**Applied Government**

**28th Amendment Replacing the Electoral College with the National Popular Vote Legislative Hearing**

**Mr. Faulhaber**

***Purpose:***

* Moot Courts are intellectual exercises about the United States Constitution and its meaning. Using their power of judicial review, the Court ensures the constitutionality of executive actions and the laws created by the legislature. Moreover, the Court has the power to oversee the state and local governments when they believe the Constitution has been violated pursuant to the Fourteenth Amendment. In short, the Court decides what the Constitution means and whether the other branches or levels of government CAN or CANNOT do something. Focus during these simulations is directed toward common law; history, customs, tradition, precedent, constitutional principles, etc.
* A legislative simulation is similarly an intellectual exercise but focuses instead on whether the Montana legislature or the U.S. Senate SHOULD or SHOUL NOT pass a law. Focus is political and your book defines politics as “the activity-negotiation, argument discussion, application of force, persuasion, etc-by which an issue is agitated or settled.” Although lawmakers must weigh the constitutionality of any proposed law as it is part of their oath of office, they are one of the elected branches and as such responsive to the will of the majority. Moreover, while SCOTUS justice are law specialists, lawmakers are policy generalists. Consequently, lawmakers rely on expert testimony during public hearing to help educate themselves on the merits of a proposed law and make their decision on the direction of their vote. The focus during these simulations is directed toward the political and logical realities of proposed laws.

***Procedure***

* The following simulation will be quasi-Montana state legislative (state senate) or U.S. Senate committee hearing. Regardless, since the U.S Senate format for committees does not lend itself to what we want to accomplish, we will use the state format regardless of the level of issue deliberating. Consequently, the procedures we will be following are modified from what one would see if at the state legislature in Helena and attending a state senate committee hearing.
* The purpose of this specific committee hearing will be to solicit public comment from “stakeholders” (interest group, public interest institute, etc,) about issues that permeate the public square and often divide the public. These stakeholders provide the information necessary for the policy generalists (committee members) to hear from specialists that can provide them data, facts, and specific information to make an informed opinion regarding the direction the government should take regarding public policy concern.

***Task:***

* Provide public comment on what to do regarding controversial issues on the public agenda (keep as is, modify, or eliminate) or ask clarifying questions to determine what action is to be taken. In this case, show evidence as to why the bill will benefit stakeholders AND the country at large or visa versa, emphasize the policy implications (positive or negative), and reference the role of government (Constitutionally, general welfare, etc.).
* Demonstrate an educated opinion regarding either public policy agenda issues chosen by you and/or your classmates regarding a current controversy by asking clarifying questions or by providing public comment as a stakeholder representing an interested population or questions to determine what action is to be taken and articulating the course you believe ought to be pursued.

**TOPIC: 28th Amendment Replacing the Electoral College with the National Popular Vote Legislative Hearing**

* **Committee Members**
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (R/D-Chair)
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (R/D-Member)
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (R/D-Member)
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (R/D-Member)
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (R/D-Member)
* **Pro-Stakeholders Testifying**
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Sponsor
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* **Con-Stakeholders Testifying**
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Representing:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**How the hearing will work:**

1. You will be sign up to represent a “stakeholder” (interest group, public interest institute, etc,) or to play the role of a state lawmaker or Congressman on the relevant committee (Education, Judiciary, etc.).

2. The hearing will be opened by the committee chair (**each Lawmaker or Congressperson must have a placard announcing who they are and what political party they represent**) who will announce an introduction such as:

**“Welcome. The \_\_\_\_\_\_\_\_\_\_\_Senate \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Committee will come to order. Today we will hear public comment on the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

3. The chair will then introduce the bill’s sponsor who will give a brief overview and description of the proposed law **and** outlining its necessity. The sponsor will also be the concluding speaker after all other stakeholders have had an opportunity to outline their positions and arguments for, against, and/or suggestions for amendments to the proposed legislation.

4. After the bill is discussed the chair will open the floor for testimony and explain the time constraints each witness will be obligated to follow:

**“Each person testifying will have a maximum of 5 minutes (although not all 5 minutes have to be used) that includes a prepared statement followed by questions from this committee. Please introduce yourself, first and last name for the minutes, who you represent and what your organization does, and whether you are a proponent or opponent of the proposed legislative bill.**

**“Anyone that wishes to speak on this policy please go to the podium when it is open.”**5. Once a speaker arrives at the podium, announce: **You may begin... ”**

6. Statements/Testimony from proponents and opponents will ensure. Each testifier will be a “stakeholder” that is vested in the outcome of the proposed law.

* Each speaker will need to introduce themselves and a brief description of the interest group, public interest institute, etc they represent
* Each speaker will have up to 5 minutes to deliver a statement. The statement should work to convince the Senators to vote keep as is, modify, or eliminate the proposed bill by stating reasons for or against the proposal, using personal experience or factual evidence pertaining to United States.
* The first 2 ½ minutes will be under a civility rule (uninterrupted talk)

**caveat: If speech is done prior to the 2 ½ minute civility rule; the speaker can announce:**

**“that concludes my prepared statements, I welcome any questions regarding my testimony**

* After the 3 ½ minutes of uninterrupted talk or whatever remaining of that time is not utilized during the statement period, committee members will pepper the speakers with questions clarifying statements and getting the requisite information to make an informed vote.

**caveat: If Senators do not have questions or they end before the 5 minutes is completed the chair may thank the speaker and call for the next stakeholder.**

7. After the first stakeholder presents his/her statement and is questioned, all other stakeholders will present.

8. After all stakeholders from the class have presented, the committee will open up to the **audience** to make statements themselves regarding their feelings concerning the policy.

9. The sponsor will be the concluding speaker after all stakeholders have had an opportunity to outline their positions and arguments for, against, and/or suggestions for amendments to the proposed legislation.

**This question time should be for the Senators to bring up the issues from the stakeholders to allow the sponsor to rebut or reinforce. Moreover, this should be the time the senators figure out what they need to know to decide and how they will vote**

10. The chairperson calls discussion of the members to express their opinion for and/or against the testimony presented to encourage fellow members to vote a specific way. After five minutes (maximum) the chair should call for a motion to adopt, eliminate or alter the proposed policy. The committee votes on recommendations and decides the fate of the policy by passing the policy out of committee to the full board with the aforementioned recommendation and for final approval or to keep the policy in committee for further discussion/work.

**Whole Group Preparation**

* Decide as a group an outline of the proposed law (the sponsor will fill in the blanks) so all members know what they will be debating/testifying in regards to.

**Individual Preparation**

* Before you research, determine what you know, would like to know, and need to know to be successful in the Harkness. In your note sheet, write down the following categories and answer the questions:
* What I know includes…
* What I think I know includes…
* What I want to know includes…
* What I need to know to answer this question include…

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 **Senator Individual/Group Preparation:**

* Read the proposal carefully and discuss it amongst yourselves.
* Choose the party and state each Senator will represent.
* Choose a committee chairperson from the majority party who will run the hearing
* Research the policy. Be fluent in its merits and criticism. Recognize other alternatives to the policy proposal. In essence, gain some understanding of what the various positions on the policy proposal might be.
* Look to what the courts have said regarding the law or cases that regard issues that would pertain to the law
* Contact officials that are intimately familiar with this issue (i.e. school officials and school board members)
* Discuss with your parents and community members their thoughts
* Create questions for the stakeholders and other speakers through questions that are: purely informative, designed to point out strengths and weakness in the arguments presented, or to show support for or against a particular position.
* ***Remember, your job should not to be adversarial but to ask clarifying and hypothetical questions to make an informed decision and justifying it to your constituents***

**Stakeholders Preparation:**

* Consider the following when researching on what to present regarding the proposed law:
* Who the members of your interest group are, what experience your members might have with healthcare, and how they might feel about the proposal.
* Discuss the policy proposal from the group’s perspective- how do they think and feel about this policy?
* Does the group have any concerns about the policy proposal-whether it’s strong enough, or overreaching, or effective, or unconstitutional?
* Contact officials from the organization you are representing and/or people around the community/state/etc that share similar concerns and how they would argue for/against the proposal.
* Discuss with your parents and community members their thoughts
* What relief you will be requesting based upon what you believed was the essence of the debate:  **“I ask this committee accept, amend, reject this legislation because…**
* Perform the following
* Decide what your interest group, public interest institute, etc wants the Senators to do-pass the policy proposal, reject the proposal, or rewrite the proposal. First, you should list the primary arguments in favor of their position and draft a short statement and list key points to be made during this time.
* State reasons for or against the current policy, using personal experience or factual evidence pertaining to Montana and/or United States (depending if it’s a state or federal law).
* Generate a list of questions the Senators might ask, and consider responses to those questions.

**DIRECTIONS: Read through each category and its criteria***. Complete either or both columns to give yourself an accurate grade.*   
  
In the LEFT column: Place a check plus next to those you completed in an exceptional manner, a check plus/check mark if it was only completed well, a check mark next to the criteria in which you completed okay, a check mark/check minus if it was completed okay but not great, a and a check minus that you completed but not very well, and place an X next to the criteria not completed at all.   
  
In the RIGHT column: Place the appropriate grade in the space to the immediate left of EACH criteria required by determining those areas you performed or were lacking and based upon the point value listed. Place a N/A or “not applicable next to any criterion not required for your specific role. Average the points together in place that score in the “your estimate” blank.   
 ***\*\*\*Remember, a perfect grade should reflect perfect work and only be used when the work done had no deficiencies & could not have been performed any better***.\*\*

* **PREPARATION AND RESEARCH**  **\_\_\_\_\_\_\_\_\_/25**

\_\_\_\_\_ \_\_\_\_\_Read, highlighted or underlined and commented or emojied “The Electoral College: How it got that way…”

\_\_\_\_\_ \_\_\_\_\_Listened to and took notes from NCC Scholar Exchange: How to Fix Presidential Elections in 2020 and Beyond

\_\_\_\_\_ \_\_\_\_\_Read and took notes from:

* Class Lecture
* Chapter 14: The Presidency; "The Electoral College" Textbook Notes from pgs. 332 and 335-336
* CloseUp Packet

\_\_\_\_\_ \_\_\_\_\_ Read, watched, or review and took notes from:

* Electoral College Articles: Electoral Maps, Washington Examiner Article, Imprimus Article
* Electoral College Videos: Prager U, Does Your Vote Count TED Talk, Fareed Zakaria GPS, How the States Voted in Every Pres. Election

\_\_\_\_\_ \_\_\_\_\_ Discussed topic with appropriate stakeholders how those most effected would evaluate the proposal

* Spoke with various teachers, administrators, and/or administrators at the various schools to gauge their opinions
* Talked with parent(s), guardian(s), and/or adult(s) in your life to gain a better understanding of the varying facets of the issue

\_\_\_\_\_ \_\_\_\_\_Gathered necessary information to be knowledgeable in proposed law and successful in assigned role

* Contacted stakeholder represented and/or visited organizations webpages
* Looked at federal/state lawmakers comparable to assigned role and Contacted lawmaker and/or visited congressional webpages

\_\_\_\_\_ \_\_\_\_\_Put in the Required Time and Effort to be Successful in Assigned Role

* Properly used class time to complete project
* Put in multiple hours outside of class

\_\_\_\_\_ \_\_\_\_\_Fulfilled role as outlined in “preparation” section

* **PERSUASIVENESS , PERFORMANCE** , **AND** **ASKING/ANSWERING QUESTIONS** **\_\_\_\_\_\_\_\_/25**

**(If any of the criteria are unrelated to your position, please place N/A in the space provided)**

\_\_\_\_\_ \_\_\_\_\_Explained the bill’s background and/or effect of bill as you/your interest group sees it

\_\_\_\_\_ \_\_\_\_\_Clearly outlined why this bill is necessary/unnecessary & what problem it purports to solve/problems it causes

\_\_\_\_\_ \_\_\_\_\_If a stakeholder, requested a specific action based upon what you believed was the essence of the debate

\_\_\_\_\_ \_\_\_\_\_Included criticism and attributes of proposal with arguments generated employed insight of the issue

\_\_\_\_\_ \_\_\_\_\_Cited verifiable facts and included citation of where they came from

\_\_\_\_\_ \_\_\_\_\_Got material across in a way that was informative and easily understood with Clear arguments and position   
\_\_\_\_\_ \_\_\_\_\_Presentation was dynamic and had interesting elements to draw attention and wasn’t boring, dull, or blah

\_\_\_\_\_ \_\_\_\_\_Arguments Utilized Logos, Pathos and-if necessary-Anecdotes but AVOIDED *ad hominem* Attacks

\_\_\_\_\_ \_\_\_\_\_Was an attribute, not detriment to this Simulation; People will have positive comments about my performance

\_\_\_\_\_ \_\_\_\_\_Made eye contact and Loud enough for everyone to hear, even the old lady in the back of the room

\_\_\_\_\_ \_\_\_\_\_Showed ability to think on feet by using questions to your advantage and weaving questions into arguments  
\_\_\_\_\_ \_\_\_\_\_Cited history, discussed facts or data, and used that knowledge to your advantage

\_\_\_\_\_ \_\_\_\_\_Had clear main arguments that showed a strong grasp of principles involved

\_\_\_\_\_ \_\_\_\_\_Wore a tie and colored socks if a guy/Dress pants or a business type dress or skirt if female

\_\_\_\_\_ \_\_\_\_\_Questions demonstrated a strong grasp of the issue/policy, its history and its significance

\_\_\_\_\_ \_\_\_\_\_Questions concerned the meaning and application of the issue/policy

\_\_\_\_\_ \_\_\_\_\_Utilized ***clarification*** questions to gain information decide the case and **hypotheticals** for long-term effect of policy

\_\_\_\_\_ \_\_\_\_\_Was a Frequent Participant and Didn’t simply echo the thoughts of others or make irrelevant comments

\_\_\_\_\_ \_\_\_\_\_Professional, and Attentively followed proceedings

\_\_\_\_\_ \_\_\_\_\_Used time effectively/**NO** **DEAD TIME**

**TOTAL \_\_\_\_\_\_\_\_\_\_/50 or \_\_\_\_\_\_\_\_\_\_\_\_\_\_%**

* **SIMULATION CRITIQUE/PERSONAL REFLECTION (1-05):**  \_\_\_\_\_\_\_\_\_/10

\_\_\_\_\_ \_\_\_\_\_The night after the Simulation the following Completed #1-7 Reflection Questions:

* What was the most effective argument on the pro side of the debate? Why was it effective?
* What was the most effective argument on the con side of the debate? Why was it effective?
* What stakeholder would you like to give a shout out to for being most persuasive? Explain.
* What Senator would you like to give a shout out to for being most persuasive? Why?
* Which classmate(s) was the least prepared for the deliberation? Explain
* What were your initial thoughts on the subject and question? How has that opinion evolved and/or become more nuanced?
* List and describe the most meaningful ideas, concepts, and/or principles learned through this project
* Good, Bad, and the Ugly of the Overall Simulation

\_\_\_\_\_ \_\_\_\_\_Provided Honest and Helpful Feedback to peers in this simulation  
  
\_\_\_\_\_ \_\_\_\_\_When Completing the Rubric

* Read and followed direction
* Placed the appropriate mark next to **EACH** category
* Did not just give yourself 100% in **each** section; used ½ points
* Put the Total and % in the appropriate spaces

\_\_\_\_\_ \_\_\_\_\_ When Completing the Reflection

* Answered each question with deep thought and in as much detail as possible
* Reflected thoroughly and deeply, provided rich detail, specific examples
* Answered **EACH** aspect of all the questions understanding that most questions have multiple answers
* Answered reflection questions thoroughly with the goal of completing the overall learning process regarding this issue

\_\_\_\_\_ \_\_\_\_\_Read, highlighted or underlined and commented or emojied “How Jefferson Counted Himself in”

**TOTAL \_\_\_\_\_\_\_\_\_\_/60 or \_\_\_\_\_\_\_\_\_\_\_\_\_\_%**

**REFLECTION QUESTIONS:** Learning involves some permanency. The discussion needs legs. After the simulation and completing your self-evaluation, re-cap the conversation with your parent(s), guardian(s), adult(s) in your life about what you heard and reflect deeply on what was discussed.

QUESTION #1: What was the most effective argument on the pro side of the debate? Why was it effective?   
  
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QUESTION #2: What was the most effective argument on the con side of the debate? Why was it effective?  
  
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QUESTION #3: What stakeholder would you like to give a shout out to for being most persuasive? Best Prepared? and/or Least Prepared? Explain.

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QUESTION #4: What Senator would you like to give a shout out to for being most persuasive? Best Prepared? and/or Least Prepared? Explain.  
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QUESTION #5: What classmate(s) was the least prepared for the deliberation? Explain  
  
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QUESTION #6: What were your initial thoughts on the subject and question? How has that opinion evolved and/or become more nuanced?  
  
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QUESTION #7: List and describe the most meaningful ideas, concepts, and/or principles learned through this project   
  
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QUESTION #8: How do you think this simulation went overall? What was the Good, Bad, and the Ugly of the Overall Simulation

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QUESTION #9: When your peers complete their reflections, the chances you will be listed in their answers at the top of this page will be…because…  
  
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QUESTION #10: How would you rate **your overall during for the simulation** (1-10) based upon your preparation, knowledge and understanding of the issue, and performance in regards to your prior projects and your peers? Justify the ranking. Is this grade Reflected by the Rubric? If the overall score determined through the rubric is different from the grade you believe you deserve explain why and the grade you believe is warranted.  
  
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