American Political Institutions: Congress, the Executive, and the Courts

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May 31st, 2011
Today: Reform and Review

Two goals:

1) Apply ideas from course to understand legislative battle
2) Review the most important material for final

Review:

- There could be material on the final not covered today
- **Explicitly** prepared slides to help prepare

Colin will hold a review session, I’ll be available for questions via email/gchat (justin.grimmer@gmail.com)/meeting...
Health Care Reform in the US

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- September, 1994: Reform is dead (George Mitchell)
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Feb 24th, 2009:
Obama “health care reform cannot wait”
The Process Begins

House/Senate consider legislation simultaneously:

Speaker Pelosi refers bill to several committees.

Three most prominent:
1) Ways and Means
2) Energy and Commerce
3) Education and Labor

July 31, 2009: House Energy and Commerce report bill with public option

Negative Agenda Power: could have blocked legislation by refusing to report

House recesses (Tea Party Protests!)
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Two important course ideas:

1. **Stupak**: median voter
   - "Normal" preferences
   - Open proposals
   - Stable outcome: median legislator's preferred position
2. Party leaders manipulate rules to achieve desired outcomes
   - One manifestation of how parties (and their leaders) are powerful

Pelosi: secures narrow 220-215 victory
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Martha Coakley (D-MA)

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Brown wins: shifts filibuster pivot rightward

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Pelosi: - House will pass Senate bill (same wording) [becomes law when signed by president] - House sidecar bill that corrects problems with Senate version (Allows Stupak to make abortion amendment again) - Reid: Senate will pass House side car without revision [becomes law when signed by president]

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- Negotiated with members of Congress
- Credible threat: Obama could veto legislation (a point on the Krehbiel model as well)
- David Axelrod, OMB: administration maneuvers to establish financial feasibility of plan
- Sep 9, 2009: President addresses joint session of Congress
- "You lie!"
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What Happens Now: Implementation and Legal Challenges

Implementation: This legislation requires serious bureaucratic work

- Creates principal-agent problems
  - Principal: Congress
  - Agent: Bureaucrats
  - Concern: will deviate from principals intent (overzealous IRS agents, administration of medicare and death panels)

- Asymmetric information:
  - Bureaucrats always know more than principals
  - Implies that Congress will have difficulty controlling Congress

- To overcome information, Congress conducts monitoring
  - Explicit monitor (police patrols)
    - Members of Congress conduct hearings/investigations into what bureaucrats are doing
  - Implicit monitoring (fire alarms)
    - Set up systems so that constituents report problems with the bureaucracies
Real Constitutional questions in health care reform law
Attorney Generals: state sovereignty
Citizens: Necessary and Proper Clause, Commerce Clause

- Current challenges in district courts
- When the legislation reaches the supreme court, we might suppose that there are three possible ways justices could decide
  1) jurisprudence: based on a careful reflection on case law
  2) attitudinal model: justices vote their preferences
  3) separation of power model: justices vote, conditional on the reaction of the public (real question about what is going on)
Political Power

Who is powerful here? (Obama, Pelosi, Republicans, Pivots)?
How does it manifest?
What are the roles of political parties in reform?
How will Congress limit bureaucratic power?