CHAPTER 5: CONGRESS: THE LEGISLATIVE BRANCH

Section 1: Congress
Section 2: The Powers of Congress
Section 3: The House of Representative
Section 4: The Senate
Section 5: Congress At Work
SECTION 1: CONGRESS

- Congress and the People
- Representing the People
  - Represent the interests of their constituents, the voters in the district that elected them
  - Attempt to balance the needs of their constituents with those of the nation as a whole
- Members of Congress
  - Tend to be older than the general population
  - Tend to be wealthier
  - Most of them have been white men
  - In recent years, more representative of the nation’s diversity
SECTION 1: CONGRESS

- The Structure of Congress

- The House of Representatives
  - 1929: number fixed at 435, number of representatives each state can elect based on state’s population, **Apportionment**: distribution of seats according to population; Representatives serve two-year terms

- The Senate
  - 100 members, each state represented by two senators; Senators serve six-year terms

- The Two-House Structure
  - Bicameral legislature proposed at the 1787 Constitutional Convention
  - Great Compromise combined elements of two previously proposed plans, Virginia Plan and New Jersey Plan
  - **Bicameral system** adopted parts of both plans: states would have equal representation in Senate, but proportional representation based on population in House of Representatives
Section 1: Congress

- Ohio has 16

### Congressional Representation Selected States, 2007

<table>
<thead>
<tr>
<th>State</th>
<th>Population*</th>
<th>House Members</th>
<th>Senate Members</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>36,457,549</td>
<td>53</td>
<td>2</td>
</tr>
<tr>
<td>Florida</td>
<td>18,089,888</td>
<td>25</td>
<td>2</td>
</tr>
<tr>
<td>Georgia</td>
<td>9,363,941</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>Illinois</td>
<td>12,831,970</td>
<td>19</td>
<td>2</td>
</tr>
<tr>
<td>Indiana</td>
<td>6,313,520</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>Texas</td>
<td>23,507,783</td>
<td>32</td>
<td>2</td>
</tr>
<tr>
<td>Virginia</td>
<td>7,642,884</td>
<td>11</td>
<td>2</td>
</tr>
<tr>
<td>Wyoming</td>
<td>515,004</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

*Census estimates, 2006
SECTION 1: CONGRESS

- Congress and Checks and Balances
  - The Power of the Purse
    • Only Congress can deny funding requests from executive branch
    • Through appropriation, Congress can prevent president from carrying out policies
  - The Power of Advice and Consent
    • Senate must approve treaties negotiated by president and has power to reject presidential appointees
  - The Impeachment Power
    • Impeachment power rarely used Congress can charge officials with wrongdoing, bring them to trial, Process only in cases involving treason, bribery, “high crimes and misdemeanors”
  - Other Checks and Balances
    • Begins process of amending Constitution, can override presidential veto of bill
    • Congressional oversight: broad powers of executive review
SECTION 2: THE POWERS OF CONGRESS

- Defining the Power of Congress
  - Three types of powers held by Congress
    - Expressed which are spelled out in Constitution
    - Implied which are suggested in Constitution in the necessary and proper clause
    - Inherent which are powers a government maintains simply because it is a government
    - Constitution also explicitly denies powers to the legislative branch

- Expressed Powers of Congress
  - Financing Powers
    - “lay and collect taxes”, by levying direct and indirect taxes (gas, liquor, cigarettes)
    - Can borrow money on behalf on the United States in case of deficit
  - Commerce Power
    - Commerce clause allows Government to regulate interstate commerce
    - Only Congress can pass laws affecting economic activities that take place along state lines.
SECTION 2: THE POWERS OF CONGRESS

- Defense-Related Powers
  - Framers granted Congress power to declare war
  - Congress retains power to raise army and navy and to provide for their funding

- Other Expressed Powers
  - Deal with regulation of national economy (coinage, postal service, copyrights and patents, weights and measures)
  - Include establishing bankruptcy law, naturalization process, courts and Congressional elections
  - Article 1, Section 8 p.129-131

- Landmark Supreme Court Cases
  - Gibbons v. Ogden (1824)
    - Why It Matters:
      - Gibbons v. Ogden was the first case in which the Supreme Court ruled on the Constitution’s commerce clause, which concerns Congress’s power to regulate interstate commerce.
SECTION 2: THE POWERS OF CONGRESS

- **Implied Powers of Congress**
  - **Loose and Strict Constructionists**
    - Founders disagreed about how necessary and proper clause should be defined
  - **Strict constructionists**
    - Congress should only exercise powers explicitly granted in Constitution
      - Known as Antifederalists
  - **Loose constructionists**
    - Congress should have more freedom to interpret Constitution
      - Known as Federalists

- **The Necessary and Proper Clause Today**
  - Has led to expanded federal authority over time
SECTION 2: THE POWERS OF CONGRESS

- Nonlegislative Powers
  - Powers Common to Both Houses
    - Propose constitutional amendments
    - Conduct investigations
    - Ability to issue subpoenas, documents that require person to testify
  - Powers of the House
    - Under Twelfth Amendment, House can choose president if no candidate receives majority of electoral votes
  - Powers of the Senate
    - May choose vice president if not enough electoral votes
    - Provides advice and consent on presidential appointments
    - Must approve treaties negotiated by president
SECTION 2: THE POWERS OF CONGRESS

- Limits on the Powers of Congress
  - Many clauses in Constitution protect citizens basic civil rights
  - Congress may not suspend *writ of habeas corpus*, a court order that forces the police to present a person in court to face charges, except in cases of rebellion or invasion. To prevents government from holding people in secret or without charges
  - Congress is forbidden from passing *bill of attainder*, law that allows person to be punished without trial
  - Constitution also forbids Congress from *passing ex post facto laws*, laws that criminalize a past action

- The Changing Power of Congress
  - In the twentieth-century Congress expanded its power to meet the needs of the growing nation.
    - Responded to severe economic crisis in 1930s: provided Social Security, help to unemployed
    - Post–World War II, responded to new status of nation as dominant world power: created new U.S. Air Force, CIA, NASA
    - Delegated some powers to federal agencies it created
SECTION 3: THE HOUSE OF REPRESENTATIVE

The House of Representatives

- Most closely in touch with the people
- Membership based is apportioned to each state on the basis of its population. After each census, seats in the House are reapportioned among the states and new district boundaries are drawn.
- Speaker of the House most powerful leaders in government.
- House relies on a committee system to conduct much of its business.
SECTION 3: THE HOUSE OF REPRESENTATIVE

- **Formal Qualifications**
  - House members chosen by direct popular vote
  - According to Constitution, House is responsible for “Elections, Returns, and Qualifications of its own Members”
  - Representative must be at least 25 years old and resident of state he or she represents.
  - Members must also have been U.S. citizen at least 7 years

- **Informal Qualifications**
  - Candidates with military backgrounds, celebrities often popular choices for House membership
  - Ability to raise significant funds for campaigning is important informal qualification for House membership
### House of Representatives: Terms, Salary, Benefits and Privileges

<table>
<thead>
<tr>
<th></th>
<th>House Members</th>
<th>Speaker of the House</th>
<th>Majority and Minority leaders</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salary</strong></td>
<td>$165,200</td>
<td>$212,100</td>
<td>$183,500</td>
</tr>
<tr>
<td><strong>Term</strong></td>
<td></td>
<td>2 years</td>
<td></td>
</tr>
<tr>
<td><strong>Benefits and Privileges</strong></td>
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<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>• Tax deduction for two residences</td>
<td></td>
<td></td>
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<tr>
<td>• Travel allowances</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>• Staff</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Health and retirement benefits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Franking privilege: free mail to constituents</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Free printing</td>
<td></td>
<td></td>
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<tr>
<td>• Use of gym, restaurants, and other amenities in the Capitol</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Legal immunity for statements made while Congress is in session</td>
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<td></td>
</tr>
</tbody>
</table>

Source: Congressional Research Service, 2007
SECTION 3: THE HOUSE OF REPRESENTATIVES

- Reapportionment and Redistricting
  - Changes is Population
    - Each state must have at least one representative
    - Constitution requires that House redistribute number of seats available to each state every 10 years
    - Reapportionment based on most current census figures
  - Gerrymandering
    - State governments responsible for creating voting districts within state
    - Gerrymandering: redrawing district boundaries for political gains
  - One Person, One Vote
    - According to Constitution, each person’s vote must have same basic value
    - Gerrymandering has been used to disenfranchise (deprive of voting rights) racial minorities
    - Supreme Court has restricted use of gerrymandering
SECTION 3: THE HOUSE OF REPRESENTATIVES

Leadership in the House

• The Speaker of the House
  • The presiding officer of the House is called the Speaker of the House.
    - Elected by his or her peers
    - Member of majority party
  • The Speaker has authority over much of the business of the House.
    - Presides over debates
    - Rules on points of order
    - Assigns bills to committees
• The Speaker is behind the vice president in the line of success to the presidency

Other Leadership Posts
• Party officers elected at beginning of term at party caucus
• Both Democratic and Republican Parties elect floor leader
• Majority leader serves as assistant to Speaker of the House
• Both parties elect whips, function is to secure votes in line with party leadership
SECTION 3: THE HOUSE OF REPRESENTATIVES

- House Rules
  - House has congressional authority to make own rules
  - House Rules Committee very powerful, responsible for setting conditions under which bills are debated

- The Role Of Committees
  - Standing Committees
    - Standing committees: permanent committees that address broad topics
    - Subcommittees: specialize in areas within a broader topic
  - Other Committees
    - Select committees: meant to carry out specific task
    - Joint committees include both House and Senate members; address issues that affect both chambers

- Committee Chairs
  - Position of committee chair very powerful
  - Chairs chosen by majority party
  - Position usually goes to most senior member on committee
SECTION 3: THE HOUSE OF REPRESENTATIVES

• Committee Membership
  • House members usually serve on two standing committees, four subcommittees at a time
  • Members request assignments based on personal interest, concerns of constituents

<table>
<thead>
<tr>
<th>House Standing Committees</th>
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<tbody>
<tr>
<td>Agriculture</td>
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<td>Appropriations</td>
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<td>Armed Services</td>
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<tr>
<td>Budget</td>
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<tr>
<td>Education and Labor</td>
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<tr>
<td>Energy and Commerce</td>
</tr>
<tr>
<td>Financial Services</td>
</tr>
<tr>
<td>Foreign Affairs</td>
</tr>
</tbody>
</table>
SECTION 4: THE SENATE

- The Senate
  - Each state has two senators, regardless of population. Like the House, the Senate relies on a system of committees.
  - Senate traditions, such as open debate, make it a distinctive body.

- The Senate and Its Membership
  - Formal Qualifications
    - Must be at least 30 years old; Must reside in state he or she represents; Must be U.S. citizen at least nine years; Serve six-year terms
  - Informal Qualifications
    - Tend to be older and wealthier than House members; Senate does not reflect diversity of U.S. population; Less diverse body than House
  - Election of Senators
    - State legislatures originally chose senators
    - Since 1913, 17th Amendment, elected by direct popular vote
### Section 4: The Senate

#### Senate: Terms, Salary, Benefits and Privileges

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<tr>
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<th>President Pro Tempore</th>
<th>Majority and Minority Leaders</th>
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|                  | • Use of gym, restaurants, and other Capitol amenities
|                  | • Legal immunity for statements made while Congress is in session

Source: Congressional Research Service, 2007
SECTION 4: THE SENATE

- Senate Leadership
  - Constitutional Positions
    - Senate’s presiding officer
      - Vice president of the United States is president of the Senate
      - Largely ceremonial; votes only in circumstance of tie, casts deciding vote
    - When presiding officer absent
      - President pro tempore presides in absence of president of the Senate, traditionally longest-serving senator of majority party
      - Third in line in presidential succession behind Speaker of the House
  - Party Leaders
    - Leading the majority
      - Senate majority leader most powerful position in Senate
      - Chosen by party caucus, works to fulfill party’s agenda in Senate
    - Minority leader guides work of minority party in Senate
SECTION 4: THE SENATE

- Committees In The Senate
  - Types of Senate Committees
    - 16 standing committees and dozens of subcommittees
    - Assignments allow senators to become familiar with specific issues of public policy
  - Membership in Committees
    - Usually serve on three committees and five subcommittees
    - Members seek assignments that align with constituents’ concerns and personal interests
  - Committee Chairs
    - No senator can chair more than one committee
    - Committee chairmanships generally chosen by seniority rule
  - Senate Committee Power
    - Top nominees of president reviewed by relevant Senate committee
    - Debate and vote on treaties, need two-thirds majority to become law
## Section 4: The Senate

### Senate Standing Committees

<table>
<thead>
<tr>
<th>Agriculture, Nutrition, and Forestry</th>
<th>Foreign Relations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appropriations</td>
<td>Health, Education, Labor, and Pensions</td>
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<tr>
<td>Armed Services</td>
<td>Homeland Security and Governmental Affairs</td>
</tr>
<tr>
<td>Banking, Housing, and Urban Affairs</td>
<td>Judiciary</td>
</tr>
<tr>
<td>Budget</td>
<td>Rules and Administration</td>
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<tr>
<td>Commerce, Science, and Transportation</td>
<td>Small Business and Entrepreneurship</td>
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<tr>
<td>Energy and Natural Resources</td>
<td>Veterans’ Affairs</td>
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<tr>
<td>Environmental and Public Works</td>
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</tr>
<tr>
<td>Finance</td>
<td></td>
</tr>
</tbody>
</table>
SECTION 4: THE SENATE

- Rules and Traditions
  - The Filibuster
    - Senate places fewer limits on debate than House
    - Senators may use stalling tactics like filibuster
      - Opponents of measure refuse to stop talking hoping to prevent measure from coming to vote
      - Cloture can limit filibuster, requires two-thirds vote to end debate
  - Discipline in the Senate
    - Constitution states Senate should judge conduct of own members
    - Senators can be expelled or censured
  - Filling Vacancies
    - Vacancy occurs if senator dies in office or retires during term
    - State’s governor appoints temporary replacement
SECTION 5: THE LEGISLATIVE PROCESS

- **Congress at Work**
  - Bills may be introduced in either house and usually get assigned to committees for analysis and revision.
  - Floor debates differ in the House and Senate.
  - Differences between House and Senate versions of a bill are resolved in a conference committee.
  - The president needs to sign a bill for it to become law.

- **Bills in Congress**
  - Both houses of Congress introduce bills
    - Most bills are public and affect entire country
    - Private bills affect only one individual or small group of people
  - **Rider**: provision added to a bill that has little or no relationship to bill’s main intent
    - Usually unpopular provisions unlikely to pass on their own
SECTION 5: THE LEGISLATIVE PROCESS

- Other Types of Action
  - Joint resolution: similar to a bill
    - Used for certain circumstances
    - Must be signed by president, carries force of law
  - Concurrent resolutions: address operations in both chambers, do not carry force of law

- Bills in Committee
  - Most bills submitted to Congress do not become law
  - Referral
    - Bills first referred to particular committee in House or Senate
    - Bill may later be assigned to subcommittee
  - Committee and Subcommittee Hearings
    - Public hearings get input on bills under consideration
  - The Subcommittee’s Report
    - Subcommittee issues report on bill to full committee following hearing
    - Subcommittee’s report based on majority of committee members’ recommendation
    - Report can be favorable, unfavorable, neutral
SECTION 5: THE LEGISLATIVE PROCESS

- The Markup Process
  - Full committee further debates bill, considers any amendments
  - If committee decides to take no further action, bill is virtually killed
  - Rarely, discharge petition used by House to force bill out of committee

- House Rules
  - House Rules Committee sets rules to govern how bills debated or amended
  - Some major budget or appropriations bills bypass Rules Committee
  - Three main types of rules: open, closed, modified
    - Open rules allow amendments
    - Closed rules forbid amendments
    - Modified rules limit amendments
Section 5: The Legislative Process

- The Bill On The Floor
  - After a bill leaves committee, it moves on for the full consideration by the House or Senate.

- The Bill in the House
  - House votes to accept rules
  - Committee of the Whole is formed by all members
  - Debates bill, recommends amendments
  - Quorum for Committee of the Whole is only 100
  - Members must publicly state votes in roll-call vote

The Bill in the Senate
  - Requests for debate limits and amendment restrictions require unanimous consent of Senate.
  - Important bills subject to roll-call votes, as in House
SECTION 5: THE LEGISLATIVE PROCESS

- The Conference Committee
  - Resolving differences between House and Senate versions of a bill is the responsibility of a conference committee.
  - No formal rules for dual-chamber committee meetings
  - If conference committee does not reach agreement, bill may die
  - If conference committee does reach agreement, issues report to both houses
  - If both House and Senate accept, bill moves on for president’s approval

PRIMARY SOURCES

Pork-Barrel Spending

Getting a majority of members of Congress to agree on a bill can involve a lot of bargaining. Often, a member will agree to support something that will benefit the constituents of another member provided the other member supports something benefiting the first member’s constituents. Multiply that sort of bargaining by 535 members, and there is a lot of room in the federal budget for what is known as pork-barrel spending, or spending on projects that target a small constituency but that all taxpayers fund. Large bills, such as highway or farm bills, are particular targets for porkbarrel spending because so many members have highways or farms in their districts. Recent years have seen a rise in the use of earmarks, in which individual members insert provisions into bills mandating specific sums of money to be spent on specific projects of interest to them.
**SECTION 5: THE LEGISLATIVE PROCESS**

- **Presidential Action on a Bill**
  - President can sign bill into law
  - President can choose not to sign bill
    - After 10 days if Congress still in session, bill becomes law
    - If Congress adjourns during 10-day period, bill does not become law; known as a **pocket veto**
  - President may outright **veto bill**
  - Congress can override veto with two-thirds majority vote in both houses

- **The Sources of Laws**
  - Where do members of Congress get ideas for legislation and information in deciding which bills to introduce or support? As the people’s representatives, they must be open to ideas from a number of sources.
    - The **executive branch**
    - Constituents
    - Interest groups
SECTION 5: THE LEGISLATIVE PROCESS

**Bill is introduced**
- H.R. 1 is introduced in the House.
- S. 1 is introduced in the Senate.

**Bills in Committee**
- H.R. 1 is referred to standing committee.
- S. 1 is referred to standing committee.
- Assigned to subcommittee for study, hearings, revisions, and approval.
- Subcommittee reports to full committee.
- Assigned to subcommittee for study, hearings, revisions, and approval.
- Subcommittee reports to full committee.
- Markup: H.R. 1 returns to full committee for more hearings and revisions.
- Markup: S. 1 returns to full committee for more hearings and revisions.
- H.R. 1 goes to Rules Committee, which sets conditions for debate and amendments.
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**Bill on the Floor**
- H.R. 1 is debated, then passed or defeated.
- H.R. 1 is debated, then passed or defeated.
- If passed, H.R. 1 goes to Senate.
- If passed, S. 1 goes to House.

**Conference Committee**
- Conference Committee negotiates a compromise version of House and Senate bills.

**Congressional Approval**
- House and Senate vote on final version of the bill.
- If passed, the bill goes to the president.

**The Bill with the President**
- The president signs, vetoes, or allows the bill to become law without signing it.
- Vetoed bills return to Congress, where a two-thirds vote of each house can override the veto.

**LAW**