Advanced Legislative Procedures  
Fall Semester 2015  
Graduate School of Political Management  
Professor Martin B. Gold  
Hall of States: Tuesdays 6:00 PM to 8:00 PM  

Course Description:  

This course provides a detailed study of the rules, procedures, traditions, and constitutional underpinnings that govern the work of the Senate and the House of Representatives. An outline of the topics that will be covered in each class session is attached. At the conclusion of the course, the student should understand the structures and mechanisms by which Congress operates and through which it fulfills its responsibilities within the American political system.  

Course Requirements:  

Substantial use will be made throughout this course of reading matter that I will post on Blackboard. I will draw these materials from texts on Congress, from documents related to the Constitution, Congressional Research Service studies, online postings from Senate and House websites, excerpts from the Congressional Record and committee reports, as well as from popular literature. In addition, a reading list is included below. I will add postings throughout the semester, taking care that you will have timely access to them. In class, I will often augment these sources with video presentations of Congress in action.  

Class attendance is important. I am eager for your questions and look forward to class discussion.  

There will be take-home mid-term and final exams. I will post the mid-term online on October 13, 2015, and the final on December 1, 2015. The mid-term will cover materials presented through the first seven classes and the final will cover the last seven. Each exam will count for 30% of the grade. Exams will be due within seven days of posting. You will also asked to complete a paper, which will be due by November 24, 2015. It may be on a topic of your choosing, and should approximate 15 double-spaced pages in length. Please secure my written approval for your paper topics no later than October 6, 2015. The paper will count 40% toward the grade.  

Office Hours and Availability:  

I do not have an office at George Washington University, so I am unable to keep regular office hours. That said, I will be as accessible as possible to you throughout the semester. I can be reached via email at mgold@capitolcounsel.com and by telephone at 202-347-9932. I will be pleased to arrange times for us to meet, either at Capitol Counsel (700 13th Street, NW) or at a mutually agreeable venue. I am also glad to speak by telephone and to respond to your emails.
Course Readings:

Senate Procedure and Practice, by Martin B. Gold (Rowman and Littlefield 3rd ed. 2013)


These books should be available from the publisher, also from Barnes and Noble as well as Amazon websites.

Recommended additional reading:


Congressional Deskbook, by Judy Schneider, Michael Koempel, and Robert Keith (theCapitol.net 6th ed. 2012)

The House by Robert Remini (Smithsonian Books, 2006)

The Senate Syndrome by Steven S. Smith (University of Oklahoma Press) 2014


Unorthodox Lawmaking, by Barbara Sinclair (CQ Press. 2012)

Informational Websites from Congress:


Senate rules and procedures, from the Senate Committee on Rules and Administration: http://rules.senate.gov/public/

Historical information about the Senate is available at www.senate.gov, then click on the Art & History tab at the top.

Historical information about the House is available at http://artandhistory.house.gov/
1. **Foundations and Special Powers of the Senate and the House (September 1)**

- The Articles of Confederation
- The Constitutional Convention
- The Seventeenth Amendment
- Special Power of the House – The Revenue Clause
- Special Powers of the Senate – Nominations and Treaties
- The Nature of the Senate - commentary from its Leaders

2. **Pillars of Senate Procedure – The Standing Rules, Precedents and Standing Orders (September 8)**

- A New Congress Opens: The Senate on January 6, 2015
- 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
- Five Ways to Exercise the Rulemaking Power and Their Relationship

3. **Pillars of Senate Procedure: Rulemaking Statutes and Unanimous Consent Orders (September 15)**

- Origins and Examples of Expedited Procedure Statutes
- Budget Resolutions and Reconciliation
- Roots and Application of the Byrd Rule
- Procedural Provisions in Budget Resolutions
- Deeming Statutes in lieu of Budget Resolutions
- The Importance of Unanimous Consent
- Simple and Complex Consent Orders

4. **Debate in the Senate (September 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
5. *The Senate and the Nuclear Option (September 29)*

- 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)

6. *Amending Legislation in the Senate (October 6)*

- 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 legislation

7. *Workings of the Senate Floor (October 13)*

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 Andrew Johnson (1868), President Bill Clinton (1999), judges
  - Special Topic: The Power to Judge Qualifications and the Power to Discipline
8. **Part 1: Senate Case Study: Keystone Pipeline from Introduction to Veto**
   **Part 2: An Introduction to the House (October 20)**

- Characteristics of the Chamber
- A New Congress Opens: The House on January 6, 2015
- Calendars of Business
- A Day of Session

9. **House Procedure (October 27)**

- Referral of Legislation
- Discharge Procedure
- Scheduling Business in the House
- 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)

10. **The House Rules Committee (November 3)**

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

11. **Resolving Differences between the Chambers (November 10)**

- Amendment Exchange between Houses
- Conferences – appointment and authority
- Instruction of Conferees
- Scope of Conference
12. **Congress and the Executive (November 17)**

- Foreign Policy and the Senate’s treaty powers
  
  Versailles Treaty  
  Panama Canal  
  New START Treaty  
  Disposition of Treaties not Acted Upon

- Foreign Policy as a bicameral matter
  
  Taiwan Relations Act  
  Declarations of War  
  Tonkin Gulf Resolution  
  Persian Gulf Resolution  
  Iraq Resolution  
  War Powers Act

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

13. **Legislative Case Studies: The Patient Protection and Affordable Care Act of 2010 and the Civil Rights Act of 1964 (November 24)**

14. **Legislative Case Study: Congress and the Chinese Exclusion Laws (1879-1943) (December 1)**