our legislation.

12. What interest groups, religious groups, political parties, government departments, or congressional committees will most likely oppose our legislation?

Pro: We can expect opposition from conservative groups and the Republican Party. The Libertarian Party also supports an individual's right to bear arms, and therefore opposes our legislation. We can also expect stiff resistance from the NRA and other pro-gun rights advocates. Lastly, we will be opposed by gun manufacturers and retailers.

Con: We can expect opposition from the Democratic Party and liberal groups. Many law enforcement agencies support stiffer gun control measures and may oppose our legislation. We can also expect opposition from pro-gun control advocacy groups, and the victims and families of firearm crimes.

13. Can we expect to have broad public support for our legislation?

Both sides: This is a partisan issue and the public, much like Congress, is almost evenly split. Although a broad range of people will support each side of the issue, neither side will have a clear majority.

14. How does our legislation get to the floor of Congress?

Both sides: Our legislation will first be assigned to a committee. Committee members will review our proposal and mark up the bill. They may add amendments or delete clauses to our bill. Once the bill is voted out of committee, it will be assigned a time to be heard by the full House or Senate. In the House of Representatives, the Rules Committee will determine the time the bill will be heard and the rules of debate. In the Senate, bills are scheduled to be heard as they come out of committee.

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Pro: If our legislation is passed through the Senate, it will be sent to the House.

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Both sides: After both houses pass our bill, it is sent to the President for his signature.

17. What options does the President have?

Both sides: The President has four options: 1) veto the bill; 2) sign the bill; 3) accept the bill but not sign it, and after 10 days it will pass into law; 4) perform a pocket veto.

18. How long might it take for us to get our legislation passed?

Pro: It may take us years to get our legislation passed due to the Republican majority in Congress. We must either gather support from more Republicans or wait for Democrats to regain a majority in Congress.

Con: Our bill may pass the Senate in a matter of months. We have the votes needed to pass our bill. We just need to end the Democratic filibuster on this issue.

19. If we are not successful in passing federal legislation, what executive, judicial, or state-level legislative action can we take?

■ How could we pass a state law?

Pro: In 2002, California passed a series of gun control laws. One law allows gun manufacturers to be held liable for crimes committed with their weapons. We could lobby other states to create similar legislation.

Con: Many states, in particular southern states, have laws in place that exempt the gun industry from being sued in civil trials.

■ What is an initiative?

Both sides: An initiative is a piece of legislation that allows citizens to bypass the state legislature and the Governor. By gaining a certain number of signatures, citizens can get initiatives placed before the voters during state elections. If the initiatives win, they are passed into law by the voters and bypass the legislature and the Governor.

■ What is a referendum?

Both sides: A referendum is the review of a piece of state legislation during state elections. Gathering a predetermined number of signatures to create a referendum allows citizens to challenge state laws they oppose.

■ How could we pursue a civil case in federal court?

Both sides: Many civil suits are currently being heard over gun control issues. If H.R. 1036 and S-659 pass, it would be nearly impossible to bring civil suits against the gun industry.

- How would we participate in an *Amicus Curiae* brief?

Both sides: If a case regarding our issue were being heard by a court, we could write an *Amicus Curiae* brief. In our brief, we would lay out our reasons for supporting, or opposing, gun control. Furthermore, we would list all of the groups who support our position on the issue and how many signatories are on our petition. An *Amicus Curiae* brief—“friend of the court” document—is filed by interested parties and is meant to influence the court hearing the case.

- How could we change the Constitution to favor our issue?

Both sides: In this case, the Constitution gives the people the right to bear arms under the Second Amendment. It would be very difficult to pass another amendment that would place gun control limits.

- How could an executive order help us?

Both sides: An executive order would not really help us because this issue is strictly a matter for Congress and the judicial branch.

- What problems would we have with concurrent powers?

Both sides: Currently, there are no problems with concurrent powers in the gun control issue.



Appendix IV:

CSA Board Questions

THE CSA BOARD PRESIDENT

The CSA board president is an expert on the process of how bills become law, executive orders, and the Constitution. The board president's questions should be aimed at testing the students' knowledge of how legislation is passed into law, and when it would be appropriate to use other federal solutions such as an executive order or an amendment to the Constitution.

- 1) What process did our recommended bill go through once it was introduced in the House and Senate?
- 2) Why do you think our bill has failed to become law?
- 3) Other than legislation, what federal-level solutions have we considered? Executive orders? Supreme Court rulings?
- 4) How would we have to change the Constitution in order to achieve the solution we want?

BOARD MEMBER #1

The first board member to ask questions favors federal legislative solutions, and will ask questions that test the students' understanding of federal solutions and how interest groups go about influencing federal legislation.

- 1) Before you abandon a federal legislative solution, tell me what makes you think this solution would not succeed?
- 2) What groups and individuals could we depend upon to support a federal legislative solution?
- 3) Haven't there been laws similar to what we are supporting that have passed? Why is ours different?

BOARD MEMBER #2

The second board member favors state legislative solutions, and will ask questions that test the students' understanding of state solutions.

- 1) How would the referendum process apply to our issue?
- 2) How could we pursue an initiative, and would it be an effective solution?
- 3) What about the state legislature and the Governor? How could we pass state-level legislation?
- 4) Why would (or wouldn't) a state-level solution be appropriate?

BOARD MEMBER #3

The third board member favors judicial solutions, and will ask questions that test the students' understanding of judicial solutions.

- 1) How could we pursue a civil case in federal court?
- 2) How could we participate in an *Amicus Curiae* brief?
- 3) Are there state-level judicial solutions that we should consider?
- 4) Why would (or wouldn't) a judicial solution be appropriate?

BOARD MEMBER #4

The fourth board member favors no solution, and wants the group to stop all action.

- 1) Why is it necessary that we do anything about this?
- 2) What will be the benefit of our getting involved in this action?
- 3) What will be the negative effects of our involvement in this action?