

## COURSE OUTLINE - Advanced Legislative Procedures – Spring Semester 2021

### 1. Foundations and Special Powers of the Senate and the House (January 11)

- The Articles of Confederation
- The Constitutional Convention
- The Seventeenth Amendment and Direct Election of Senators
- Special Power of the House – The Revenue Clause
- Special Powers of the Senate – Nominations and Treaties
- The Power to Judge Qualifications and the Power to Discipline
- The Nature of the Senate - commentary from its Leaders

### 2. Pillars of Senate Procedure – The Standing Rules, Precedents Standing Orders and Unanimous Consent Orders (January 25)

- A New Congress Opens: The Senate on January 6, 2019
- Primacy of the Defense in the Modern Senate
- Power of Self-Governance
- The Rules of the First Senate
- The Senate as a Continuing Body
- Amendments to the Standing Rules
- Establishing Precedent
- Points of Order/Waivers
- Standing Orders
- The Importance of Unanimous Consent
- Simple and Complex Consent Orders

### 3. Pillars of Senate Procedure: Expedited Procedure Laws (February 1)

- Review and dissection of Certain Expedited Procedure Statutes:
  - Nuclear Waste Policy Act (1982)
  - Base Realignment and Closure Act (1990)
  - Trade Promotion Authority (2015)
  - War Powers Resolution (1973)
  - Joint Committee on Deficit Reduction (2011)
  - Congressional Review Act (1995)
- The Congressional Budget and Impoundment Control Act (1974)
  - Budget Resolutions and Budget Reconciliation
  - Roots and Application of the Byrd Rule
  - Reconciliation and the ACA (2010) and AHCA (2017)

#### 4. Amending Legislation in the Senate (February 8)

- Placing measures on the Calendar
- The use of Rule XIV
- Bringing legislation to the floor
- Uses of the motion to commit/recommit
- The right to amend
- Structure and Operation of Amendment Trees
- Side-by-side Amendments
- Filling the Tree
- When amendments are required to be Germane
- The Use and Importance of Non-germane Amendments
- Sixty-vote Thresholds
- Role of Bill Managers
- *Case Study: Iran Nuclear Review Act (2015)*

#### 5. Debate in the Senate (February 22)

- Recognition and yielding
- Limited principle of Unlimited Debate
- Mechanisms to close debate
  - Tabling Motions
  - Statutes
  - Consent Agreements
  - Cloture
- Nineteenth Century Filibusters – a Case Study from 1870
- Origins of the Cloture Rule – the 1917 Armed Ships Bill filibuster
- Subsequent Modifications to the 1917 Rule
- Rules Changes in the 113th Congress

6. *The Senate and the Nuclear Option (February 22)*

- Opening the Door: Senator Thomas Walsh
- Efforts at Cloture Reform: 1953-1975
- A Leader Embraces the Nuclear Option: 1979
- The Nuclear Option and Filibusters of Judicial Nominees: 2005
- Changing rules by making precedents (examples from 1979 and 2011)
- The Nuclear Option and arrival of majority cloture (2013)
- The Nuclear Option and the Supreme Court (2017)
- The Nuclear Option and a further override of Rule XXII (2019)

7. *Workings of the Senate Floor (March 1)*

The Role of the Party Secretaries

- Operation of the Cloakroom
- Holds
- How business is scheduled
- Interaction with Majority and Minority Leaders
- Interaction with the Parliamentarian
  - Special Topic: The Senate and Impeachment – President Donald Trump (2020) President Bill Clinton (1999) President Andrew Johnson (1868), President Richard Nixon (1974) Judge Thomas Porteous, Jr. (2010)

8. *Part 1: Senate Case Study: Keystone Pipeline from Start to Veto*  
*Part 2: Introduction to the House (March 8)*

- Characteristics of the Chamber
- A New Congress Opens: The House on January 6, 2015
- Referral of Legislation
- Committee Discharge
- Scheduling Business in the House

9. House Procedure (March 22)

- Operating under a Rule
- Committee of the Whole
- Amendment Trees
- Germaneness requirements
- Points of order/waivers
- Motion to Recommit (examples and controversies)
- Suspension of the Rules (process and requirements)
- *Case Study: NDAA Bill (2015)*

10. The House Rules Committee (March 29)

- Purpose of the Rules Committee
- Evolution of the Committee
- Appointment of Members
- Operation
- Interaction with Standing Committees
- Juxtaposition with statutory procedures
- Types of Rules
- Interaction with the House Parliamentarian
- Appropriations and Funding Limitations
- *Case Study: Farm Bill (2013)*
- *Case Study: The Rules Committee and Appropriations (2017)*

11. Resolving Differences between the Chambers (April 5)

- Amendment Exchange between Houses
- Conferences – appointment and authority
- Instruction of Conferees
- Scope of Conference
- Waiving House points of order
- Senate Rule XXVIII point of order/waiver
- Treatment of Amendments in Disagreement
- *Case Study: Permanent Normal Trade Relations for China (2000)*
- *Case Study: Dodd-Frank (2010)*
- *Case Study: Budget Reconciliation (2005)*
- *Case Study: H.R. 1, FY 18 Budget Reconciliation (2017)*
- *Case Study: Nunn-Lugar Soviet Nuclear Threat Reduction (1991)*
- *Case Study: Tenure of Office Act (1866)*
- *Case Study: CARES Act (2020)*

- Disposition of Vetoes
- Pocket Vetoes

## 12. Congress and Foreign Policy (April 12)

### *On Foreign Policy*

- Implementation of the treaty power
  - *Case Studies: Treaty of Versailles (1919) and New START Treaty (2010)*  
*United Nations Charter (1945), Panama Canal (1978)*
- Development of trade promotion authority and consideration of free trade agreements
  - Trade Promotion Authority (2015); Panama/Colombia/South Korea FTA's (2011)
- Crafting of legislation to implement Presidential policies or restrict presidential powers
  - *Case Study: Taiwan Relations Act (1979); War Powers Resolution (1973)*
- Exercising control over appropriations
  - Restricting funding for anti-Communist forces in Nicaragua (1983)
- Use of investigative and oversight authority
  - The Truman Committee (1941-1944)
  - Hearings on the conduct of the Vietnam War (1966);

### *On Nominations*

- Executive Calendar Procedures
  - Pro forma Sessions and Recess Appointments
  - Disposition of Nominations not Acted Upon

*13. Case Studies: The Patient Protection and Affordable Care Act (2010) and the Civil Rights Act of 1964 (April 19)*

*14. Case Studies: The Every Student Succeeds Act (2015), the Chinese Exclusion Laws (1879-1943, and the Twenty-second Amendment 1947) (April 26)*