



**CLASSROOM LAW PROJECT
PRESENTS**

ELECTION 2020

WHY VOTING MATTERS

UNIT 2

Other Issues for the 2020 Election

UNIT 2

Other Issues for the 2020 Election

Essential Questions:

- Lesson 2.1 – How Democratic is the United States Senate?
- Lesson 2.2 – How does direct democracy work in Oregon?
- Lesson 2.3 – What Measures are on the 2020 Oregon ballot?

Unit 2 Standards:

OR 2018 Grade 8 Social Studies Standards:

8.2
8.7
8.9
8.10
8.30
8.33
8.34

OR 2018 High School Social Studies Standards:

HS.6
HS.10
HS.11
HS.13
HS.71
HS.73
HS.74
HS.76

11/12 CCSS Literacy in History & Social Studies:

11-12.RH.1
11-12.RH.2
11-12.RH.3
11-12.RH.7
11-12.RH. 9
11-12.WHST.1
11-12.WHST.4
11-12.WHST.9

Grade 8 CCSS Literacy in History/Social Studies:

6-8.RH.1
6-8.RH.2
6-8.RH.4
6-8.RH.5
6-8.RH.6
6-8.RH.8
6-8.WHST.1
6-8.WHST.2
6-8.WHST.9

9/10 CCSS Literacy in History & Social Studies:

9-10.RH.1
9-10.RH.2
9-10.RH.4
9-10.RH.5
9-10.RH.6
9-10.WHST.1
9-10.WHST.4
9-10.WHST.9

Objectives:

Students will

- Identify states where senate seats are contested in 2020
- Analyze the fairness of representation in the United States Senate
- Use the Preamble of the Constitution to evaluate the democratic nature of the Senate
- Define an Initiative and the process Oregon uses for direct democracy
- Contrast the pros and cons of direct democracy
- Identify the issues proposed 2020 Initiatives
- Decide their own opinion about one proposed Initiative for 2020

Unit Vocabulary

- Direct Democracy
- Initiative
- Referendum
- Referral
- Legislature
- Ballot Measure
- Endorsement

Materials and Handouts

2.1 How Democratic is the United States Senate?

Handouts:

- Survey of states with Senate contests in 2020
- Article: How Democratic is the U.S. Senate?
- Introduction to the Preamble of the U.S. Constitution
- Graphic Organizer: using the Preamble to analyze the Senate's representation
- Reflection: the U.S. Senate in 2020

2.2 How does Direct Democracy work in Oregon?

Handouts:

- How an idea becomes law through the legislative process
- How an idea becomes law through the initiative process
- What types of Ballot Measures are there?
- Articles about Direct Democracy (pros & cons)
- Propose a ballot measure for the state

2.3 What Proposed 2020 Initiatives Might you support?

Handouts:

- Survey of Proposed Initiatives
- Analysis: Why does this question matter for Oregon?

How democratic is the United States Senate?

Handouts:

- Article: Congress v. We the People, from *Fault Lines in the Constitution*
- Article: Representation and Race in the Senate
- Survey of states with Senate contests in 2020 & Analysis: What I know about the Senate in 2020
- Introduction to the Preamble of the U.S. Constitution
- Graphic Organizer: using the Preamble to analyze the Senate's representation
- Reflection: the U.S. Senate in 2020

Lesson Introduction:

Because 1/3 of the Senate is up for election every two years, there are senate races on ballots across the country in 2020. The control of the Senate is up for grabs this year, and so these elections are being paid especially close attention. This lesson gives students the opportunity to dive into the question of how democratic the Senate truly is with its representation, as well as survey the senate election map. This lesson incorporates the Constitution once again, by asking students to use the Preamble itself to evaluate the representation in the Senate.

Suggested Openers:

A question students might consider ahead of time (or a poll you could run on Zoom with digital classes): What do you think is most fair: representation by population numbers or representation that gives whole states the same number of votes? Why?

Another pre-lesson exercise would be to refresh students' knowledge of what the Senate is responsible for and why that authority makes the Senate elections and which political party controls the Senate important (judge confirmations, Supreme Court confirmations, treaty approvals, passing bills with the House, etc.)

Lesson Options / Activities:

1. Ask students to read the background article from the authors of *Fault Lines in the Constitution*, Cynthia and Sanford Levison. A follow up conversation about what they learn from this article about who gets representation in the Senate will help students build the foundation they need to begin to analyze the situation and consider options.
2. The article "Representation and Race in the Senate" address how the skewed representation in the Senate impacts and reinforces institutionalized racism. This reading may be more applicable for older students, however, it is an important anti-racist aspect of the discussion around how democratic the Senate is. This article makes excellent use of graphs and data for students to use for analysis skills.

3. Once students are familiar with the representation issues in the Senate, the website “270towin” has up to date map representations of the 2020 Senate races. Additionally, FiveThirtyEight uses graphics to demonstrate up to date polling data on the Senate. Asking students to survey these sites and log what they discover about which races are close or unpredictable will help them process why the balance of the Senate is a major part of the 2020 Election.
4. Using the Preamble of the Constitution, students may critique the Constitution. The skill of critique is an important part of critical thinking and understanding that the Constitution itself is not infallible but rather requires citizens to understand it and know its gaps.
 - a. One way to do that is to use the six goals of the Preamble to begin a deeper critique. So the first part is digging deeper into the goals themselves and understanding what they mean.
 - b. The second part takes those goals and uses them to critique Article I, Section 3 about Senate Representation.
5. Finally, students can take all they’ve learned about the background of the Senate, a constitutional critique of the senate, and the 2020 Senate races and reflect on their own thoughts about why voting in the 2020 senate races matters.

Extension Activity options:

1. Students may want to go on to propose Amendments to the Constitution about how to make the Senate more democratic and compare ideas about the process to make that happen, or debate if it is even possible or necessary.
2. Students may want to pick one or two of the toss-up Senate races and do a deeper investigation into those races, the candidates, and predict who they think might win in those states.

CONGRESS V. WE THE PEOPLE

April 12, 2018 Cynthia & Sanford Levinson

From "Fault Lines in the Constitution"

<https://faultlinesintheconstitution.com/2018/04/12/congress-v-we-the-people/>

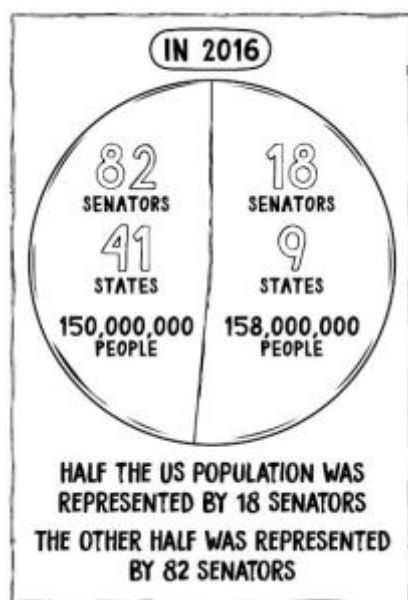
Taking the political temperature—that is, figuring out the opinions—of 325 million Americans can be complicated. We've disagreed with each other on many major issues, such as slavery and the power of the federal government, from the very beginnings of our country. In addition, we seem to be increasingly divided and argumentative. Nevertheless, there are at least two trends on which a majority of the population tends to agree. One of these is controlling access to guns. The other is providing a way for Dreamers—young people who came to the country as children and stayed without documentation—to become citizens. Here is what the latest opinion polls show.

In terms of access to weapons, about two-thirds of registered voters support stricter gun laws, according to [CNN](#), [CBS News](#), and [Politico](#). Only about one-quarter of them oppose making it harder to buy guns. For example:

- Almost 90 percent of people who support such laws want buyers to have to pass a background check before they can purchase a gun.
- More than 80 percent want to bar violent criminals from buying guns.
- More than 75 percent want to raise the age limit for purchase to twenty-one; ban bump stocks, which allow for rapid firing of arms; and enforce a three-day waiting period between purchase and delivery.

Most Americans also believe that the seven hundred thousand Dreamers who want to remain in the United States legally should be able to do so, and eventually become citizens. The well-respected [Pew Research Center](#) found, for example that nearly three-quarters of the population are in favor of granting legal resident status to these young people who grew up in America and consider it their home.

If there is widespread support among registered voters for both gun control and Dreamers, why haven't our elected members of Congress passed laws to take action on these issues? The reason, in part, is related to our Constitution.



As we explain in Chapter 2 of *Fault Lines in the Constitution*, every state, regardless of the size of its population, is represented by two senators in the US Senate. So, California's thirty-nine million residents have the same voice in Congress's upper house as Vermont, with 625,000 people. At the state level, California has some of the strictest gun control laws in the country while Vermont has some of the loosest. These state laws reflect the views of the majority of their citizens. At the national level, though, each state has equal weight in the debate.

Overall, the [Pew](#) poll found, almost two-thirds of the people who live in rural areas—that is, states with low populations, such as Vermont—want to protect the rights of gun owners. Only about one-third of city-dwellers, like most Californians, do so. On the other hand, more than three-fifths of urbanites want gun control while only a third of rural residents do. But, again, rural states with low populations count as much in the Senate as urban states with lots of people.

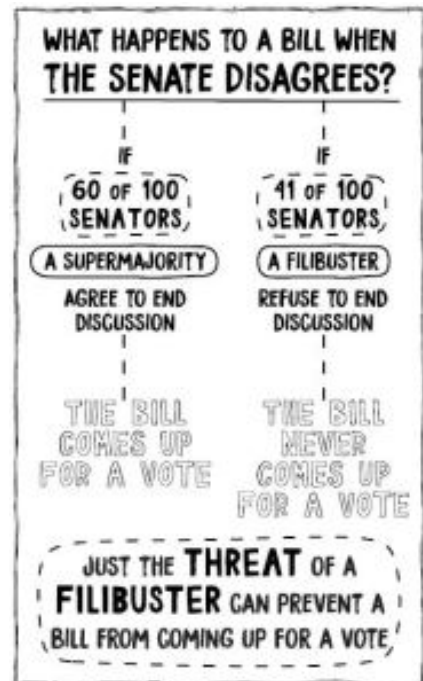
Senators are elected to represent the views of the people in their states. So, as far as the Senate is concerned, it doesn't matter that most Americans want to limit access to firearms.

The Senate is a factor for Dreamers, also. As we explain in Chapter 4 of *Fault Lines*, each house of Congress has the right to make rules for how it proceeds—for instance, when to send bills to committees and when to vote on them.

Senators have the right to filibuster legislation—that is, talk on and on to prevent a bill from coming up for a vote. Both Republicans and Democrats have used this ability to keep laws they don't like from passing.

The only way to stop a filibuster and force a vote is for sixty senators—a supermajority—to agree to end discussion. In 2010, a majority of the House of Representatives and a majority of the Senate supported the DREAM (Development, Relief and Education for Alien Minors) Act, which would give Dreamers a way to become citizens eventually. However, the bill was filibustered, and only fifty-five senators voted to cut off debate. As a result, the act failed.

Although we generally believe that we have a representative government—and we often do have one—we do not always have a Congress that follows the wishes of the citizenry. There are many reasons this is the case. The Constitution is one of them.



Representation and Race in the United States Senate

Excerpts from Data for Progress Report on the Senate & Vox News

It is not new that the Senate gives extra weight to the interests of people who live in low-population states is not news. That's a principle that was deliberately baked into the Senate from its inception. What's new is that changes in American life have made its disproportionality more consequential.

A key issue is race. As the US has gotten more diverse, that diversity has spread throughout the country unevenly. It's not impossible for a state to be both small and diverse (Hawaii) or even small and heavily urbanized (Rhode Island), but lower-population states tend to be whiter, more rural, and less educated than average. The result is a system of "racism by proxy" that overweights the interests and opinions of white voters over those of black, Hispanic, and Asian voters.

The growing polarization of the white vote along the lines of population density and educational attainment has also supercharged the once-modest partisan skew of the Senate, making even the most popular changes to health care or minimum-wage policy an extremely heavy lift.

The result is a growing problem that progressives have few if any real ideas for fixing.

The Senate's growing skew

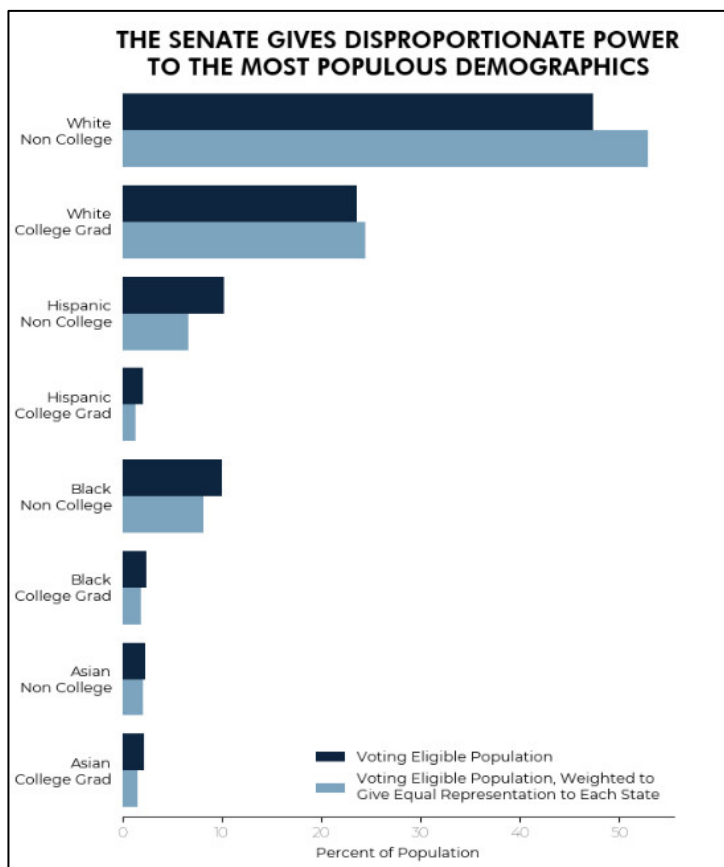
Back in 1790, about 748,000 people — nearly 40 percent of whom were enslaved — lived in Virginia. The smallest state, Delaware, had 59,000 residents, of whom about 3 percent were enslaved.

The largest state, in other words, was about 12.6 times as big as the smallest state, and the ratio was even lower among free people.

Today, the smallest state is Wyoming, and the state of Washington has about 12.6 times as many people. Of course, Washington isn't the largest state. Indeed, it's not even particularly close — 12 states are bigger. Illinois has 22 times Wyoming's population. Texas is nearly 50 times as big (and growing fast). And California is a stunning 68 times as large.

These are enormous disparities to live with as essentially a matter of historical happenstance. Not only was the Connecticut Compromise defining Senate representation a hard-nosed plan that didn't reflect any clear larger principle, the boundaries of the states themselves were not drawn the way they are today for any particularly far-sighted reason.

If California had been carved up into Massachusetts-sized states, it could be easily 15 or 16 separate entities — each with about four times the population of Wyoming — rather than the current mismatch. When currently big states like Texas, Illinois, Florida, and California were admitted to the Union, their populations were not particularly large, and there was no specific intention to downweight their residents.



As of the 1860 US census, for example, Texas and California both had fewer residents than Maine, and Vermont was bigger than Minnesota or even Florida.

For most of America's history, meanwhile, nonwhite participation in the political process was suppressed so dramatically that the racial skew of the Senate was a non-issue. In the contemporary US, that's not the case — America's large and growing nonwhite minority enjoys, in theory, equal citizenship rights. But today's Senate overrepresents white voters and significantly underrepresents nonwhite ones.

Note that this is the opposite of the Senate's small-state bias serving to correct some kind of potential "tyranny of the majority" problem. The underrepresented groups in the Senate process are the potentially vulnerable minority populations that might be in need of protecting. Even in an egalitarian system, whites would be a clear majority of the voting population, with noncollege-educated whites accounting for the largest voting bloc. And with the partisan preferences of the white electorate increasingly polarized along educational and urban/rural lines, that's giving the Senate a sharper and sharper partisan skew.

The Senate's skew is now a big deal for partisanship

The disproportionality of the Senate has long mattered in American politics. But it didn't matter in a particularly partisan way until recently. Overrepresentation of rural voters manifested itself mostly in bipartisan support for things like farm subsidies, the Universal Service Fee that's charged on phone bills, the Essential Air Service, and other relatively small-bore ways in which the federal government caters to rural interests.

But the drift of white, working-class voters into the Republican camp has increased the scale of the tilt.

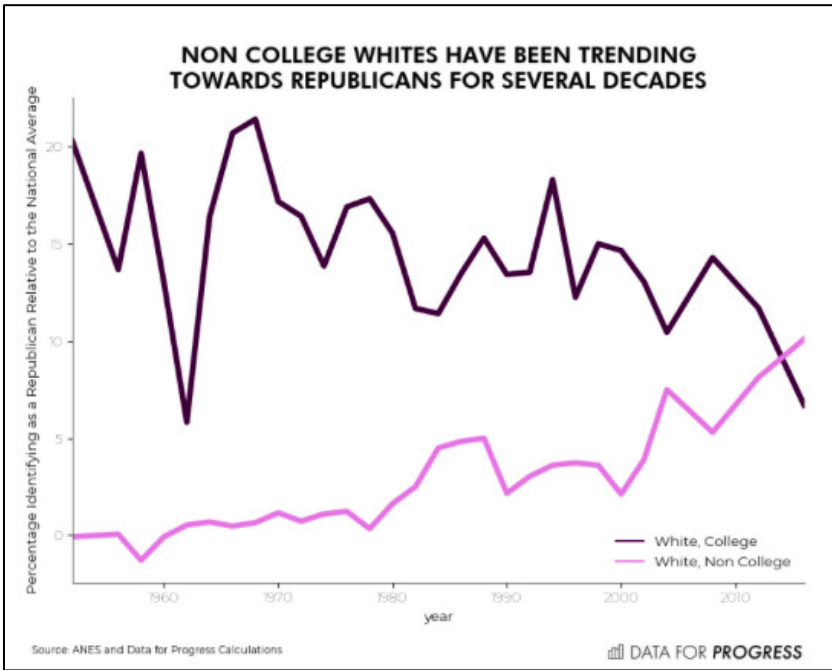
Back in 2016, Democrats won 51.1 percent of the two-party vote share for president. But they got only 49.6 percent of the two-party share in Pennsylvania, a tipping-point state in the Electoral College. The Electoral College is a big deal, especially since it seems to be biased in Trump's favor heading into 2020, but we know that Electoral College bias occasionally flips around as various medium-sized states swap roles as tipping points (it favored Democrats as recently as 2012).

Election (Tipping point state or district in parentheses)	Dem Two Way Vote Share in 2016	Geographic Penalty
National	51.1%	NA
Electoral College (PA)	49.6%	-1.5%
House (NE-02)	48.8%	-2.3%
Senate (NC)	48.1%	-3.0%

Data for Progress

It's perhaps not surprising, then, that the deliberately gerrymandered House districts favored Trump even more than the Electoral College. But the "natural" gerrymander of the Senate was even more extreme.

That partisan skew has emerged so rapidly that it is, at times, tempting to dismiss it — Democrats held the Senate majority from 2007 to 2014 based on strong results in 2006 and 2008. But the non-college-educated white vote has been shifting rightward at a rapid clip even as the overall country has diversified, meaning the partisan skew has grown considerably more severe in recent years.



It's also worth emphasizing that though the current GOP majority in the Senate is of recent vintage, it's also built on a remarkably thin electoral base. In 2014, Republican candidates won 52 percent of the vote and gained nine Senate seats. Two years later, Democrats won 54 percent of the vote and gained only two seats.

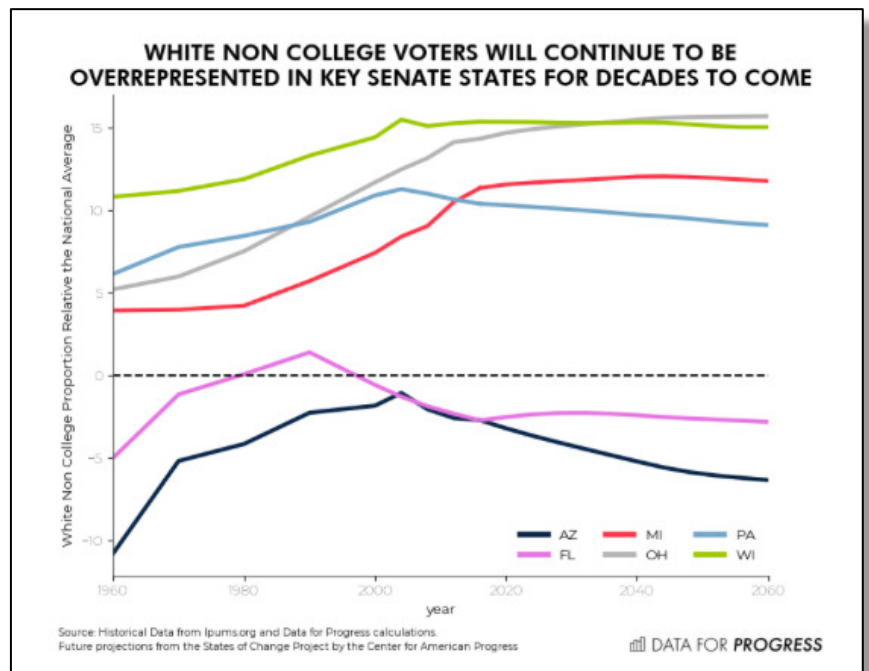
And in 2018, even if you ignore the California race (where both candidates were Democrats because no Republican did well enough in the first round to qualify for round two), Democrats won 54 percent of the vote and *lost* two seats.

Rather than the country's growing diversity offering a path out of this bind, it only underscores the fact that the skew is likely to grow as well, with

the non-college-educated white share of key Midwestern swing states remaining higher than the national average.

This is a big problem for Democrats in the Electoral College in 2020, but in the long term they can expect the balance of power there to shift as big states like Texas and Georgia become swing states that carry huge electoral prizes. In the Senate, however, that can't nearly compensate for the rightward drift of not only the key Midwestern Electoral College swing states, but also nearby Minnesota as well as smaller, super-white states like New Hampshire and Maine.

And there's simply no obvious solution inside the bounds of existing constitutional politics.



The 2020 Senate Races – Investigation & Analysis

Directions: Look at these two websites to investigate the current state of the 2020 Senate races around the country. Use the following analysis to log what you discover.

270toWin

(<https://www.270towin.com/2020-senate-election/>)

FiveThirtyEight

(<https://projects.fivethirtyeight.com/2020-election-forecast/senate/>)

Significance of the names of the above websites: remember, the president needs 270 Electoral College votes to win, and there are 538 members of the House and the Senate that represent us.

Date you investigate these websites: _____

On the date you investigate the 270towin site, which states have Senate seats are “toss-ups” or too close to know who could win?

Compare the “leaning” states and “toss-up” states on the 270towin site match with its current prediction of which states will vote Democratic or Republican in the Presidential election (<https://www.270towin.com/>) – how do the Senate and Presidential predictions compare? (What similarities and differences do you see?)

On the date you investigate the FiveThirtyEight site, what does polling of voters in the states with Senate races predict will happen in the 2020 election in terms of which political party may win the majority of seats?

What might you say to a voter in one of the states with a Senate race this year to explain why their vote for Senator matters?

Name: _____

Critiquing the Constitution: Understanding the Goals of the Preamble

The Goals of the Constitution:	What does this mean to you?	Rephrase it in your own words:
Form a More Perfect Union		
Establish Justice		
Insure Domestic Tranquility		
Provide for the Common Defense		
Promote the General Welfare		
Secure the Blessings of Liberty to ourselves and our Posterity		

Name: _____

Critiquing the Constitution: Senate Representation

Article I, Section 3: "The Senate of the United States shall be composed of two Senators from each State... and each Senator shall have one Vote.	How might the goals of the Constitution be impacted by this section of the Constitution?	What change, if any would you make to this section of the Constitution to ensure this goal?
Form a More Perfect Union		
Establish Justice		
Insure Domestic Tranquility		
Provide for the Common Defense		
Promote the General Welfare		
Secure the Blessings of Liberty to ourselves and our Posterity		

Name: _____

The 2020 Senate Races: A Reflection

Reflect on what you've learned about representation in the Senate. Do you believe that representation in the Senate should change from two votes per state to reflect the population more accurately? Why or why not?

Which states will you be watching on Election Night for who wins their Senate races and why?

How do you think the Senate races will impact or be impacted by the Presidential race?

Which party do you predict will have control of the Senate after Election Night? Why?

Why is it important to remember that Election Night is not just about electing a president?

How does Direct Democracy work in Oregon?

Handouts:

- How an idea becomes law through the legislative process
- How an idea becomes law through the initiative process
- What types of Ballot Measures are there?
- Articles about Direct Democracy (pros & cons)
- Oregonian Article: “Oregon Ballot Measures are at a 30 Year Low – Here’s Why”
- Activity: Draft a ballot measure

Lesson Overview:

While “direct democracy” SOUNDS good, it may not always have the consequences we hope for. Oregon is an excellent example of how ballot measures can be passed without a long-term understanding of their consequences. On the other hand, the initiative process allows the public to participate in law making for their communities. In this lesson, students will have an opportunity to learn about how the initiative process works as compared to the legislative process. They’ll also get to evaluate its pros and cons and decide whether it’s ultimately good for democracy or not.

Suggested Opener: Ask students to consider ahead of these lessons whether they think all citizens should decide laws or if that process should be left to representatives. What might be the positives of Direct Democracy and the negatives?

Lesson Options:

1. Give students an opportunity to read through the diagrams of the legislative process and the initiative process provided.

Optional check for understanding: assign one step of each diagram to one student each and then have them stand in order and explain their step.

2. As a class compare and contrast the two methods of passing a bill to become law in Oregon. Key discussion questions:

- Which method has more steps?
- Which fosters greater public review?
- Which offers the better commentary by experts on the topic and understanding by those who will vote on it?
- What are the advantages to each method?
- What are the disadvantages to each method?

3. The articles included are opportunities for students to analyze the positives and negatives of direct democracy. In addition to two opinions on either side of that issue, the *Oregonian* article discusses the powers behind past

initiatives in the state.

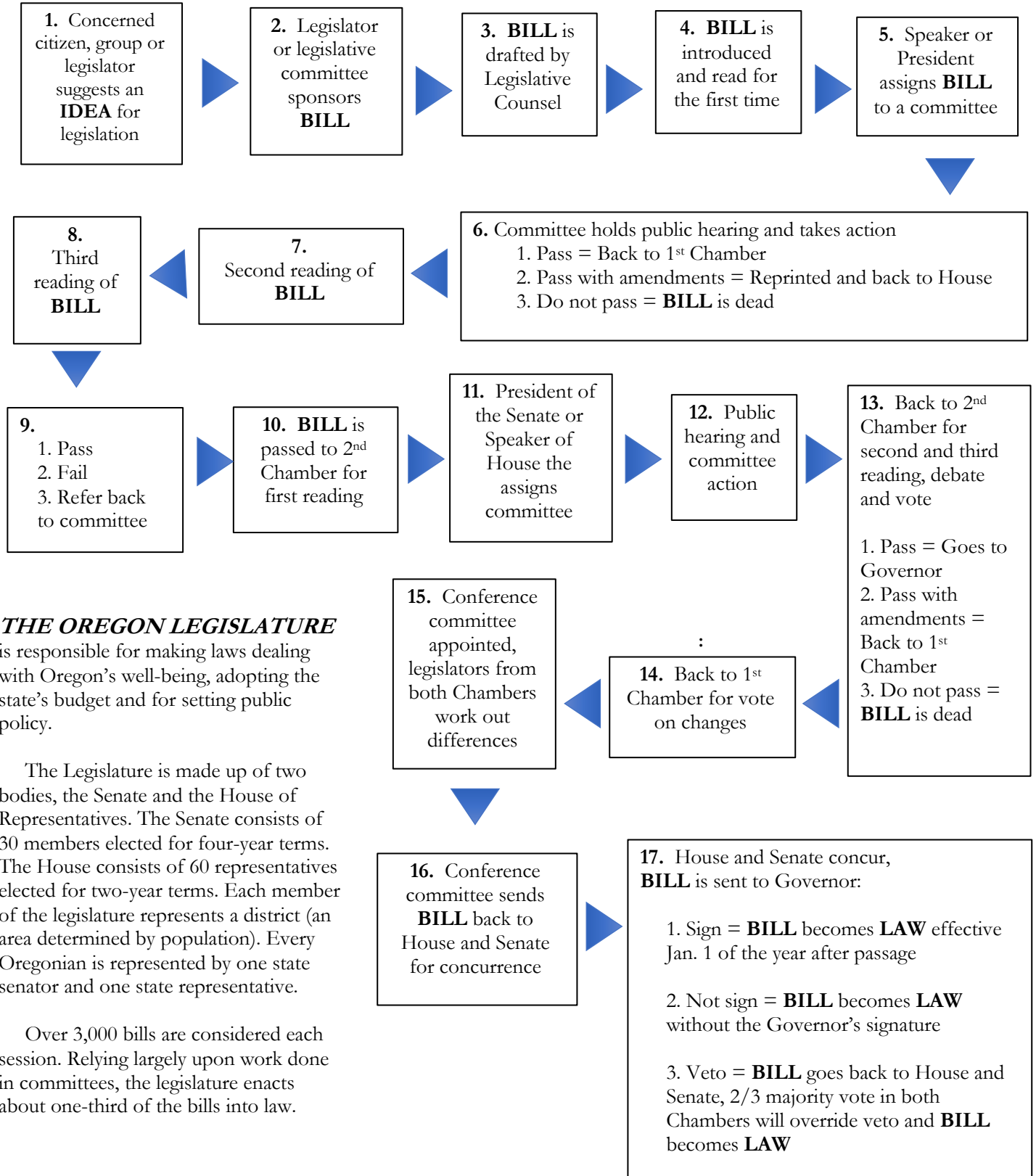
4. The Measure Proposal worksheet lets students consider issues they think are important for Oregon – they can do a Referendum, an Initiative, or a Referral. They will need to consider various aspects of their idea and how they would argue for it and who might argue against it.

Extension Activities:

- Students may want to do further research on past ballot measures and their consequences. This could be an opportunity for more data-based writing or presentations.
- Initiative proposals could be presented in a town hall simulation where the class holds debates and votes on the various initiatives proposed by their classmates. Alternately, they could meet in small group “committees” to pass up one chosen initiative suggested by a member, so that the class has a smaller number of initiatives to debate and vote on.

How Does an Idea Become Law via the Legislative Process?

A simplified view of the Oregon legislative process



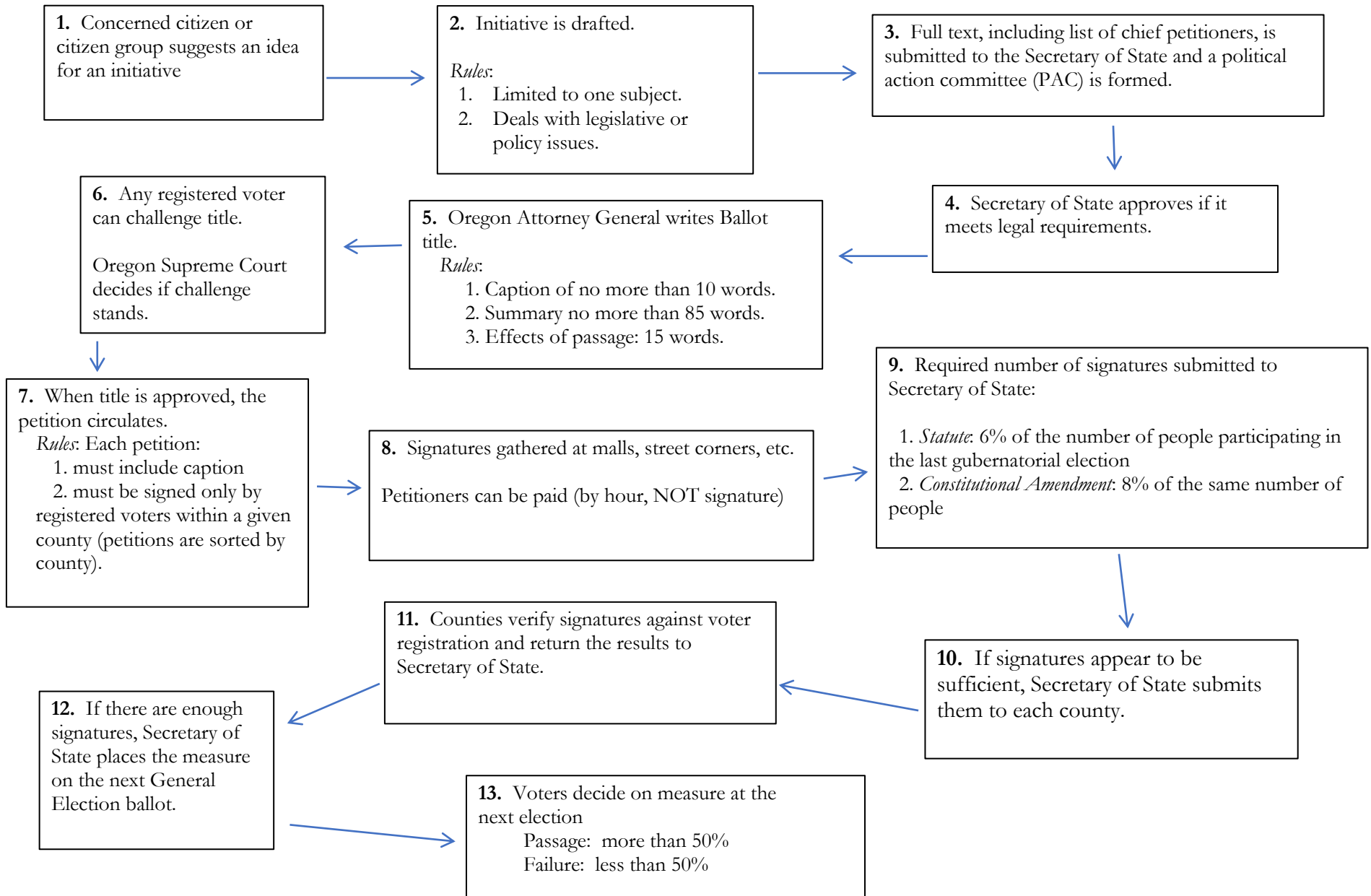
THE OREGON LEGISLATURE

is responsible for making laws dealing with Oregon’s well-being, adopting the state’s budget and for setting public policy.

The Legislature is made up of two bodies, the Senate and the House of Representatives. The Senate consists of 30 members elected for four-year terms. The House consists of 60 representatives elected for two-year terms. Each member of the legislature represents a district (an area determined by population). Every Oregonian is represented by one state senator and one state representative.

Over 3,000 bills are considered each session. Relying largely upon work done in committees, the legislature enacts about one-third of the bills into law.

How Does an Idea Become Law via the Initiative Process?



How does Direct Democracy Work in Oregon?

Some History:

1857 – Oregon’s Constitution written

1859 – Oregon becomes a state!

1902 – Voters decide that they can change laws AND the constitution

The move in 1902 to give voters the ability to make legislation directly (rather than depend only on their elected representatives) was part of the **Progressive Era**: where civic participation was changing how government worked through new laws like worker protections in factories, child labor laws, clean food and drug laws, and voting rights for women.

Three types of Ballot Measures may appear on an Oregon statewide ballot:

Initiative

- An issue placed on the ballot by citizens who gather enough signatures (about 6-8% of eligible voters must sign on)
- Can **amend** the Oregon **Constitution**
- Can **revise** or **add to** Oregon **law**
- Can make a **new** Oregon **law**

Referendum

- An issue placed on the ballot by citizens who gather enough signatures (about 4% of eligible voters must sign on)
- **Repeals** (undoes) a law made by the state legislature
- “Emergency laws” are exempt (dated laws that immediately save the public peace, health, or safety)

Referral

- An issue placed on the ballot by the **legislature** for approval by the public
- **MUST** put any change to the Constitution on the ballot (either an amendment or a revision to the Constitution)

Has Direct Democracy Gone Too Far?

The political free-for-all set in motion by the effort to recall California Governor Gray Davis has subjected that state to much national tut-tutting. But the recall is just a high-profile example of a trend towards democracy embraced by many states, and the ongoing debate about the direct participation by the American people in public policy issues.

Eighteen states allow the recall of state officials, but it is rarely used. Only North Dakota – in 1921 – actually turned a governor out of office, and California is the first state since then to put a recall measure on the ballot. By contrast, 24 states allow citizen referendums on measures passed by their legislatures, and another 24 (mostly the same) allow citizen-sponsored initiatives to make new laws. These have become popular avenues for making policy, and there is a movement afoot to create a national initiative and referendum process.

I understand the arguments in favor of these forms of direct democracy: they encourage citizen participation; they promote public debate; they allow citizens to take matters into their own hands when a legislature is too tangled up in politics or beholden to special interests. But I am struck by one overriding fact: nowhere in the U.S. Constitution can you find a mention of the popular initiative. There's a reason for this.

In devising our political system, the Founders wanted above all to strike a balance between popular government and government by the elite. They did not believe in direct democracy – in which people assemble and administer government in person – because it would prove cumbersome in a country our size, and threatened a vital process: cooling the passions of the moment, encouraging deliberation and reasoned debate, and protecting the right of the minority to be heard and understood. Thus they spoke of the “mortal disease” of popular government that decides by force of numbers and immediate passions.

At the same time, the Founders wanted to ensure that the people were the rulers, not the ruled. So they opted for an indirect democracy in the form of representative government, in which people elect legislators to make decisions. By passing the public's view through an elected body of citizens who are better positioned to discern the interests of the country, representation prevents the ills of an overbearing majority.

Obviously, you can lose the un-muffled voice of the people in a system of representative democracy. When city councils,

state legislatures or Congress are at their best, this is not a problem – representatives accurately reflect their multifaceted communities. But advocates of direct democracy argue that special-interest lobbying and campaign contributions have stifled the ability of ordinary citizens to be heard. Initiatives and referendums, they believe, give citizens their only chance to make headway in an unresponsive system.

But direct democracy has its own problems in this regard. As David Broder wrote in his book, *Democracy Derailed*: “Though derived from a century-old idea favored by the Populist and Progressive movements as a weapon against special-interest influence, the initiative has become a favored tool of interest groups and millionaires with their own political and personal agendas. These players...have learned that the initiative is a more efficient way of achieving their ends than the cumbersome and often time-consuming process of supporting candidates for public office and then lobbying them to pass legislation.”

Even if this were not the case, the initiative process would undermine two principles vital to effective democracy: perspective and deliberation. A ballot measure addresses one issue. But making policy is a matter of choices and setting priorities when faced with a host of issues – many of them worthy, all competing for attention and money. It may seem as though building more prisons and limiting class size are unrelated issues, but they're not: with a limited budget, doing one often means not doing the other. Legislatures are designed to allow representatives to weigh these matters and make difficult decisions about their priorities. Initiatives are not.

Cumbersome as it might seem, the legislative process allows different interests and points of view to be heard so that complex issues can be fully examined. I'd be the last to say the legislative process always works – indeed, I find the recent trend to short-circuit debate in Congress quite worrisome. But just as worrisome is the prospect of a citizenry deciding difficult questions based on 30-second television commercials.

The Founders opted for representative democracy so we would have a system of decision-making that reflects the complexity and diversity of our society, and permits us to effectively set priorities. Representative democracy enlarges and refines the public view, making it more likely that we'll arrive at decisions that advance the public good.

Direct Democracy may be key to a happier American democracy

Is American democracy still “by the people, for the people?”

According to recent research, it may not be. Martin Gilens at Princeton University confirms that the wishes of the American working and middle class play essentially no role in our nation’s policy making. A BBC story rightly summarized this with the headline: US Is an Oligarchy, Not a Democracy.

However new research by Benjamin Radcliff and Gregory Shufeldt suggests a ray of hope.

Ballot initiatives, they argue, may better serve the interests of ordinary Americans than laws passed by elected officials.

Busy ballot initiative year

Today, 24 states allow citizens to directly vote on policy matters.

This year, more than 42 initiatives already are approved for the ballot in 18 states.

Voters in California will decide diverse questions including banning plastic bags, voter approval of state expenses greater than US\$2 billion dollars, improving school funding, and the future of bilingual education.

The people of Colorado will vote on replacing their current medical insurance programs with a single payer system, and in Massachusetts people may consider legalizing recreational marijuana.

‘By the people’ – or not so much?

Our founders would have been ambivalent about so much direct democracy.

Although the country was founded on the notion that people are happier when they have a say in government, the founders were not optimistic about the ability of people to govern themselves too directly. James Madison, the “father” of the Constitution, famously argued *the public voice, pronounced by the representatives of the people, will be more consonant to the public good than if pronounced by the people themselves.*

By the late nineteenth century, average Americans felt excluded from a representative system they saw as becoming a plutocracy. Much like today, Americans then saw government controlled by the rich and corporate. This gave rise to the Populist Era in which citizens demanded

government be more responsive to their needs. Most Populist Era reforms were expansions of direct democracy. Examples include the popular election of Senators, a primary system for picking party candidates, and woman’s suffrage.

South Dakota adopted a system of “initiative, referendum, and recall” in 1898. Oregon and California quickly followed, and the system was adopted by another dozen states in under 10 years.

It’s been a slow build ever since. Most recently, Mississippi gave citizens the initiative in 1992. That brings us to a total of 24 states, plus the District of Columbia, now recognizing some form of direct democracy.

Truly democratic?

However, many have pointed to problems with direct democracy in the form of ballot initiatives.

Maxwell Sterns at the University of Maryland, for example, writes that legislatures are better because initiatives are the tools of special interests and minorities. In the end, initiatives are voted upon by an unrepresentative subset of the population, Sterns concludes.

Others like Richard Ellis of Willamette University argue that the time-consuming process of gathering signatures introduces a bias toward moneyed interests. Some suggest this has damaged direct democracy in California, where professional petition writers and paid signature gatherers dominate the process. Moneyed interests also enjoy a natural advantage in having the resources that ordinary people lack to mount media campaigns to support their narrow interests.

To curb this kind of problem, bans on paying people per signature are proposed in many states, but have not yet passed any legislature. However, because Californians like direct democracy in principle, they have recently amended the process to allow for a review and revision, and they require mandatory disclosures about the funding and origins of ballot initiatives.

Finally, some say initiatives can be confusing for voters, like the two recent Ohio propositions concerning marijuana, where one ballot proposition essentially canceled out the other. Similarly, Mississippi’s Initiative 42 required marking the ballot in two places for approval but only one for disapproval, resulting in numerous nullified “yes” votes.

Routes to happiness

Despite these flaws, our research shows that direct democracy might improve happiness in two ways.

One is through its psychological effect on voters, making them feel they have a direct impact on policy outcomes. This holds even if they may not like, and thus vote against, a particular proposition. The second is that it may indeed produce policies more consistent with human well being.

The psychological benefits are obvious. By allowing people literally to be the government, just as in ancient Athens, people develop higher levels of political efficacy. In short, they may feel they have some control over their lives. Direct democracy can give people political capital because it offers a means by which citizens may place issues on the ballot for popular vote, giving them an opportunity both to set the agenda and to vote on the outcome.

We think this is important today given America's declining faith in government. Overall today only 19 percent believe the government is run for all citizens. The same percentage trusts government to mostly do what is right. The poor and working classes are even more alienated.

The survey says

Our evidence comes from surveys of the American public large enough to allow comparisons across states.

Specifically, we used DDB-Needham Advertising's Life Style Studies. Beginning in 1975, this study annually asks large numbers of Americans about trends, behaviors, beliefs and opinions. The study uses such large samples we can directly examine the impact of initiatives on satisfaction in spite of the fact that it has multiple state and individual level causes. The statistical evidence is clear.

Life satisfaction is measurably higher in states that allow initiatives than in those that do not. This holds even when controlling for a large range of other factors, including income, education, race, age, gender, employment status, personal health, marital status, and church attendance.

We found that satisfaction also increases with the cumulative use of initiatives over time. In other words, the more frequently a state has used initiatives to create its current policies, the happier people are. While it is difficult to quantify the increase in happiness due to the complexity of the statistical models, it's possible to say that living in a state that allows initiatives has about as much impact on happiness as one's gender, but less impact than marriage or employment status.

States that use the initiative tend to have policies that help protect citizen prosperity, health, and security, all of which contribute to greater happiness.

This may be because citizens themselves use the initiative process to implement laws that directly aid them. Or it could be that legislators are more attentive to citizen well being in states that have mechanisms for initiative, referendum, and recall. Either way, the net impact on both satisfaction and well being is positive.

Perhaps more importantly, the study finds that lower and middle income people benefit most from initiatives. Simply put, the happiness of the rich and powerful in a state increases less (or even declines slightly) relative to happiness boost that ordinary citizens receive.

In other words, the greatest increase goes to those who are the least happy to begin with, effectively reducing the "satisfaction inequality" between the rich and poor.

Oregon ballot measures at 30-year low. Here's why.

By Hillary Borrud | The Oregonian/OregonLive
August 04, 2018



Four men played outsized roles in Oregon's ballot initiative heyday (clockwise from left): millionaire political donor Loren Parks; anti-tax activist Bill Sizemore; conservative activist Kevin Mannix; and former Oregon AFL-CIO President Tim Nesbitt.

This fall, Oregonians will decide just five ballot measures. That is the fewest since Ronald Reagan sat in the Oval Office and marks a significant drop-off from the flurry of initiatives that defined state elections in the 1990s and 2000s.

Much of the change can be attributed to the absence of one man: Loren Parks. Oregon's most prolific political donor poured nearly \$14 million into various ballot initiatives and a few candidate races between 1994 and 2015.

Money still sloshes around state politics, with individuals and interest groups spending tens of millions of dollars a year on lobbying and candidate campaigns. But other well-heeled donors aren't as interested in initiatives.

"The money shifted from initiatives to trying to win seats in the Legislature," said Jim Moore, director of the Tom McCall Center for Policy Innovation at Pacific University. In 2016, donors spent more than \$11 million on legislative campaigns.

The five measures on the Nov. 6 ballot tackle such hot-button issues as abortion, immigration and taxes, and match a total not seen since 1982. By comparison, there were 18 initiatives in 1994; 23 in 1996; 14 in 1998; and 26 in 2000 – the apex of Oregon's initiative boom.

Observers and players in initiative politics cite multiple factors, including public employee unions' success at throwing up roadblocks to such

conservative activists as Bill Sizemore and Kevin Mannix.

"The biggest thing, I think, is fatigue," said Phil Keisling, a Democrat who served as Oregon secretary of state from 1991 to 1999. "Over and over again, Oregon voters have dealt with initiatives. They've waded through hundreds of pages of (voter's pamphlet) arguments, pro and con."

Keisling himself co-sponsored an unsuccessful 2008 ballot initiative that would have created open primaries in Oregon.

In 2000, six of the 26 measures were from Sizemore, seven were referred by lawmakers and most of the balance were put on the ballot by activists such as the anti-gay Oregon Citizens Alliance. Anti-tax activist Don McIntire also qualified an initiative that year, though voters rejected it. Then-Gov. John Kitzhaber, a Democrat stymied by a Republican majority Legislature, even got an education initiative on the ballot.

Voters rejected Sizemore's initiatives that year, although they passed a property rights measure he authored before handing it off to another group. In the ensuing years, Sizemore's business drafting initiatives and gathering signatures to get them on the ballot fell apart amid legal challenges from public employee unions. Tim Nesbitt, then-president of the Oregon AFL-CIO, played a central role in that pushback, Willamette Week reported.

By 2008, seven initiatives bankrolled by Parks and put on the ballot by Sizemore and Mannix all went down in defeat. And unions succeeded in passing several of their own measures. Initiative spending hit \$20 million that year, including \$14 million by public employee unions, The Oregonian reported at the time. That year, Parks spent \$2 million on initiative campaigns and \$1.3 million helping them qualify for the ballot.

"The political elites for many years now have kept putting more and more restrictions and regulations on the initiative process," Mannix, a former lawmaker, said Friday in a phone call from Hawaii where he was vacationing. "They've made it harder for volunteer citizen groups to put an initiative on the ballot."

Mannix pointed to a series of laws passed since 2002 that added regulations to the signature-gathering process. Republicans and minor party activists have complained that one of the changes criminalized inadvertent errors. Another banned paying by the signature.

“The colored paper requirement is a classic example of how complicated it can get,” Mannix said, referring to the mandate in Oregon law for paid signature gatherers to use colored paper to distinguish their work from that of volunteers.

Several years ago, Mannix said someone working on one of his initiatives made a mistake and used a light blue paper that had not yet received the Secretary of State’s signoff. Officials eventually approved the paper, but the approximately 10,000 signatures gathered before then had to be thrown out.

Nesbitt defended the added initiative regulations. “It has made it harder to get signatures, as it should be for any process that determines the will of the voters,” Nesbitt said, adding that initiatives had become commercialized. “That was an overdue cleanup of the process.”

Both Mannix and Ted Blaszak — who once ran a signature-gathering company for left-leaning initiatives — said a 2000 Oregon Supreme Court ruling barring paid signature gatherers from standing outside retail locations also made it more difficult to gather enough signatures to qualify.

Sizemore’s initiative work got bogged down by legal problems in the early 2000s, after teachers unions went to court to fight his initiative machine. A Multnomah County grand jury found in 2002 that he engaged in a “pattern of racketeering” involving forged signatures and false financial reports, *The Oregonian/OregonLive* reported. It stemmed from Sizemore’s effort to qualify two anti-union initiatives on the 2000 ballot.

Sizemore ultimately served jail time in 2011 after pleading guilty to tax evasion because he failed to file a state tax return for three years. Two teachers unions sued Sizemore and Parks in 2009, claiming Sizemore used a “sham charitable organization” to funnel money from Parks to the initiative campaigns, and the lawsuit was settled in 2014, *The Oregonian/OregonLive* reported.

Public records suggest Sizemore now lives in Happy Valley and formed a new company, Oregon Homeowners Association, earlier this year. Beyond that, it’s not clear what Sizemore is up to these days, and he did not respond to a call for comment.



Bob Ellis | *The Oregonian*/1990
Tom Dennehy (from left), Don McIntire and Frank Eisenzimmer were the driving forces behind voter-approved Measure 5, which placed strict limits on property taxes and fundamentally changed how public schools are funded.

Parks, who is among the largest individual political donors in Oregon’s history, also didn’t respond to a call seeking comment. The Nevada businessman who made his fortune from a medical equipment business in Aloha is now in his 90s. He watched many of the Sizemore initiatives he bankrolled go down to defeat and cut off funding to Mannix in 2010, *The Oregonian/OregonLive* reported.

It’s expensive to qualify an initiative for the ballot, around \$400,000, Blaszak said. He bade farewell to the initiative world in 2014 with Measure 91, which legalized recreational marijuana in Oregon. But now Blaszak says he’s coming out of retirement.

“Politics costs money in America and although the ballot measure might be a good deal for your dollar, it’s still a high hurdle,” Blaszak said.

As a donor to political candidates, Parks has some off-putting history and activities that could alienate voters. In lawsuits filed in preceding decades, two women accused Parks of improper sexual behavior, *Willamette Week* has reported. One was settled in the 1980s and the second was settled in 2004. Parks, who is not a doctor, has posted dozens of hypnotherapy videos online including

“therapy for women’s sexual response problems.”

In 2014, Republican House candidate Greg Barreto from northeast Oregon quickly returned a \$30,000 donation from Parks after the contribution was reported by news media.

The millionaire’s last publicly reported political contributions in the state were in 2014, including a combined \$265,000 to PACs for the political nonprofits Capitol Watch and Taxpayers Association of Oregon.



Roger Jensen/The Oregonian/1998

Don McIntire was a Gresham gym owner at the time of the Measure 5 fight in 1990. He also sponsored unsuccessful ballot measures in 2000 and 2006 that sought to limit growth in state government spending.

In recent years, political deals have also kept initiatives off the ballot, including in 2014 when Kitzhaber brokered a deal between unions and business interests.

Earlier this year, Gov. Kate Brown met with unions and major businesses based in Oregon, including Nike, for negotiations that ended with the unions dropping a corporate transparency initiative. Nike later donated \$100,000 to a new political action committee expected to fight two anti-tax initiatives opposed by Brown and the unions.

NAME: _____

DATE: _____

Propose a Ballot Measure

Title of Ballot Measure: _____

Is this a (circle one):

Initiative

Referendum

Referral

Describe what this Measure will do if enacted: _____

How will this Measure help Oregonians? _____

What evidence do you have that Oregonians need this change? _____

How likely do you think it is that your ballot measure will be voted in? Why? _____

2.3

What Measures are on the 2020 Oregon Ballot?

Handouts:

- Survey of 2020 Oregon Initiatives
- Analysis: Why does this question matter for Oregon?

Lesson Overview:

This brief lesson gives students the opportunity to review the initiatives on the 2020 Oregon ballot. Using Ballotpedia’s up-to-date list of proposed initiatives, students can survey the topics, pick one or two they are interested in and do some analysis on the topic(s).

Suggested Opener: Ask students to share what they proposed as a ballot initiative in the last section. How might they convince voters to vote for their initiative?

Lesson Options:

1. Give students an opportunity to read through the various proposed initiatives at https://ballotpedia.org/Oregon_2020_ballot_measures
2. Use the Initiative Survey handout as an opportunity for students to consider what Oregonians are proposing for this year’s ballot. As they do the survey, they can pull out one or two proposals that they would like to investigate further.
3. Taking one (or two) of the proposals surveyed, use the Initiative Proposal Analysis handout to give students more time to consider what might go on the ballot and how they might respond to it.
4. Reflect on the proposals, have students share their research, or stage a persuasive 1-minute “sales challenge” for students to convince others to vote for or against the proposal they investigated.

Extension Activities:

- Students may want to do further research on what other state’s may have on their initiative ballots this coming year. Comparing what other states are considering to Oregon’s proposed initiatives might be an interesting journey into considering what makes Oregon unique.
- Students could prepare an advertising campaign for their proposed initiative that they wrote about in the last section.

2020 Oregon Ballot Measures

Check out Ballotpedia or the Oregon Secretary of State's office for more details

Measure 107 – a Legislatively referred Constitutional Amendment:

Topic: Campaign Finance & Elections Funding

A "**yes**" vote supports authorizing the state legislature and local governments to (1) enact laws or ordinances limiting campaign contributions and expenditures; (2) require disclosure of contributions and expenditures; and (3) require that political advertisements identify the people or entities that paid for them.

A "**no**" vote opposes authorizing the state legislature and local governments to (1) enact laws or ordinances limiting campaign contributions and expenditures; (2) require disclosure of contributions and expenditures; and (3) require that political advertisements identify the people or entities that paid for them.

Measure 108 – a Legislatively referred State Statute (law):

Topic: Tobacco/vaping Tax

A "**yes**" vote supports the measure to increase taxes on tobacco products and inhalant delivery systems (such as e-cigarettes) to fund the state's Medical Assistance Program and other healthcare-related programs.

A "**no**" vote opposes the measure to increase taxes on tobacco products and inhalant delivery systems (such as e-cigarettes) to fund the state's Medical Assistance Program and other healthcare-related programs.

Measure 109 – an initiative to change state law

Topic: drug legalization – hallucinogenic mushrooms ("psilocybin-producing mushrooms")

A "**yes**" vote supports authorizing the Oregon Health Authority (OHA) to create a program to permit licensed service providers to administer psilocybin-producing mushroom and fungi products to individuals 21 years of age or older.

A "**no**" vote opposes the creation of a psilocybin program, thus maintaining the state prohibition against the possession, manufacturing, and consumption of psilocybin.

Measure 110 – an initiative to change state law

Topic: lowering sentencing rules for certain drug possession crimes

A "**yes**" vote supports making personal non-commercial possession of a controlled substance no more than a Class E violation (max fine of \$100 fine) and establishing a drug addiction treatment and recovery program funded in part by the state's marijuana tax revenue and state prison savings.

A "**no**" vote opposes reclassifying personal non-commercial possession of a controlled substance from a Class A misdemeanor to a Class E violation, thereby maintaining the existing maximum penalty for a Class A misdemeanor of one year in prison and a \$6,250 fine.

NAME: _____

DATE: _____

Survey of Proposed 2020 Oregon Initiatives

Directions: Go to https://ballotpedia.org/Oregon_2020_ballot_measures to review what initiatives have been proposed for Oregon in 2020. **Pick two** from the list that interest you and write down some information about them. If you click on the link for each initiative you can find more details about it.

Title of Proposed Initiative:

Type of Initiative:

Brief Description:

Who has proposed it?

Do you think this proposal is needed by Oregonians? Why or why not?

How successful do you think it might be with voters? Why?

Title of Proposed Initiative:

Type of Initiative:

Brief Description:

Who has proposed it?

Do you think this proposal is needed by Oregonians? Why or why not?

How successful do you think it might be with voters? Why?

NAME: _____

DATE: _____

Analysis: Why does this question matter for Oregon?

Directions: From the proposals you previously surveyed, or a totally new one picked from Ballotpedia (https://ballotpedia.org/Oregon_2020_ballot_measures) use the following format to more deeply investigate and analyze a proposed measure/initiative for the 2020 Oregon Ballot.

Measure/Initiative Title: _____

1. Type of Measure: _____

- Why do you think the proposers wanted it to be this type of initiative (for example, why a constitutional amendment or why a statute (law) instead of some other format?)

2. Proposers (who proposed this initiative): _____

- What can you find out about this person or group that provides insight into why they have proposed this initiative?

- How could they have worded the proposal differently to make it more likely to succeed?

3. In your own words, what will this initiative do if passed:

4. In your opinion, would this initiative if passed be good for Oregon and Oregonians? Why or why not?

5. Write out a plan for how you would persuade people to vote for or against this particular initiative if it makes it to the ballot: