Focus Questions

Q1  *What purposes were the Founders trying to serve by constructing and empowering the Congress as they did?*

A1  The Founders believed sovereignty ultimately resided in the will of the people. To this end, Congress was constructed as a bicameral legislature meaning divided into two chambers: The lower chamber or House of Representatives; and the upper chamber called the Senate. Specifically, the House of Representatives would be comprised of representatives directly elected by the people (popular elections every two years); while members of the Senate were originally elected by state legislatures and served six-year terms. Senators would later be elected directly by the people per the Seventeenth Amendment to the U.S. Constitution. The design of the United States Congress is two-fold: First, establish a Senate that would check the popularly elected House; Second, grant Congress the power to check the actions of the Executive by confirming presidential appointees, ratifying treaties, having the sole power to declare war, raise a standing army and the power to tax. In effect, the Founders believed an elected Congress would protect against the likelihood of a despotic Executive seizing the federal government to advance self-interests contrary to the common good.

Q2  *How does the committee system in Congress work to promote specialized knowledge and expertise among members?*

A2  Because modern lawmaking and public policy proposals involve a multitude of subjects that are complex and technical, the committee system allows members of Congress the opportunity to gain specialized knowledge and design meaningful legislation. The twenty House and seventeen Senate committees are further divided into various subcommittees that entertain testimony from experts and specialists that assist lawmakers in formulating legislation. Consequently, the committee system allows members of Congress to hold committee hearings including representatives of special interests groups, who are very knowledgeable, and the federal bureaucrats who ultimately will be responsible for implementing the programs. Members are assigned to committees based on their personal knowledge, policy interest, and experience. Committee chairs are typically selected based upon seniority (consecutive years of service on the committee) that enables the individual to chair a platform to advance a particular policy or issue but also provides experience, stability, and knowledge within the institution.

Q3  *What are the stages of consideration through which a legislative proposal must pass to become a law?*

A3  The legislative process starts with the introduction of a proposal. Only members can introduce legislation. The bill is then assigned to a committee. In the House, the bill may be referred to a single committee, or to several. A committee or subcommittee then deliberates on the bill. First,
public hearings are held to gain testimony from the public. The bill is then rewritten or “marked up.” The revised bill is then submitted to the full committee for a vote. A report is then made of the bill that summarizes the intent of the bill, the major provisions, and the cost of implementation. This report is then sent to the floor for debate and a vote. The report is assigned a spot on the legislative calendar for debate. In the Senate, the majority and minority leaders negotiate when certain bills will come to a vote. In the House, the Rules Committee sets the conditions for debate and amendments. Through the adoption of several types of rules, the House sets certain time limits for debate and whether amendments can be offered at all. The bill is debated on the floor and then read section by section for possible amendments. Then a final vote is taken. Bills have to be identical in both the House and Senate before they are sent to the president for approval. Usually a bill is introduced in both houses at the same time. Differences in the bills have to be resolved in conference committees made up of both Senate and House members. A final bill is then sent to the president for approval or veto.

Q4  What influences operate on a member of Congress as he or she prepares to make an important legislative decision?

A4  As elected public servants, members of Congress must be accessible and responsive to the public, yet are also expected to use their judgment, knowledge, and expertise to formulate sensible public policy. The influences on a member of Congress are numerous. Constituents, interest groups, lobbyists, the president, bureaucrats, and members of their own party often influence a member’s decision on how to vote given a specific piece of legislation. The time of the vote and the specific issue considered dictates who has the most influence on how a member of Congress may vote. For example, a representative may consider her constituents’ views more seriously in an election year when voting.

Q5  How serious has Congress been in its recent reform efforts?

A5  Currently, public dissatisfaction with the Congress is at an all-time high. Opinion polling indicates the public’s approval of Congress’s performance is at an abysmal 18 percent. Many scholars point to the inefficiency, partisanship, and wasteful spending as reasons for the public’s distain for Congress. Yet, Congress seems to always be in a state of reform or transition. As the book indicates, there have been four eras of congressional reforms. First, early in the twentieth century, members of the House failed to support the monetary policies and tariffs advocated by the autocratic Speaker of the House, Republican Joseph Canon. Subsequently, the “excessive” power of the Speaker was temporarily limited. Second, Congress passed the Legislative Reorganization Act of 1946 reducing the number of standing committees, and thus committee chairs, while providing clerical support for the committees to undertake a more substantial role in the budgetary process. Third, the most effective reforms occurred after the 1970s when Congress passed “sunshine laws” opening committee deliberations and legislative debates to the public. These reforms were implemented shortly after the Freedom of Information Act of 1966 was passed by Congress allowing public access to government documents and made the legislative branch more responsive to the public. Fourth, with the Republican victory in the 1994 mid-term elections promising government reform, Congress passed the Congressional Accountability Act of 1995 stipulating public access to committee deliberations and voting records. Also, the legislation mandated Congress comply with workplace safety and employment practices. Finally, the legislation eliminated many congressional caucuses and “perks” (banks, barber shops, private
social security accounts). Subsequently, members of Congress can be held accountable for their actions and are not above the law of the land. Whether these reforms have been successful or not is in the eye of the beholder.

Chapter Outline

I. Origins and Powers of the Congress

The origins of Congress came from the Founders’ experience in colonial legislatures and the existence of parliament in colonial life. The philosophical and theoretical underpinnings of Congress are based upon the belief that sovereignty ultimately rests in the people. In turn, modern political philosophers, notably John Locke, believed popular sovereignty and legislative supremacy would protect against tyranny and facilitate human needs such as life, liberty, and happiness. Consequently, legislative supremacy is based upon popular sovereignty or the idea that all legitimate governmental authority comes from the people and can be reclaimed by them if government becomes neglectful or abusive.

A. The Continental Congress

1. The Continental Congress
   a. The Continental Congress convened on September 5, 1774 to establish a governing body that could recommend actions to the thirteen colonies.
   b. With the drafting of the Declaration of Independence in 1776 and the beginning of the Revolutionary War, Congress sought to delineate political power and authority.
   c. In 1777, the Articles of Confederation were drafted to distinguish national powers from state powers.
      1) Article II established state sovereignty in domestic affairs.
      2) The national government would hold power in times of war and in regard to foreign affairs.
      3) There was no provision for a national judiciary or single executive.
      4) The document could not compel state compliance.

2. Congress and the Constitution
   a. The ratified Constitution strengthened the powers of the national government with respect to Congress. As nearly 50 percent of the Constitution deals with the role and powers delegated to Congress, the Framers believed lawmaking authority in government should be supreme over the executive and judicial powers. This is known as legislative supremacy.
      1) Article I of the U.S. Constitution vested all legislative power in Congress.
         (a) Specifically, Article I, section 8: 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.”
         (b) May overturn a presidential veto by a two-thirds vote in both Houses.
         (c) Sole power to declare war.
         (d) Establish federal courts (“constitute tribunals inferior to the Supreme Court”).
         (e) The power to collect taxes, to coin and borrow money.
         (f) To regulate interstate commerce.
(g) To establish a post office and provide for infrastructure.
(h) To define and punish felonies and crimes.
(i) To exercise legislative powers over military establishments, territories and the seat of government (the District of Columbia).
(j) To declare war and the power to raise an army, navy, and equip state militias.

2) It is important to note the Senate has the exclusive power to try impeachments, advise, and consent on treaties negotiated by members of the executive branch and confirm presidential appointees.

3) Per Article I, section 7, of the U.S. Constitution, “all Bills for raising Revenue” originate in the House of Representatives. The House also has the sole power to impeach public officials.

II. Members and Service in Congress

The qualifications for members of Congress are constitutional prescribed in Article I, section 2. A member of the House must be twenty-five years old, have been a citizen of the United States for a minimum of seven years and live in the state he or she represents. The qualifications for a Senator mandate he or she be at least thirty years old, have been a citizen of the United States for nine years and be a resident of the state from which he or she is elected.

A. Members’ Characteristics

1. Professional and Educational Background
   a. Members of Congress come from the nation’s economic, social, and educational elite.
   b. Congress has long been dominated by members who come from a business or legal background.
      1) About 75 percent have graduate degrees with most having either Law degrees (JD) or Business degrees (MBA).
      2) Nearly all hold college degrees.
      3) One-third of the Senators are millionaires.

2. Gender and Race
   a. Women comprise 17 percent of the Congress (historically the highest number of women to serve at one time):
      1) seventy-six women serve in the House;
      2) seventeen women serve in the Senate.
   b. Race
      1) The Senate has one African-American member, one Hispanic member, and two Asian Americans.
      2) The House has forty-two African American, twenty-eight Latino, ten Asian/Pacific Island and two Native American members.

3. Religious Affiliation
   a. 29 percent of the members are Catholic;
   b. 8 percent are Jewish;
   c. 3 percent Mormon;
   d. the remaining members belong to Protestant denominations or do not signify a religious affiliation.

4. Most members who attain national public office have served in state or local government.

5. The latter half of the twentieth century has spawned the “professional politician” who has served in Congress for over twenty years.
a. In the Senate: Robert Byrd (D-WV, fifty years, now deceased), Jay Rockefeller (D-WV), Carl Levin (D-MI), John Warner (R-VA).
b. The House: Teddy Kennedy (D-MA, now deceased), John Dingell (D-MI), John Conyers (D-MI) to name a few
c. The 112th Congress receive salaries of $174,000 per year.
b. Furthermore, members serving for more than five years receive a pension and lifetime health benefits.

B. Incumbency and Re-election
1. Between 1946 and 2010, 93 percent of House incumbents and 80 percent of Senate incumbents who ran for re-election were victorious.
2. Not since 1980 have more members of Congress been defeated for re-election than retired voluntarily between 2000 and 2004.
3. The 2006 election proved to favor Democratic challengers. Re-election rates in the Senate fell to 79 percent, while 94 percent of the House incumbents were retained.
4. However, as the figures suggest, incumbent candidates hold a sizable advantage in elections.

III. How Congress Has Organized To Do Its Work
In 1789, the First Congress began with sixty-five members in the House and twenty-six Senators. The bicameral structure of Congress provides for a procedurally efficient House based upon strict rules with a deliberative Senate characterized by loose rules and procedures. In turn, the primary organizational features of Congress include political parties, committees, and legislative rules and procedures.

A. The Role of Political Parties
1. As discussed in the previous chapter, political parties sponsor candidates for public office and advance platforms to attract support from voters.
2. Once elected, members of Congress are expected to “follow through” on their campaign promises.
3. Leaders of both political parties have tremendous influence in shaping legislation.
   a. The majority party leaders in Congress decide who will chair and comprise specific committees, control floor debates, and influence the voting of its members.
   b. The minority party leadership unites party members to oppose and derail legislation proposed by the majority party.
   c. However, despite majority or minority party status, congressional leaders collect and distribute information to their members, schedule floor business, insure members on the floor cast votes, and coordinate with members in the other chamber and the president. Congressional leaders are involved in every facet of proposed legislation.
4. The House of Representatives may be characterized as purposive and structured, operating according to strict rules and procedures. It is organized as a hierarchy with the Speaker being the most powerful member
   a. The Speaker of the House is the presiding officer in the chamber.
      1) The position is a constitutional office enumerated in Article I, section 2. Also, the Speaker is third in line to the presidency per the Presidential Succession Act of 1947.
      2) The Speaker, minority leader and whips of both parties are selected prior to the convening Congress by a vote of all House members.
         (a) Leaders are chosen based upon straight party-line voting during party
caucuses.

(b) Voting is conducted through secret ballot.

3) The Speaker sets the agenda for the House:
(a) Determines where bills originate.
(b) Assigns committee chairs and membership.
(c) Schedules voting and determines the length of debate.

b. The House has undergone changes since 1791.
1) Members of the House dominated politics during the late 1700s.
2) In the 1824 election, Speaker Henry Clay brokered a deal among Democrats to select John Quincy Adams as president to the dismay of fellow Democrat, Andrew Jackson.
3) The post-Civil War House was primarily dominated by Northern, radical Republicans who promoted reconstruction policies in the defeated Southern states.
4) At the end of the nineteenth century, the Speaker of the House began to become increasingly powerful.
(a) Thomas Reed (R-ME), who became Speaker in 1889, determined committee chairs while micromanaging floor debates and bill referrals.
(b) Joseph Cannon (R-IL) was elected Speaker in 1903 and continued Reed’s legacy. He punished party members who did not support Republican sponsored economic, tariff, and social legislation by stripping them of committee chairs and assignments.
(c) As a result of “Czar” Canon’s iron rule as Speaker, House rules were changed eliminating the Speaker’s ability to appoint committee chairs and decreasing the Speaker’s influence in the Rules Committee.
5) In 1975 the House initiated reforms weakening the power of committee chairs and established subcommittees to assist with the burgeoning workload. Moreover, committee chairs were not selected strictly based upon seniority.
6) In 1995, Speaker Newt Gingrich presided over the first Republican controlled House in over forty years. He re-established the hierarchical structure of the early 1900s and reduced the number of committees and subcommittees. Furthermore, committee chairs were selected based upon party loyalty and ideology rather than seniority. Also, the majority party stripped funding for caucuses.
7) With the sizable Democratic gains in the 2006 mid-term election, the first female Speaker, Nancy Pelosi (D-CA), promised to reform the House. These reforms or any substantial legislation have yet to come to fruition.

5. The Senate is characterized as informal, collegial, and egalitarian to facilitate deliberation.
a. The chamber operates under unanimous consent in which the Senate sets aside its standard rules for a negotiated agreement on the order and conduct of business on the floor. This plays roughly the same role as rules or special orders in the House. In turn, a single member may impede the progress of any bill.
b. Each Senator may employ a filibuster or the use of unlimited debate to
stall or block passage of legislation.

c. However, sixty members of the Senate may vote for cloture ending debate and any filibuster.

d. One of the few duties enumerated to the vice-president is to preside over the Senate and vote in cases of a tie.

e. The organization of the Senate consists of:
   1) President Pro-Tempore
      (a) A constitutional office
      (b) Traditionally the most senior Senator from the majority party
      (c) Fourth-in-line to the presidency.
   2) Majority Leader-Leader of the majority party
   3) Assistant Majority Leader (Majority Whip)
      (a) Assists the majority leader
      (b) Rounds up votes
      (c) Manages assistant/deputy whips.
   4) Minority Leader-Leader of the minority party
   5) Assistant Minority Leader (Minority Whip)
      (a) Assists Minority Leader
      (b) Manages votes and deputy whips.

B. The Development of the Committee System
In 1820, Congress formed permanent standing committees to address the increasing workload. Committees may be characterized by the following:

1. The Division of Labor
   a. Proposed legislation is expedited among committees and its members based upon the specific policy or issue. This allows the committee to gather detailed information through testimony and use this expertise to craft viable legislation.
   b. Committees have been very influential in the success or failure of a bill.

2. Fixed Jurisdictions
   a. Standing committees in the Senate and House have increased the power of committee chairs who hold appropriate jurisdiction prior to a floor vote.
   b. Moreover, committee chairs are vital to the success of proposed legislation.

3. Specialization and Seniority
   a. The committee system has produced “fiefdoms” whereby specific members become very territorial given their knowledge and expertise of a given policy area. In turn, committee practices or norms are apparent within the committee system:
      1) Specialization norm that encourages congresspersons to specialize and develop expertise in the subject matter covered by their committee assignments.
      2) Reciprocity norm promising that if members respect the views and expertise of members of other committees, their committee expertise will be respected as well.
      3) Seniority norm holds that members of congressional committees with the longest continuous service on the committee will serve as chair and mentor to junior members.

4. Types of Committees
   a. Standing committees are committees with fixed and permanent and fixed jurisdictions. There are currently seventeen Senate and twenty House standing
committees.

b. Select committees are temporary committees that are formed to deal with a specific subject or problem.
c. Conference committees are composed of members of both houses. They resolve differences in bills from the two chambers.
d. Joint committees are composed of members of both houses. They are designed to oversee a particular area of importance.
e. Standing committees consist of authorizing and appropriations committees that develop legislation and allocate specific funding to each government program or activity, respectively. These committees exist in both chambers.

5. Committee and Subcommittee Chairs

In the early 1950s, committee chairs set the agenda, appointed subcommittee chairs and controlled the resources (budget, staff). The Legislative Reorganization Act of 1970 placed limits upon the committee chairs. Furthermore, the 1973 Subcommittee Bill of Rights established more subcommittees and provided funding for subcommittee staffing.

a. This legislation established specific, published rules for committee proceedings.
b. Provided funding for subcommittees to hire staff and defined areas of jurisdiction for these subcommittees.
c. In 1995, the new Republican majority returned power to committee chairs. The included:
   1) The appointment of subcommittee chairs.
   2) Controlling the subcommittee budget.
   3) Approving the majority party subcommittee staff.
   4) Term-limited committee chairs to a maximum of six years.
d. The committee system in the 110th Congress has largely been defined by seniority and expertise. The Democrats campaigned on changing the “tone” of Washington but have not been able to enact any meaningful institutional changes.

6. The Staff Structure

Every House member receives a member’s representational allowance (MRA) to pay for staffing and office supplies and equipment. Allowances are around $1.5 million.

b. Senators receive personal allowances based upon the size of their states. Personal accounts provide between $2.5 million to $3.7 million for the Senator to hire staff and pay for office equipment, mailings, and travel expenses.
c. Staff roles range from handling office correspondence and advising members to drafting legislation and arranging meeting and hearings. Staff size was reduced after the 1995 Republican victory.
d. Committees and subcommittees have their own staff.
e. Congress funds three non-partisan agencies that provide research support to the committees and members of Congress:
   1) The Congressional Research Service (CRS) supplies research support for committees and members.
   3) The Congressional Budget Office (CBO) analyzes budget concerns.
IV. The Legislative Process

A. All bills must be sponsored (introduced) by a member of Congress. Currently, proposed legislation may have unlimited co-sponsors or other members of Congress who wish to see the bill become a law. It is important to note that less than 5 percent of the proposed legislation is actually signed into law.

1. Introducing legislation and committee deliberations
   a. A member of Congress must introduce a bill (the president may only recommend or persuade members to support/oppose legislation).
   b. The bill is referred to a committee or multiple committees depending upon the nature of the legislation (for example, a farm issue will be referred to the Agricultural Committee). The Speaker has tremendous influence in assigning legislation to committees.

   1) Committee assignment in the House is either by joint, split, or multiple referral.
   2) Although very rare, a discharge petition, which requires the signatures of an absolute majority of House members, may be used to remove a bill from any committee (except Appropriations and Ways and Means).
   3) Also, the bill may be referred to various subcommittees.
   4) Public hearings and testimony from interested parties and executive agencies occurs.
   5) The committee votes based upon the information provided. Most legislation “dies” (is not approved by a majority vote) in committee.
   6) If the bill is approved in committee, it then goes to “markup” whereby the bill is rewritten and earmarks or funding for pet projects are added to gain support for the upcoming floor vote.
   7) Report of bill to the floor
      (a) If approved, the committee makes recommendation to the full House.
      (b) The modified bill is then presented to the Rules Committee that determines the rules (open or closed) of debate.

c. Simultaneously, a similar bill is introduced in the Senate. The proposed legislation follows the same progression as the House with a few exceptions:
   1) Amendments may be added at any time in the Senate (even during floor debate and do not have to be germane to the bill’s subject matter. This is known as attaching a rider to a bill.
   2) If the recommendation is positive, the bill then goes to the floor of the Senate where it may encounter a filibuster. To break a filibuster, sixty Senators must vote for cloture ending debate. An extraordinary majority of sixty is required to end a filibuster.

2. Both chambers of Congress vote to pass the bill.
   a. The House debates as the Committee of the Whole, which is simply the members who happen to be on the floor at the time. A minimum of 100 members, or quorum, must be present for the Committee of the Whole to conduct House business. The Committee of the Whole
      1) Debates, votes on amendments and finalizes the bill.
      2) Committee of the Whole dissolves and the bill goes to the full House. The bill is read in its final form by the House clerk.
3) Floor debate in the House is usually limited to one hour with members able to speak for a maximum of five minutes (once again, this depends on the rules determined by members of the House Rules Committee).

b. In the Senate, every member has the opportunity to deliberate the bill’s merits and weaknesses as this chamber operates under unanimous consent.

3. If both chambers approve the legislation, the bill is referred to conference committee to reconcile the different versions into one, final bill that will be presented to the president.

4. The bill is presented to the president in its final form. The president has ten days to:
   a. Sign the bill and it becomes law.
   b. Veto or reject the bill.
   c. Pocket veto a bill. This occurs if Congress adjourns before the ten days the president has to sign or veto the legislation. In effect, the bill is killed without presidential action.

5. If the president vetoes the bill, it is returned to both chambers unsigned. Congress may override a presidential veto by a two-thirds majority vote in support of the legislation. Consequently, the bill becomes law without the president’s signature.

V. Congressional Decision-Making

Members of Congress must be aware of the needs of their constituents, their staff, colleagues, interest groups, and members of the Executive Branch, specifically the president.

A. Consequently, Congressional decision-making is influenced by numerous political and non-political actors. The time of the vote and the specific issue considered dictates who has the most influence on how a member of Congress may vote:
   1. constituents
   2. staff, colleagues, and party leaders
   3. interest groups and lobbyists
   4. the president and the bureaucracy.

VI. Public Disaffection and Congressional Reform

A. Congress has reformed how it does business several times during the twentieth century.
   1. In 1910–1911, the Speaker of the House was weakened and committees gained in power. After World War II, the Legislative Reorganization Act of 1946 reduced the number of standing committees and provided them with permanent staffs.
   2. The Legislative Reorganization Act of 1970 increased public scrutiny and decision-making capability in management and budgeting.
   3. House Republicans in 1995 passed the Congressional Accountability Act. This act made committee voting records public, extended labor and workplace safety laws to Congress, and opened public committee meetings to the media.
   4. In 2007, the Democratic controlled Congress has assured the public that pork barrel spending and lobbyist influence will be limited. Moreover, the new leadership assured ethic reforms will be enacted and enforced. This has yet to transpire. As a result, Congress’s approval rating remains very low.

B. Members of Congress have competing parties influencing their decisions.
   1. There are three primary representational styles:
      a. The trustee uses his or her best judgment to promote the common good by “filtering” the views of the constituency.
      b. The político balances constituent concerns with his or her best judgment.
c. The *delegate* “mirrors” or directly represents the constituent concerns and votes accordingly.

2. As Richard Fenno illustrates in his seminal work, *Homestyle*, politicians consciously design campaign strategies to appeal to their respective constituencies.
Lecture Suggestions

Behavioral Focus

I. Three Theories Explaining How Members of Congress Behave

Members of Congress must balance the role of legislators advancing the needs of their constituents with what is necessary to provide for the common good. To complicate matters even more, members of Congress must be re-elected (this is paramount to members of the House as they are up for re-election every two years). In turn, congressional scholars have developed three theories explaining legislative behavior: The Attitudinal model, Organizational approach, and the Representational view.

A. The Attitudinal Model asserts political ideology influences the behaviors of members of Congress.
   1. Members of the House vote based upon their constituent’s ideology (middle-voter).
      a. This enables a greater probability of the representatives being re-elected.
      b. Members of Congress are often placed on a liberal/conservative spectrum based upon their policy positions during debates and when voting.
   2. Senators tend to be more independent from the views of their constituency but still demonstrate ideological voting patterns.
      a. The conservative Southern Democrats that dominated the Senate in the 1950s and 1960s have largely disappeared.
      b. Conversely, liberal Republican Senators in the Northeast have also vanished with the defeat of Lincoln Chafee (R-RI) by Democrat Sheldon Whitehouse in the 2007 mid-term election.
      c. Nevertheless, Senators still demonstrate ideological leanings during debates and when voting.

B. Organizational Theory downplays the attitudinalist view asserting ideology plays a dominant role in explaining legislative behavior. Conversely, proponents of the Organizational Theory believe members of Congress take “cues” from:
   1. Leaders of their political party.
   2. Other members of Congress who share their ideological views.
      a. Blue Dog Democrats: moderate to conservative Democrats.
      b. Republican Study Committee: Conservative Republicans.
   3. Senior members of a standing committee.
   4. Other congressional members from a similar geographical region of the country.
   5. Senior congressional members of the state delegation.

C. Finally, the Representational View maintains a legislator’s voting record will be supportive of his or her constituency.
   1. In effect, a member of Congress is apt to “mirror” the ideological stance of the electorate and act as delegate if public opinion clearly indicates strong support or opposition for a particular piece of legislation.
   2. Also, a member of Congress may consistently support a single issue; therefore representing the views of a specific special interest group.
   3. In his book, Constituencies and Leaders in Congress, John Jackson’s research indicates a strong correlation between roll call votes in the Senate and constituency concerns.

Institutional Focus: How a Bill Becomes a Law

I. How Does a Bill Become a Law?
A. All bills must be sponsored (introduced) by a member of Congress. Currently, proposed legislation may have unlimited co-sponsors or other members of Congress who wish to see the bill become a law. It is important to note that less than 5 percent of the proposed legislation is actually signed into law.

1. Introducing legislation and committee deliberations
   a. A member of Congress must introduce a bill (the president may only recommend or persuade members to support/oppose legislation).
   b. The bill is assigned to a committee or multiple committees depending upon the nature of the legislation (e.g. farm issues will be referred to the Agricultural Committee). The Speaker has tremendous influence in assigning legislation to committees.
      1) Committee assignment in the House is either by joint, split, or multiple referral.
      2) Although very rare, a *discharge petition*, which requires the signatures of an absolute majority of House members, may be used to remove a bill from any committee (except Appropriations and Ways and Means).
      3) Also, the bill may be referred to various subcommittees.
      4) Public hearings and testimony from interested parties and executive agencies occurs.
      5) The committee votes based upon the information provided. Most legislation “dies” (is not approved by a majority vote) in committee.
      6) If the bill is approved in committee, it then goes to “markup” whereby the bill is rewritten and earmarks or funding for pet projects are added to gain support for the upcoming floor vote.
      7) Report of bill to the floor
         (a) If approved, the committee makes recommendation to the full House.
         (b) The modified bill is then presented to the Rules Committee that determines the rules (open or closed) of debate.
   c. Simultaneously, a similar bill is introduced in the Senate. The proposed legislation follows the same progression as the House with a few exceptions:
      1) Amendments may be added at any time in the Senate (even during floor debate) and do not have to be germane to the bill’s subject matter. This is known as attaching a rider to a bill.
      2) If the recommendation is positive, the bill then goes to the floor of the Senate where it may encounter a filibuster. To break a filibuster, sixty Senators must vote for cloture ending debate. An extraordinary majority of sixty is required to end a filibuster.

2. Both chambers of Congress vote to pass the bill.
   a. The House debates as the Committee of the Whole, which is simply the members who happen to be on the floor at the time. A minimum of 100 members, or quorum, must be present for the Committee of the Whole to conduct House business. The Committee of the Whole
      1) Debates, votes on amendments and finalizes the bill.
      2) Committee of the Whole dissolves and the bill goes to the full House. The bill is read in its final form by the House clerk.
3) Floor debate in the House is usually limited to one hour with members able to speak for a maximum of five minutes (once again, this depends on the rules determined by members of the House Rules Committee).
b. In the Senate, every member has the opportunity to deliberate the bill’s merits and weaknesses as this chamber operates under unanimous consent.
3. If both chambers approve the legislation, the bill is referred to conference committee to reconcile the different versions into one, final bill that will be presented to the president.
4. The bill is presented to the president in its final form. The president has ten days to:
a. Sign the bill and it becomes law.
b. Veto or reject the bill.
c. Pocket veto a bill. This occurs if Congress adjourns before the ten days the president has to sign or veto the legislation. In effect, the bill is killed without presidential action.
5. If the president vetoes the bill, it is returned to both chambers unsigned. Congress may override a presidential veto by a two-thirds majority vote in support of the legislation. Consequently, the bill becomes law without the president’s signature.

_Institutional Focus: Congress_

_I. Requirement to Become a Member of Congress_
A. There are very few Constitutional requirements for members of Congress.
   1. House of Representatives:
      a. A member must be twenty-five years old.
      b. A member must be a U.S. citizen for seven years.
      c. A member must be a resident of the state in which the district lies.
      d. It is interesting that a representative does not have to live within the district he or she represents.
   2. Senate
      a. A member must be thirty years old.
      b. A member must be a U.S. citizen for nine years.
      c. A member must be a resident of the state he or she represents.
B. Per Article VI of the U.S. Constitution, Senator and Representative are “bound by Oath or Affirmation, to support the Constitution but no religious Test shall ever be required as a Qualification to any Office or Public Trust under the United States.”

_II. The Institutional Design of Congress_
The Constitution created a bicameral Congress meaning the legislature is divided into two chambers:
A. Senate (upper chamber of Congress)
   1. Structure:
      a. 100 members.
      b. Serve six-year terms.
      c. Senators were removed from the immediate influence of constituents because they were elected by state legislatures (this was changed via ratification of the Seventeenth Amendment in 1913 allowing for the direct election of Senators).
      d. 20 Standing Committees
         1) senators serve on multiple subcommittees and committees;
         2) no senator may chair more than one committee;
         3) committee chairman are selected by secret ballot in party caucus.

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2. Character: deliberative
   a. Few rules exist to limit debate
      “As the cool and deliberate sense of the community ought...ultimately prevail
      over the views of its rulers” (Federalist #63, Rossiter, p. 352).
      1) Loosely organized:
         (a) Debate and amendments do not have to be germane to proposed
             legislation.
         (b) Amendments may be presented at any time during debate.
      2) Egalitarian-operates under unanimous consent.
      3) Filibuster: unlimited debate to stall, impede, or kill legislation.
      4) May stop debate by invoking cloture: sixteen Senators must petition for
         sixty votes needed to stop or limit debate.
   b. In the Senate, a rider or an amended portion of the legislation may be attached to
      a bill that is used as a strategy to:
      1) Attract support from other Senators and/or the president.
      2) Assure the president (who opposes the measure) will veto the bill.
      3) Get money for a state project or pet project that normally would not
         receive any support.

3. Leadership:
   a. Majority Party:
      1) President Pro-Tempore: Traditionally the most senior Senator.
      2) Majority Leader: Leader of the majority party.
      3) Assistant Majority Leader (Majority Whip)
         (a) assists the majority leader
         (b) rounds up votes
         (c) manages assistant/deputy whips.
      4) Conference Chairman: Runs the meeting of the majority party (caucus).
   b. Minority Party:
      1) Minority Leader: Leader of the minority party.
      2) Assistant Minority Leader (Minority Whip).
         (a) assists minority leader
         (b) manages votes and deputy whips.
      3) Conference Chairman: Runs meeting and party caucuses.
   c. Vice-President:
      1) presides over the Senate
      2) breaks ties in chamber voting.

4. Enumerated Powers
   a. To try impeachments: two-thirds of Senators needed to convict.
   b. Approve treaties made by the president by a two-thirds majority vote.
   c. Confirm presidential appointees by a simple majority.

B. House of Representatives (lower chamber of Congress)
   1. Structure:
      a. 435 members.
      b. Serve two-year terms.
      c. Designed to represent the will of the people who directly elect representatives.
      d. Twenty standing committees.
      1) No member may serve as chair of more than one committee.
      2) Committee chairs are selected via secret ballot in party caucus.
3) Committees consist of at least twenty members and have four subcommittees.

4) All committee deliberations are to be held in full public view (Rules committee can determine if testimony should be conducted in private).

2. Character: Purposive and Structured

Self-government is a reflection of human nature: Government is to be administered by “men [ruling] over men” (Federalist #51, Rossiter, p. 290).

a. Debate is dictated through formal rules and procedures.
   1) Closed rules
      (a) establishes strict time limit on debate
      (b) limits or forbids amendments.
   2) Open rule: Permits a bill to be amended during floor debate.
   3) Amendments must be germane to the bill.
   4) Bills may be referred to several committees. This is called *multiple referral*.

b. Centralized power in the Speaker of the House is used to:
   1) Determine where bills originate.
   2) Assign committee chairs and membership.
   3) Committees cannot be bypassed in the lawmaking procedure and are vital to the success of legislation.
   4) Schedule voting and determining length of debate (usually limited to one hour unless Rules Committee decides differently).

3. Leadership:

a. Majority Party:
   1) Speaker of the House who is selected by majority party.
   2) Majority Leader: Leader of the majority party.
   3) Majority Whip
      (a) assists the majority leader
      (b) rounds up votes
      (c) manages assistant/deputy whips.
   4) Caucus Chairman: Runs the meeting of the majority party (caucus).
   5) Committee Chairs of House Ways and Mean (appropriations) and Rules (decides length and terms of floor debate) are very powerful.

b. Minority Party:
   1) Minority Leader: Leader of the minority party.
   2) Minority Whip
      (a) assists Minority Leader
      (b) manages votes
      (c) heads the group of deputy whips.
   3) Conference Chairman: Runs meetings and party caucuses.

4. Powers of the House

a. Originate Revenue Bills: The power to tax (also, based upon income per Amendment XVI, ratified in 1913).

b. Impeachment: The formal power to charge “civil officers” of the national government with “Treason, Bribery or Other High Crimes and Misdemeanors.”

C. The committee system in both chamber of Congress, while not mentioned in the Constitution, is vital to the function of Congress as a legislative body. The division of labor allows members of Congress to specialize in particular policy areas and defer to the expertise of other members to design and enact legislation.

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1. Types of committees
   a. Standing committees are committees with fixed and permanent jurisdictions. These are most important and vital given the workload:
      1) Senate: twenty
      2) House: twenty.
   b. Select committees are temporary committees that are formed to deal with a specific subject or problem.
   c. Conference committees are composed of members of both chambers. They resolve differences in bills between the two houses.
   d. Joint committees are composed of members of both houses. They are designed to oversee a particular area of importance.

2. Standing committees consist of authorizing and appropriations committees. These exist in both houses. Also, the subcommittee system, established in the early 1970s, allows for increased policy specialization.

3. The tenets of the congressional committees system:
   a. Specialization: Each member is expected to specialize in a subject area and serve on the appropriate committee.
   b. Reciprocity is another norm, i.e. members of one committee defer to other committees and the specialization of its members.
   c. Seniority usually determines committee chair assignments.

D. Finally, both chambers of Congress share powers per Article I, section 8, of the U.S. Constitution:
   1. Legislative oversight of the Executive Branch.
   2. May overturn a presidential veto by a two-thirds vote in both Houses.
   3. Sole power to provide for a militia and declare war.
   4. Establish federal courts (“constitute tribunals inferior to the Supreme Court”).
   5. The power to collect taxes, to coin and borrow money.
   6. To regulate interstate commerce.
   7. To establish a post office and provide for infrastructure.
   8. To define and punish felonies and crimes.
   9. To exercise legislative powers over military establishments, territories and the seat of government (the District of Columbia).
   10. 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.”
      a. This is known as the “necessary and proper clause” and “elastic clause.”
      b. According to many legal scholars, this is one of the most contentious portions of the U.S. Constitution.
Projects, Exercises, and Activities

1. As a class exercise, conduct a “mock” Congress including a president and members of Congress (members of the Supreme Court may also be used). This can be done in classes of 20–536 students. Have students campaign for president, Speaker of the House, vice-president, leadership positions (majority/minority leaders, whips, etc.), (sub)committee chairs. Those students who do not campaign for the aforementioned positions will initially act as voters who will elect individuals to the presidency, vice-president, Speaker of the House, and leadership positions based upon campaign speeches presented to the class. Afterwards, each member of the class can act as a representative or senator. Depending on the class size, design and number of class sessions (meetings), you can have each discussion section represent a specific committee and have separate floor debates during lectures (if you have two large rooms for the Senate and House). This exercise should concentrate on the legislative process and the various stages of how a bill becomes law (subsequently, the Supreme Court is not foremost in the process). In my experience, it is best to have the students “design” the substance of the legislation with TAs and the professor having a qualified veto over suggestions. Consult the website, http://clerk.house.gov/legislative/legprocess.html, or the book, Canon’s Rules of Order, for parliamentary procedures.

2. First, have each student select a candidate for or current member of Congress (if possible, the student can select a presidential candidate). Next, go to the website www.opensecrets.org and type in the individual’s name. Identify the interest groups, ideological PACs, individuals, and businesses that have contributed to the candidate or member of Congress. Research the voting record of that member by going to www.rollcall.com. Finally, is there a correlation between the member’s votes and the contributors interests? If so, identify the associations. Have the students present their findings via a class presentation or research paper.

3. Access the website www.cagw.org. This site is run by the watchdog group, Citizens Against Government Waste. Second, browse the website for subject matter that interests you. I recommend clicking on the “Pig Book” link as this will give you a plethora of pork legislation organized by year. Choose one or two spending (appropriation) bills associated with the subject you chose. Next, search the website www.thomas.gov for your representative in Congress or a member of the House of Representatives you wish to research. Type in the key words or House Bill (examples are HB 1234 or HR 4321) for the spending bill(s) found at The Citizens against Government Waste website. Finally, write (type) a 2–3 page paper addressing the following questions:
   1. What were the justifications (arguments) for the spending project(s)?
   2. Did the bill pass or was it voted down (make sure to indicate if it was tabled in subcommittee, voted down in committee or on a floor vote and/or was amended)?
   3. Did your chosen representative vote for or against the bill(s)?
   4. If you were a member of the House of Representatives would you have supported the legislation? Why or why not?
Additional Resources

Supplemental Readings


Websites

House of Representatives
Website for the House of Representatives.

Roll Call
This website is an excellent source for information on congressional voting and legislation. A subscription is required. Usually, a university or college library has a subscription which will allow students to access the site. This is an electronic publication.

Senate
Website for the U.S. Senate.

THOMAS
This site is managed by the Library of Congress and may be accessed to research current congressional activity. The site provides current legislation, amendments, voting records, committee deliberations, and listings of sponsors and co-sponsors. Archived materials are also available.

Congressional Oversight Example
This is an interesting piece showcasing Congress’ role as an oversight mechanism by looking at its conduct in investigating salmonella poisoning.

Congressional Legislating Example
This is a video covering senatorial voting over the military’s, “Don’t Ask, Don’t Tell” policy over gay service. It is an excellent example of senatorial procedures regarding the importance of the cloture mechanism in holding off filibusters.

Congressional Elections
This is an interesting news clip covering a congressional primary race in South Carolina among Republican candidates where the Democrats have not fielded any opposition. It shows a great deal about the regionalization of party power, incumbency, and the role of local district service needs as governing factors in congressional races.

Residency and the Congress
You must be a resident of the district and state that you are representing to hold a seat in the Congress, this is an interesting debate among Democrats over particular candidates’ residency. It displays some of the rather esoteric rules that govern American elections, especially for the Congress.