

UNIT 5 – CONGRESS AND THE PRESIDENCY

STRUCTURE OF CONGRESS

	<i>House of Representatives</i>	<i>Senate</i>
Membership	435 members (apportioned by population)	100 members (two from each state)
Term of office	2 years; entire House elected every 2 years	6 years; staggered terms with one-third of the Senate elected every 2 years
Qualifications	at least 25 years of age citizen for 7 years must live in state	at least 30 years of age citizen for 9 years must live in state
Constituencies	Smaller, by districts	Larger, entire state
Prestige	Less prestige	More prestige

ORGANIZATION OF CONGRESS

- ◆ Two houses meet for terms of two years beginning on January 3 of odd-numbered years; each term is divided into two 1-year sessions
- ◆ The president may call special sessions in cases of national emergency
- ◆ Each house of Congress chooses its own leadership and determines its own rules

ELECTION TO CONGRESS

Getting Elected to the House of Representatives

The Constitution guarantees each state at least one representative. Members are chosen from districts within each state. Some practices related to determining congressional representation are:

- ◆ **Apportionment** - distribution among the states based on the population of each of the states
- ◆ **Reapportionment** - the redistribution of Congressional seats after the census determines changes in population distribution among the states
- ◆ **Congressional districting** - the drawing by state legislatures of congressional districts for those states with more than one representative
- ◆ **Gerrymandering** - drawing congressional districts to favor one political party or group over another

Getting Elected to the Senate

The Constitution guarantees that "no state, without its consent, shall be deprived of its equal suffrage in the Senate" (Article V).

- ◆ Members were originally chosen by the state legislatures in each state.
- ◆ Since 1913, the Seventeenth Amendment allows for the direct election of senators by the people of the state.

Incumbency Effect

The incumbency effect is the tendency of those already holding office to win reelection. The effect tends to be stronger for members of the House of Representatives and weaker for the Senate. Advantages may include:

- ◆ **name recognition** - Voters are more likely to recognize the officeholder than the challenger.
- ◆ **credit claiming** - The officeholder may have brought government projects and money into the state or district.
- ◆ **casework for constituents** - Officeholders may have helped constituents solve problems involving government and the bureaucracy.
- ◆ **more visible to constituents** - Members can use the "perks" of the office to communicate with constituents. Franking, the privilege of sending official mail using the incumbent's signature as postage, provides communication with constituents.
- ◆ **media exposure** - Incumbents are more likely to gain "free" publicity during a campaign through the media.

- ◆ **fundraising abilities** - It is generally greater for incumbents.
- ◆ **experience in campaigning** - Incumbents have already experienced the campaign process.
- ◆ **voting record** - Voters can evaluate their performance based on their record.

Term Limits

Although several states have passed legislation establishing term limits for members of Congress, the Supreme Court has ruled that neither the states nor Congress may impose term limits without a constitutional amendment. Therefore, today, there are no limitations on the number of terms a member of Congress may serve.

LEADERSHIP OF CONGRESS

The majority political party in each house controls the leadership positions of Congress.

House of Representatives

- ◆ The speaker of the House is the presiding officer and most powerful member of the House. Major duties include assigning bills to committee, controlling floor debate, and appointing party members to committees.
- ◆ Majority and minority leaders
 - The majority leader serves as the major assistant to the speaker, helps plan the party's legislative program, and directs floor debate.
 - The minority floor leader is the major spokesperson for the minority party and organizes opposition to the majority party.
- ◆ Whips help floor leaders by directing party members in voting, informing members of impending voting, keeping track of vote counts, and pressuring members to vote with the party.

Senate

- ◆ The U.S. vice president, although not a Senate member, is the presiding officer of the Senate, according to the Constitution. The vice president may not debate and only votes to break a tie.
- ◆ The president pro tempore is a senior member of the majority party chosen to preside in the absence of the Senate president. This is a mostly ceremonial position lacking real power.
- ◆ Majority and minority leaders
 - The majority floor leader is the most influential member of the Senate and often the majority party spokesperson.
 - The minority floor leader performs the same role as the House minority leader.
- ◆ Whips serve the same role as whips in the House of Representatives.

THE COMMITTEE SYSTEM

Most of the work of Congress is accomplished through committees. Committees permit Congress to divide the work among members, thus allowing for the study of legislation by specialists and helping speed up the passage of legislation.

Leadership of Committees

Committee chairpersons are members of the majority party in each house chosen by party caucus. They set agendas, assign members to subcommittees, and decide whether the committee will hold public hearings and which witnesses to call. They manage floor debate of the bill when it is presented to the full House or Senate. Traditionally chairpersons were chosen based on the seniority system, with the majority party member having the longest length of committee service chosen as chairperson. Today, reforms allow for the selection of chairpersons who are not the most senior majority-party member on the committee. However, most are long-standing members of the committee.

Membership on Committees

The percentage of each committee's membership reflects the overall percentage of Democrats and Republicans in each house. Members try to serve on committees where they can influence public policy relating to their district or state (for example, a Kansas senator on the agriculture committee) or influence national public policy issues (an Iowa representative on the foreign relations committee).

Types of Committees

- ◆ A **standing committee** is a permanent committee that deals with specific policy matters (agriculture, energy and natural resources, veterans' affairs).
- ◆ A **select committee** is a temporary committee appointed for a specific purpose. Most are formed to investigate a particular issue, such as the Senate Watergate Committee.
- ◆ A **joint committee** is made up of members of both houses of Congress. It may be a select committee (Iran-Contra Committee) or perform routine duties (Joint Committee on the Library of Congress).

- ◆ A **conference committee** is a temporary committee of members from both houses of Congress, created to resolve the differences in House and Senate versions of a bill. It is a compromise committee.

Caucuses

Caucuses are informal groups formed by members of Congress who share a common purpose or set of goals (Congressional Black Caucus, Women's Caucus, Democratic or Republican Caucus).

CONGRESSIONAL STAFF AND SUPPORT

- ◆ Personal staff work directly for members of Congress in Washington, D.C., and their district offices in their home states.
- ◆ Committee staff work for committees and subcommittees in Congress, researching problems and analyzing information.
- ◆ Support agencies provide services to members of Congress (Library of Congress, Government Printing Office).

ROLES OF MEMBERS OF CONGRESS

Members of Congress have several roles.

- ◆ **Policymaker** - make public policy through the passage of legislation
- ◆ **Representative** - represent constituents
 - Delegate - members vote based on the wishes of constituents, regardless of their own opinions
 - Trustee - after listening to constituents, members vote based on their own opinions
- ◆ **Constituent servant** - help constituents with problems
- ◆ **Committee member** - serve on committees
- ◆ **Politician/party member** - work to support their political party platform and get reelected

PRIVILEGES OF MEMBERS OF CONGRESS

Members of Congress enjoy several privileges, including:

- ◆ allowances for offices in their district or home state
- ◆ travel allowances
- ◆ the franking privilege allows members of Congress to send mailings to constituents postage free
- ◆ immunity from arrest while conducting congressional business
- ◆ immunity from libel or slander suits for their speech or debate in Congress

POWERS OF CONGRESS

Congress has legislative and nonlegislative powers.

- ◆ **Legislative powers** - power to make laws
 - **expressed powers** - powers specifically granted to Congress, mostly found in Article I, Section 8 of the Constitution
 - **implied powers** - powers that may be reasonably suggested to carry out the expressed powers; found in Article I, Section 8, Clause 18; "necessary and proper" or elastic clause; allows for the expansion of Congress' powers (expressed power to raise armies and navy implies the power to draft men into the military)
 - **limitations on powers** - powers denied Congress by Article I, Section 9 and the Tenth Amendment
- ◆ **Nonlegislative powers** - duties other than lawmaking
 - **electoral powers** - selection of the president by the House of Representatives and/or vice president by the Senate upon the failure of the electoral college to achieve a majority vote
 - **amendment powers** - Congress may propose amendments by a two-thirds vote of each house or by calling a national convention to propose amendments if requested by two-thirds of the state legislatures
 - **impeachment** - the House may bring charges, or impeach, the president, vice president or any civil officer; case is tried in the Senate with the Senate acting as the jury (Andrew Johnson and Bill Clinton were both impeached by the House but not convicted by the Senate)
 - **executive powers of Senate** - the Senate shares the appointment and treaty-making powers with the executive branch; the Senate must approve appointments by majority vote and treaties by two-thirds vote
 - **investigative/oversight powers** - investigate matters falling within the range of its legislative authority; often involves the review of policies and programs of the executive branch

THE LAWMAKING PROCESS

Policymaking: How a Bill Becomes a Law

Bills, or proposed laws, may begin in either house, except revenue bills, which must begin in the House of Representatives.	
<p style="text-align: center;">HOUSE OF REPS</p> <ul style="list-style-type: none"> ◆ A bill is introduced, numbered, and assigned to a committee. ◆ The bill may be assigned to a subcommittee for further study. ◆ The bill is returned to committee, where it is approved or rejected. ◆ The rules committee sets terms of debate for the bill. ◆ The bill is debated by the House. ◆ A vote is taken, where the bill is passed or defeated. Bills that pass the House are sent to the Senate. 	<p style="text-align: center;">SENATE</p> <ul style="list-style-type: none"> ◆ A bill is introduced, numbered, and assigned to a committee. ◆ The bill may be assigned to a subcommittee for further study. ◆ The bill is returned to committee, where it is approved or rejected. ◆ No rules committee! ◆ The bill is debated by the Senate. ◆ A vote is taken, where the bill is passed or defeated. Bills that pass the Senate are sent to the House.
<div>▼▼▼▼</div> <div>Conference committee resolves differences between House and Senate versions of a bill. Compromise versions may not contain any new material.</div> <div>▼▼▼▼</div>	
<div>Bill is returned to the House for a vote on the compromise version.</div> <div>▼▼▼▼</div>	<div>Bill is returned to Senate for a vote on the compromise version.</div> <div>▼▼▼▼</div>
<div>▼▼▼▼</div> <div>Presidential action: President may sign the bill, veto the bill, allow the bill to become law without signing, or pocket veto the bill. Vetoed bills are returned to Congress, where they may be overridden by a two-thirds vote in each house.</div>	

LEGISLATIVE TACTICS

Legislative tactics are the strategies and devices used by Congress and others in an attempt to block legislation or to get legislation passed.

- ◆ **Caucuses** - May form voting blocs.
- ◆ **The committee system** - Plays a major role in the passage of legislation; bills may die if committees fail to act upon them or reject them.
- ◆ **Filibuster and cloture** - Filibuster is unlimited debate in an attempt to stall action on a bill. It occurs in the Senate only, and is possible because the Senate's rules for debate are almost unrestricted. Cloture is the method by which the Senate limits a filibuster. It involves a petition to end debate and requires the vote of at least 60 senators.
- ◆ **Pork barrel legislation** - An attempt to provide funds and projects for a member's home district or state.
- ◆ **Logrolling** - An attempt by members to gain the support of other members in return for their support on the member's legislation; "I'll support your bill, if you will support mine."
- ◆ **Riders** - Additions to legislation which generally have no connection to the legislation; generally legislation that would not pass on its own merit; when a bill has lots of riders it becomes a "Christmas tree bill".
- ◆ **Amendments** - Additions or changes to legislation that deal specifically with the legislation.
- ◆ **Lobbying** - Trying to influence members of Congress to support or reject legislation.
- ◆ **Conference committees** - May affect the wording and therefore the final intent of the legislation.
- ◆ **Legislative veto** - The rejection of a presidential or executive branch action by a vote of one or both houses of Congress, used mostly between 1932 and 1980 but declared unconstitutional by the Supreme Court in 1983 (*Immigration and Naturalization Service v. Chadha*) stating that Congress cannot take any actions having the force of law unless the president agrees.

INFLUENCES ON CONGRESS

Various individuals and groups influence Congress members.

- ◆ **Constituents** - Members, especially those who hope to win reelection, often take into consideration the opinions of their constituents and voters back home in their district or state.
- ◆ **Other lawmakers and staff** - More senior members often influence newer members; committee members who worked on legislation often influence other members; and staff often research issues and advise members.
- ◆ **Party influences** - Each party's platform takes a stand on major issues, and loyal members often adhere to the "party line." Members in the House are more likely to support the party position than are Senators.
- ◆ **President** - Presidents often lobby members to support legislation through phone calls, invitations to the White House, or even appeals to the public to gain support from voters to bring pressure on members.
- ◆ **Lobbyists and interest groups** - often provide members with information on topics relating to their group's interest or possible financial support in future campaigns.

CONSTITUTIONAL ORIGINS OF THE PRESIDENCY

Delegates to the constitutional convention studied the writings of philosophers Montesquieu and Locke, analyzed the powers of the British monarchs, and studied the role of governors in the American colonial governments. The delegates decided they did not want a king; they wanted power to rest with the people. Debate arose over a single versus a plural executive, and a weak executive appointed by Congress versus a strong executive independent of the legislature. The final compromise created a single executive with powers limited by the checks and balances of the legislative and judicial branches.

Qualifications

Article II of the Constitution establishes the formal qualifications of the president:

- ◆ natural-born citizen
- ◆ at least 35 years of age
- ◆ resident of U.S. 14 years prior to election

Historically, many candidates who have run for the office of the president have also shared several characteristics:

- ◆ political or military experience
- ◆ political acceptability
- ◆ married
- ◆ white male
- ◆ protestant
- ◆ northern European ancestry

Term and Tenure

The concept of a popularly elected president is an American invention. After much debate and compromise, the Founding Fathers created a single executive, elected indirectly through an electoral college for a four-year term. Until the addition of the 22nd Amendment in 1951, the number of terms of the president was unlimited. After Franklin D. Roosevelt won the office an unprecedented four times, the 22nd Amendment was added, limiting the president to two elected terms.

Succession and Disability

The Constitution provides that if the president can no longer serve in office, the vice president will carry out the powers and duties of the office. The Constitution does not state that the vice president shall actually become president; that tradition began with the death of W. H. Harrison. After the assassination of John F. Kennedy, the 25th amendment was added to the Constitution, stating that the vice president becomes president if the office of president becomes vacant. That amendment also provides for the new president to nominate a new vice president, with the approval of a majority of both houses of Congress. The first use of the 25th Amendment occurred when Spiro Agnew resigned the vice presidency and was replaced by Gerald Ford in 1973. The following year it was used again when President Richard Nixon resigned; Vice President Gerald Ford became president; and Ford nominated, and Congress confirmed, Nelson Rockefeller as his new vice president.

The 25th Amendment also provides for presidential disability. If the president is unable to perform the duties of his office, the vice president may become "acting president" under one of the following conditions:

- ◆ The president informs Congress of the inability to perform the duties of president.
- ◆ The vice president and a majority of the cabinet inform Congress, in writing, that the president is disabled and unable to perform those duties.

The president may resume the duties of office upon informing Congress that no disability exists. If the vice president and a majority of the cabinet disagree, Congress has 21 days to decide the issue of presidential disability by a two-thirds vote of both houses.

Impeachment and Removal

The Constitution allows for the removal of a president from office through the impeachment process. Impeachment involves bringing charges of wrongdoing against a government official. The United States Constitution gives the House of Representatives the authority to impeach the president or vice president for "Treason, Bribery or other High Crimes and Misdemeanors." Once charges of impeachment have been levied against the president or vice president, the Senate then sits in judgment of the charges. The chief justice of the Supreme Court presides over the trial. If found guilty of the charges, the official may be removed from office. Conviction requires a two-thirds vote of the Senate.

THE ROAD TO THE WHITE HOUSE

There are two basic methods of becoming president: succeed to the office or win election to the office. Most presidents have been elected to the office. Many nominees seeking the office have gained political experience through elected or appointed offices-in Congress (mostly the Senate), as state governors, as vice president, or as a cabinet member. Several nominees gained recognition as military leaders.

The Electoral College System

According to the Constitution and the Twelfth Amendment, an electoral college elects the president and vice president. Each state chooses a number of electors equal to its number of members in the House of Representatives and Senate in a method set by the state legislatures. In the general election, voters go to the polls and vote for the candidates of their choice. In December, the electors of the respective candidates meet in each state capital to cast ballots for president and vice president. The electoral college then sends the ballots to the president of the Senate, where they are opened before a joint session of Congress and counted. To win the election, a candidate must receive a majority of electoral votes (270). If no candidate for president receives a majority of electoral votes, the House of Representatives chooses the president from among the top three candidates. If no candidate for vice president receives a majority of electoral votes, the Senate chooses the vice president from the top two candidates.

THE VICE PRESIDENCY

During much of American history, the office of the vice president has been seen as one to be avoided by ambitious politicians. Constitutionally, the vice president has two duties:

- ◆ preside over the Senate, casting tie-breaking votes if necessary
- ◆ help determine presidential disability under the Twenty-fifth Amendment and take over the presidency if necessary

Because the vice president may some day become president, the formal qualifications for vice president are the same as those for the president. The vice president serves a four-year term; however, the number of terms a vice president may serve is not limited. The selection of the nominee for vice president occurs at the national convention when the presidential nominee selects a "running mate." Often the choice of nominee is influenced by the party's desire to balance the ticket, that is, to improve a candidate's chances of winning the election by choosing someone from a different faction of the party or from a different geographic section of the country. With the assassination of Kennedy and attempts on the lives of Ford and Reagan, more attention has focused on the vice president. Today, the vice president is often given a larger role in government, taking part in cabinet meetings, serving on the National Security Council, and acting as the president's representative on diplomatic missions. More consideration is also given to the background, health, and other qualifications of vice presidents.

PRESIDENTIAL POWERS

Article II of the Constitution outlines the powers of the president. The checks and balances of the other branches of government limit them. The power of the modern presidency comes from the men who have held the office and have shaped the use of these powers. Historians have often rated presidents as strong or weak. After the 1960s and 1970s, Arthur Schlesinger, Jr., argued that the presidency had become so powerful that an "imperial presidency" existed, applying the term to Richard Nixon and his administration in particular. Richard Neustadt contended that the president's powers lie in the ability to persuade others through negotiation, influence, and compromise.

Presidential powers can be categorized as executive, legislative, diplomatic, military, judicial, and party powers.

Executive Powers

- ◆ enforces laws, treaties, and court decisions
- ◆ issues executive orders to carry out policies
- ◆ appoints officials, removes officials
- ◆ assumes emergency powers
- ◆ presides over the cabinet and executive branch

Legislative Powers

- ◆ Gives annual State of the Union message (constitutionally required) identifying problems, recommending policies, and submitting specific proposals (president's legislative agenda). Expectations are that the president will propose a comprehensive legislative program to deal with national problems (the Budget and Accounting Act of 1921 requires the president to prepare and propose a federal budget).
- ◆ Issues annual budget and economic reports.
- ◆ Signs or vetoes bills.
- ◆ Proposes legislation and uses influence to get it passed.
- ◆ Calls for special sessions of Congress.

Diplomatic Powers

- ◆ appoints ambassadors and other diplomats
- ◆ negotiates treaties and executive agreements
- ◆ meets with foreign leaders in international conferences
- ◆ accords diplomatic recognition to foreign governments
- ◆ receives foreign dignitaries

Military Powers

- ◆ serves as commander-in-chief of the armed forces
- ◆ has final decision-making authority in matters of national and foreign defense
- ◆ provides for domestic order

Judicial Powers

- ◆ appoints members of the federal judiciary
- ◆ grants reprieves, pardons, and amnesty

Party Powers

- ◆ is the recognized leader of the party
- ◆ chooses vice-presidential nominee
- ◆ strengthens the party by helping members get elected (coattails)
- ◆ appoints party members to government positions (patronage)
- ◆ influences policies and platform of the party

LIMITATIONS ON PRESIDENTIAL POWERS

In order to avoid the possibility of abuses by the executive, the Founding Fathers provided for checks upon the powers of the executive.

- ◆ Congressional checks
 - override presidential vetoes; requires a two-thirds vote of both houses of Congress.
 - power of the purse; agency budgets must be authorized and appropriated by Congress. In 1974 Congress passed the Congressional Budget and Impoundment Control Act, which denied the president the right to refuse to spend money appropriated by Congress and gave Congress a greater role in the budget process.
 - power of impeachment.
 - approval powers over appointments.
 - legislation that limits the president's powers (for example, the War Powers Act limited the president's ability to use military force).
 - Legislative vetoes to reject the actions of the president or executive agency by a vote of one or both houses of Congress without the consent of the president; declared **unconstitutional** by the Supreme Court in 1983.
- ◆ Judicial checks - Judicial review of executive actions
- ◆ Political checks
 - public opinion
 - media attention
 - popularity