

Topic 2.12 THE MODERN BUREAUCRACY

- A bureaucracy is a l_____, c_____ organization of a_____, not _____, officials.
 - LARGE: Three million civilian federal employees
 - Department of Defense is the largest department = about 50% (even without active military which is about 1.4 million)
 - Post Office has about 28%
 - <10% of top-level jobs are appointed (political appointees) by the president

>> PATRONAGE

- >90% of federal employees are civil service workers >> MERIT SYSTEM

Tenure protection, difficult to fire (unless appointed)

The Government Of the United States

Three Features of the Bureaucracy:

1. H_____ authority
2. Job s_____
3. F_____ rules

THE ORGANIZATION OF THE BUREAUCRACY

Agencies of the executive branch may be organized into four basic types:

- 1) **Cabinet departments**
 - C_____ departments are heading by a s_____ (except Dept of J_____) and manage a specific policy area with responsibility further divided among various agencies
- 2) **Independent regulatory agencies or commissions**
 - Regulatory agencies/commissions are c_____ by C_____ to r_____ important parts of the e_____
- 3) **Government corporations**
 - Government corporations are b_____ run like c_____, but controlled by the g_____
- 4) **Independent executive agencies**
 - Independent agencies are agencies that do not fall into the first t_____ c_____. They closely resemble C_____ departments, but they are smaller and less complex.

THE CABINET DEPARTMENTS

Article 2, Section 2, Clause 1:

- The President . . . may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the duties of their respective Offices
 - Each of the f_____ c_____d_____ is headed by a s_____, except for the Department of Justice, which is headed by the A_____ G_____
 - All of the heads are c_____ (a_____) by the P_____ and c_____ by the S_____
 - Manage a specific policy area with responsibility further divided among various agencies
 - Secretaries often develop a strong l_____ to their departments. They become c_____ to the department than to the President.

For exam purposes, you need to know 1, 2, 3, 5 and these Cabinet posts are referred to as the inner cabinet



- 1) **State (1789)** - advises the president on foreign policy, negotiates treaties, represents the United States in international organizations
- 2) **Treasury (1789)** - collects federal revenues, pays federal bills, mints coins and prints paper money, enforces alcohol, tobacco and firearm laws
- 3) **Defense (1789)** - manages the armed forces, operates military bases
- ~~4) **Interior (1849)** - manages federal lands, refuges, and parks, operates hydroelectric facilities, manages Native American affairs~~
- 5) **Justice (1870)** - provides legal advice to the president, enforces federal laws, represents the United States in court, operates federal prisons

For exam purposes, you need to know 1, 2, 3, 5 known as the INNER CABINET-closest to the President

- 5) **Justice (1870)** - provides legal advice to the president, enforces federal laws, represents the United States in court, operates federal prisons
- 6) **Agriculture (1889)** - provides agricultural assistance to farmers and ranchers, inspects food, manages national forests
- 7) **Commerce (1903)** - grants patents and trademarks, conducts the national census, promotes international trade
- 8) **Labor (1913)** - enforces federal labor laws (child labor, minimum wage, safe working conditions), administers unemployment and job training programs
- 9) **Health and Human Services (1953)** - administers S_____ S_____ and M_____ /Medic-_____ Programs, promotes health care research and runs the F_____ and D_____ Administration
- 10) **Housing and Urban Development (1965)** - provides home financing and public housing programs, Section 8, enforces fair housing laws
- 11) **Transportation (1967)** - promotes mass transit programs and programs for highways, railroads, and air traffic, enforces maritime law
- 12) **Energy (1977)** - advances the energy security of the U.S. and takes care of the nation's nuclear security
- 13) **Education (1979)** - administers federal aid programs to schools, engages in educational research
- 14) **Veterans Affairs (1989)** - promotes the welfare of veterans of the armed forces
- 15) **Homeland Security (2002)** - prevents terrorist attacks within the United States, reduces America's susceptibility to terrorism, minimizes damage and helps recovery from attacks that do occur

THE INDEPENDENT REGULATORY AGENCIES

Agencies (also known as independent regulatory commissions) are created by Congress

- R_____ important parts of the e_____
- Make rules (r_____) for large industries and businesses that affect the interests of the public
- Since regulatory agencies are w_____ that by their very nature need to operate i_____, they are not part of a department

Small commissions govern the regulatory agencies

- F_____ to t_____ members appointed by the president and confirmed by the S_____
- Commissioners are somewhat more "i_____" than are the cabinet secretaries because they c_____ be removed by the president during their terms of office
- Commissioners serve rather long terms (____-____ years)
- Terms of the commissioners are s_____

These factors help to i_____ regulatory commissions from political p_____. *Make sure know how to explain how these factors insulate the regulatory commissions from political pressure.*

THE INDEPENDENT REGULATORY AGENCIES -Know them!!!!

EXAMPLES:

Federal Communications Commission (FCC)

Regulates all communications by telegraph, cable, telephone, radio, and television

The Federal Trade Commission (FTC)

Prevents businesses from engaging in unfair trade practices; stops the formation of monopolies in the business sector; protects consumer rights.

Federal Election Commission (FEC)

Administers and enforces the Federal Election Campaign Act (FECA); discloses campaign finance information and oversees the public funding of presidential elections.

The Securities and Exchange Commission (SEC)

Regulates the nation's stock exchanges; requires full disclosure of the financial profiles of companies that wish to sell stocks to the public.

The Federal Reserve Board (The Fed)

Establishes monetary policy >> refers to the money supply and interest rates. Monetary policy = controlling the money supply. Fiscal policy = taxing and spending. Sets bank interest rates; controls inflation; regulates the money supply; adjusts banks reserve requirements.

Tasks Performed by the Bureaucracy

Writing/enforcing r_____

Commissions have quasi-l_____ powers because they have the authority to make rules and regulations that have the force of law. Commissions also have quasi-j_____ powers because they can settle disputes in their fields (such as the FCC fining a TV or radio personality for objectionable material that was broadcast on his/her TV/radio program) – only for p_____ irwaves.

Compliance monitoring- making sure the firms and companies that are subject to industry regulations are following those standards and provisions.

Can the President fire the heads of these commissions and/or agencies?

The Supreme Court did place limits on the president's removal power in 1935, in the *Humphrey's executor v. United States*. President Hoover had appointed William Humphrey to a seven-year term on the Federal Trade Commission in 1931. When Franklin Roosevelt entered office in 1933, he found Humphrey to be in sharp disagreement with many of his policies. He asked Humphrey to resign, saying that "his administration would do better served with someone else on the FTC." When Humphrey refused, Roosevelt removed him. Humphrey soon died but his heirs filed the suit for back salary.

The Supreme Court upheld their heirs' claim. It based its decision on the act creating the FTC. The law provides that a member of the Commission may be removed only for "insufficiency, neglect of duty, or malfeasance in office." The president had given none of these reasons when he removed Humphrey.

The court further held that Congress does have the power to set the conditions under which a member of the FTC and other such agencies might be removed by the president. It did so because those agencies, the independent regulatory commissions are not purely executive agencies.

THE GOVERNMENT CORPORATIONS

- Blend of private corporations and government agency.
- Created to allow more freedom and flexibility than exists in regular government agencies.
- Have more control over their budgets, and even have the right to decide how to use their own earnings.
- Since the government still ultimately controls them, they do not operate like true private corporations.

• EXAMPLES:



The U.S. Postal Service - The post office is a corporation that competes with private services in packages delivery



National Railroad Passenger Corporation (AMTRAK) - Congress created Amtrak to provide railroad passenger service that is heavily subsidized by the federal government. Part of the motivation for its creation was the lack of private companies providing the service, and Amtrak has suffered some huge financial losses. Recently, in an attempt to make the corporation more profitable, Congress has allowed Amtrak to drop some of its less popular routes.





The Corporation for Public Broadcasting - This controversial government corporation still operates public radio and television stations. Although largely funded by private donations, the government still provides policies and money to support their programs.


INDEPENDENT EXECUTIVE AGENCIES

- Agencies that do not fall into the first three categories.
- Closely resemble Cabinet departments, but they are smaller and less complex.
- Generally, they have narrower areas of responsibility than do cabinet departments.
- Most are subject to presidential control and are independent only in the sense that they are not part of a department.
- Their main function is not to regulate, but to fulfill a myriad of other administrative responsibilities.

Examples:

 **Central Intelligence Agency** - The CIA is responsible for providing national security intelligence to senior US policymakers.

 **Environmental Protection Agency** - The EPA was established to consolidate in one agency a variety of federal research, monitoring, standard-setting and enforcement activities to ensure environmental protection.

 **The National Aeronautics and Space Administration** - NASA administers the United States space program, financing ventures into space since 1958.

EXECUTIVE OFFICE OF THE PRESIDENT

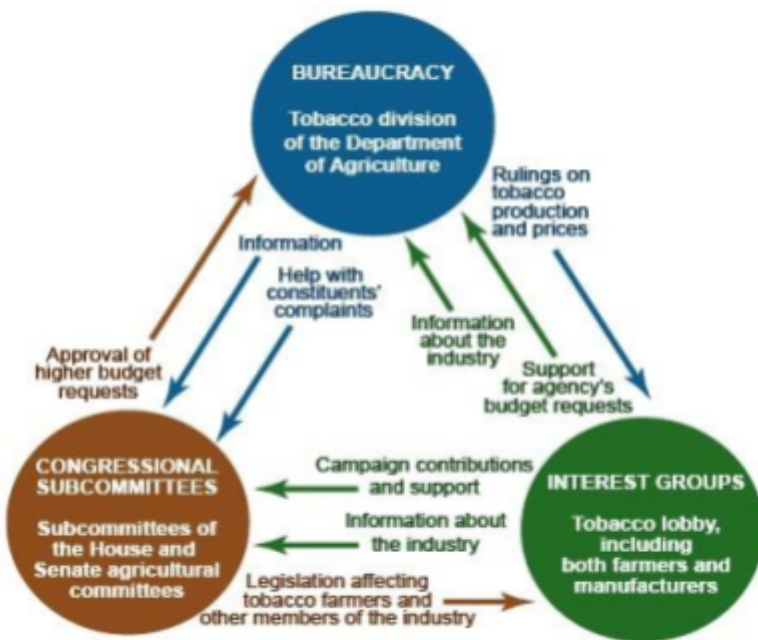


THE EXECUTIVE

- The Executive branch is established by law" (Article II, Section 3)
- No provisions mentioned departments or bureaus, but Congress created the first bureaucracy during George Washington's presidency
- **Power of the Bureaucracy**
 - Independent and Delegated authority
 - Congress outlaws of Congress, executive orders of the president

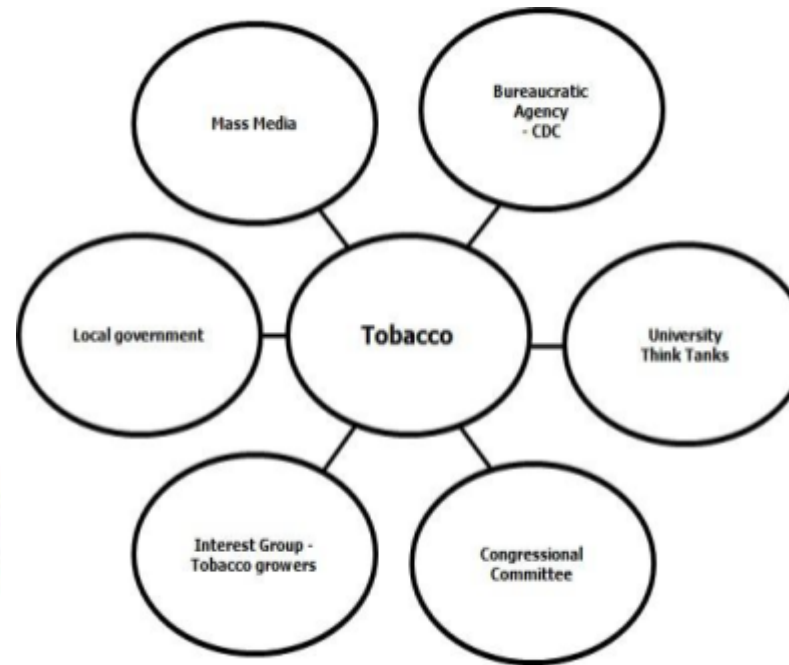


- Agencies have p_____ to set specific g_____ and r_____ when receiving a general mandate from Congress
 - *Congress gives them the bones, bureaucracy adds the meat*
- **Regulation**
 - Issue rules and regulations that impact the public and that the private sector must follow (EPA sets clean air standards); Labels on food, emissions of cars, etc.
- **Administrative Law** (ONLY Congress can write laws)
 - R_____ and r_____ created by an a_____ that have the effect of law
- Helping C_____ draft legislation
- Providing a_____ to the White House
- Settling d_____



IRON TRIANGLES

Definition: Alliances among bureaucrats, interest groups, and congressional subcommittee members and staff sometimes form to promote their common causes. Also known as subgovernments.



ISSUE NETWORKS

vs.

Definition: Network that consists of people in interest groups, on congressional staffs, in bureaucratic agencies, in universities, and in the mass media who regularly debate an issue.

Compare and contrast iron triangles and issue networks

IRON TRIANGLE

Fill in the flow chart of the Iron Triangle from the power point





STARK INDUSTRIES



FROM PATRONAGE (SPOILS) TO MERIT

Political patronage, civil service, and merit system reforms all impact the effectiveness of the bureaucracy by promoting professionalism, specialization, and neutrality

“To the victor belong the spoils” (1828)

- The spoils system or patronage, started by Andrew Jackson, was used for filling federal jobs
- President r_____ s_____ with j_____ based on service, not on m_____
- Garfield’s assassination by a disappointed office-seeker (1881)
- Creation of the Pendleton Act (1883)
- Eliminated the spoils system (p_____); created m_____ system
- An e_____ -based merit system would be used to fill g_____ jobs
- C_____ S_____ C_____ was created to administer these exams
- Hatch Act (1939)
- Political activities of bureaucrats are limited
- Civil Service Reform Act (1978)
- Abolished the U.S. Civil Service Commission
 - Created the OPM (Office of Personnel Management) to provide guidance to agencies of the executive branch



Civil Service Reform

- Much of the corruption in government could be traced to the ‘s_____ s_____’.
- This gave government jobs as r_____ to those who helped get a candidate elected.
- These people were often not q_____ for the job.
- When Pres. Garfield was assassinated by an office-seeker, Congress decided it was time to act.

Explain how the bureaucracy carry out the responsibilities of the federal government? Pg. 227

Bureaucratic Task

How Tasks are Completed

| | |
|--|---|
| Writing and enforcing regulations | The legislation that creates and defines the departments and agencies often gives wide latitude as to how bureaucrats administer the law. All executive branch organizations have a degree of discretion in how they create and enforce regulations to carry out the law. |
| Enforcement and fines | Like a court, the regulatory agencies, commissions, and boards within the bureaucracy can impose fines or other punishments. the administrative adjudication targets industries or companies, not individual citizens. |
| Testifying before Congress | Cabinet secretaries and agency directors are often experts in their field. For this reason, they frequently appear before congressional committees to provide expert testimony (information) or to update Congress on their carrying out the law. |
| Actions of iron triangles and issue networks | An iron triangle is the relationship among three entities- an agency , a congressional committee , and an interest group- who joined forces to create policy . Issue networks include committee staffers (often the experts and real authors of legislation), academics, advocates, leaders of thinktanks, interest groups, and/ or the media that collaborate to create specific policy on one issue. |

TOPIC 2.13 DISCRETIONARY AND RULE-MAKING AUTHORITY

Explain the federal bureaucracy uses delegated discretionary authority for rule making and implementation?

- **Professionalism in the bureaucracy** — The bureaucracy c_____ out the r_____ of the federal government to r_____ and e_____ individual and commercial activities. E_____ for top-level political a_____, employees of the bureaucracy are s_____ in their fields, who are hired and promoted based on m_____ rather than on their connections to politicians.
- The transition from a patronage-based bureaucracy to a merit-based system has increased the bureaucracy's p_____ and e_____. The bureaucracy is nonpartisan, and career civil servants tend to span many presidential administrations, allowing for c_____ in the public sector.

Powers of the federal bureaucracy to implement policy —

- After the president s_____ a b_____ into l_____ or issues an e_____ order, the federal b_____ is responsible for i_____ that policy. Laws may lack c_____, concrete d_____ on how they should be e_____, so the federal bureaucracy has d_____ a_____ to make decisions on what actions to take—or not take—when implementing laws, as well as rulemaking authority to create r_____ about how government programs should o_____.
- This authority enhances the p_____ of the federal b_____, giving it considerable j_____ over the i_____ of government p_____.

Policy directives from Congress are not always clear. Although the legislation may direct a federal agency to develop r_____ and r_____ to implement the statute, bureaucrats have some f_____ in what these rules and regulations actually s_____. This flexibility is known as a_____ d_____.

- **Constitutionalism** — Each branch of the government has different powers, structures, and functions by design. Congress comprises the H_____ of Representatives (designed to represent the p_____) and the S_____ (designed to represent the s_____ equally), each of which is affected by chamber-specific rules and election processes. The power of the presidency has expanded over time, and the president uses both formal and informal powers to implement their policy agenda. The judicial branch exercises the power of j_____ review to determine the c_____ of the acts of the other branches and of s_____ governments.
- **Competing policymaking interests** — The interactions between the branches are complex by design. Congress, the executive branch (including the bureaucracy), and the judiciary must both compete and cooperate in order to enact policy. The implementation process is likewise difficult, as each branch must struggle to maintain the accountability of a vast federal bureaucracy charged with putting policy into action.

| Name of the Department, Agency or Commission | Authority Delegated to the Body |
|--|---|
| Homeland Security | Allowing certain exemptions for immigrants |
| Transportation | Determining which highway projects get special grants |
| Veteran's Affairs | Deciding how to administer a health program for veterans |
| Education | Cancelling or lowering student debt |
| Environmental Protection Agency | Intervening in state environmental issues |
| Federal Election Commission | Administering and enforcing federal campaign finance laws |
| Securities and Exchange Commission | Determining if financial firms should be disqualified from raising money because of illegal conduct |

TOPIC 2.14 Holding the Bureaucracy Accountable- Congress and Presidential Influence

HOLDING THE BUREAUCRACY ACCOUNTABLE – CONGRESSIONAL INFLUENCE

Congress has a great amount of power over the bureaucracy because Congress can exercise, L_____ O_____ Oversight is the process by which C_____, through its c_____, checks to see that the various agencies in the e_____ branch are working effectively and acting in l_____ with the p_____ that C_____ is set by law.

What are the numerous ways in which Congress can exercise “oversight” of the bureaucracy?

Creation of agencies

Constitutional power to create and abolish executive departments and independent agencies, or to transfer their functions

Advice and consent

Congress can influence the a_____ of agency heads

The S_____ has the power to c_____ presidential a_____

Appropriations of agency budgets

Congress determines how much m_____ each agency gets= power of the p_____

Annual authorization legislation

No a_____ may spend m_____ unless it has first been a_____ by C_____

Authorization legislation originates in a congressional committee and states the maximum amount of m_____ that an agency may spend on a given program

Even if funds have been authorized, Congress must also a_____ the money

Rewriting legislation

If they wish to r_____ the power of an agency, C_____ may rewrite l_____ or make it more detailed

The more detailed the instructions, the better able Congress is to restrict the agency's power

Duplication

Giving any one job to more than one agency, keeping any single agency from becoming all powerful

For example, drug trafficking is the task of the Customs Services, the FBI, the DEA, the Border Patrol, and the Department of Defense

Keeps any one agency from becoming all-powerful

Holding hearings and conducting i_____

Congress can call bureaucrats to testify before committees to determine whether the agency is complying with congressional intent Congress can investigate agencies. O_____ f_____

Reorganization

By realigning or restructuring departments, agencies and their responsibilities, Congress can contain costs, reduce bureaucratic overlap and improve accountability

Sunset laws

Provides for the law to c_____ to have effect after a specific date, unless further legislative action is taken to extend the law

Sunset laws create a finite lifespan for a bureaucratic agency. In order to be reauthorized, these bureaucracies must prove their effectiveness and merit

HOLDING THE BUREAUCRACY ACCOUNTABLE – CONGRESSIONAL INFLUENCE

What are the limits on congressional influence?

- Congress may not really want to clamp down on the bureaucracy:
 - Members profit politically from the existence of federal programs within their states or districts (e.g., military base closure)
 - Easier for Congress to simply pass broadly worded laws and have experts within the bureaucracy fill in the holes
 - No electoral payoff; Political ramifications-if Bur screws up, C_____ b_____ the P_____
 - O_____ is labor i_____/hard work; L_____ of technical expertise, time consuming
 - Congress creates opportunities for casework through red tape
 - Congress lacks e_____/agencies h_____ expertise
 - Congress does not want to be blamed for bad policy
 - T_____ consuming

LEGISLATIVE VETO

- In the past: Congress passed a law, the relevant executive agency issued regulations to enforce the law, Congress could then a_____ those r_____ and v_____ them if it so desired.
- The l_____ v_____ was a way of forcing the bureaucracy to c_____ to congressional intent.
- In the case of *INS v. Chadha* (1983), however, the Supreme Court declared the legislative veto to be an u_____ violation of s_____ of powers.

TOPIC 2.14 HOLDING THE BUREAUCRACY ACCOUNTABLE- PRESIDENTIAL INFLUENCE

Appointments

- A_____ of top-level bureaucrats (including Cabinet secretaries)
- F_____ top-level bureaucrats (including Cabinet secretaries)

Executive Orders

- An executive order is a d_____, o_____, or r_____ issued by the p_____
- An executive order of the President must find s_____ in the C_____, either in a c_____ granting the President specific power, or by a d_____ of power by Congress to the President

Economic Powers

- Proposes agency budgets (either an increase or a decrease in \$) OMB

Other Powers

- Propose the reorganization of the executive branch
- Presidential power of influence over different agencies direction

What are the limits on presidential influence?

- Senate c_____ needed for top personnel
- President c_____ f_____ vast majority of bureaucrats
- R_____ must go through C_____
- Agency b_____ must go through C_____

Office of Management and Budget (OMB): The OMB's primary responsibility is to prepare the a_____ b_____ proposal. In addition, the OMB evaluates the operation of federal programs, reviews legislative proposals from the cabinet departments, and reviews the rules and regulations proposed by federal agencies.

OMB helps the President prepare the budget and submits the budget to C_____. The OMB r_____ and m_____ funding requests submitted by executive d_____ and federal agencies. The OMB m_____ the requests, if necessary, to conform to the administration's spending priorities.

In preparing the president's budget, federal agencies are in regular contact with the OMB, which is responsible for keeping these spending requests within the parameters set by the president. Agencies may try to appeal to the president's top aides regarding an OMB decision that calls for a cut in spending in some area. The C_____ B_____ O_____ really is a check on the OMB and works closely with the House and Senate budget committees; in a divided government, the members of these committees may well be a_____ to the administration.

Executive Orders- NOT in the Constitution but implied

- An executive order is a d_____, o_____, or r_____ issued by the president
- An executive order of the President must find support in the Constitution, either in a clause granting the President specific power, or by a delegation of power by Congress to the President

In Executive Order 9981, what was the source of Constitutional authority?

2.15 Policy and the Branches of Government

Powers

- Court rulings that limit bureaucratic practices
- Judicial review - can declare bureaucratic actions u_____.
- Injunctions (a judicial order that r_____ a person/group from beginning or continuing an action threatening or invading the legal right of another) against federal agencies.

HOLDING THE BUREAUCRACY ACCOUNTABLE- INTEREST GROUPS

POWER OF INTEREST GROUPS

- Lobbying- -influence S_____ to c_____ or not confirm heads-use _____ campaigns, i_____
- “Revolving door” - Agencies are staffed by people who move back and forth between the public/private sector
- Client groups
 - Some agency-interest group relations are so close that the interest group is said to be a client of the agency (e.g., dairy groups and Agriculture Dept)
- I_____ triangles: congressional committee, relevant agency, related interest groups
- Issue n_____ : informal groups of people within both the public/private sectors who have common interests
- Agency employees are r_____ from the regulated industry (vice versa)
- A_____ rely on support from regulated industries in making budget requests
- L_____ : Take a bureaucratic agency to c_____

Who gets appointed by the President.

- Very partisan. If pres is a dem, he appoints dems, if pres is a repub, he appoints repub
- Interest groups input- ABA, AMA, NRA, NEA can voice their approval or disapproval for presidential appointments to the bureaucracy. They will use the media to s_____ public opinion and provide information in favor or against the nominee
- Ethnic make up- to appeal to a vast demographic, women, men, etc.

FRQ Practice

The Food and Drug Administration (FDA) is the federal agency responsible for the approval, regulation, and control of prescription medications. All prescription medications must complete an extensive FDA approval process, which can take years. In an attempt to expedite this process, Congress passed the Biologics Price Competition and Innovation Act in 2009, which created a faster approval pathway for biologic products that are highly similar to existing FDA-approved medications. The law applies only to biologic products, those produced with living organisms, but not to chemically produced drugs. Insulin is a vital prescription medication used to treat diabetes. Over an eight-year period, beginning in 2009, the average price of insulin increased from \$90 to \$275 a vial. Since

insulin was not regulated as a biologic, the time necessary to gain FDA approval prevented new companies from developing less expensive alternatives.

In 2017, public attention to the rising cost of insulin led the FDA to reclassify the drug as a biologic, thereby lessening the amount of time it took for new companies to get FDA approval. With more manufacturers competing in the marketplace, prices would likely drop.

- a. Referencing the scenario, describe the executive branch authority used by the FDA in reclassifying insulin as a biologic and explain how this use of the FDA's authority might affect the success of the Biologics Price Competition and Innovation Act.
- b. Referencing the scenario, explain how Congress could have addressed the increasing cost of insulin prior to 2017.
- c. Describe an informal power the president could use to influence the FDA's decision to reclassify insulin as a biologic. Explain how the use of that informal power relates to the principle of separation of powers.