Welcome to Legislation (and statutory interpretation). Over the past sixty to eighty years the United States has transformed from a legal system dominated by the common law to one in which statutes are the primary source of law. Legislatures have replaced courts as the creators of law. Training lawyers in legislative processes and statutory interpretation is therefore now a practical necessity rather than a secondary consideration. This course is designed to provide you with the theories, doctrines, and skills needed to successfully interpret state and federal statutes.

Course Objectives
The primary objectives of this course include:

- Providing an introduction to the legislative process;
- Becoming familiar with and comfortable reading statutes;
- Learning the theoretical and practical importance of statutory interpretation;
- Developing the skills for resolving and/or arguing difficult statutory interpretation questions.

Materials
To assist in meeting the course objectives, the required text is Eskridge, Frickey & Garrett, Legislation: Cases & Materials. Additional materials will be posted on TWEN or handed out in class.

Office Hours
I hold office hours by appointment, am around a lot, and am always happy to meet with you. Please contact me to schedule an appointment.

Requirements
Learning is a dynamic process that involves more than just doing the reading. As such:

- Daily class attendance is mandatory. If you must miss class, please notify me in advance by email. Failure to attend more than 20 percent of class sessions may result in involuntary withdrawal or no credit, in accordance with College policy.
- I expect you to be prepared. This means, of course, that you complete the day’s reading, but also that you think about the reading and its larger significance before you come to class.
- You will be required to participate. On Mondays, students with last names beginning with A-O will be on call. On Tuesdays, students with the last names beginning with P-Z will be on call. If something has legitimately prevented you from preparing
adequately for class, please let me know before class begins. I will be sure not to call on you that day.

- Act **professionally** by being punctual, respectful, and focused solely on the task before you during class. Cell phones should be silenced during class, and computers should be used exclusively for taking notes.

- A four-hour, limited-open-book **final exam will be on Tuesday, December 13 at 1:00pm**. The final exam is worth 85% of your grade. You will also have two written assignments during the semester, which together will be represent 15% of your grade. I will discuss the exam and assignments in more detail as the semester progresses.

  Though your grade will be determined principally by your performance on the final exam and assignments, I reserve the right to take the quality of your participation in the course and your attendance into account when assigning a final grade.

I look forward to working with you.

**Equal Access**

The University of Utah seeks to provide equal access to its programs, services, and activities for people with disabilities. If you will need accommodations in this class, please provide Barbara Dickey, Associate Dean of Student Affairs, and the University Center for Disability Services (“CDS”), with prior reasonable notice to allow them to make arrangements for accommodations. CDS is located at 200 S. Central Campus Drive, (Union Building), Room 162, or you may call 801-581-5020. All written information in this course can be made available in alternative format with prior notification.
UNIT ONE: INTRODUCTION TO LEGISLATION

Tuesday, Aug. 23

Introduction to the Course
Readings: The syllabus

Monday, Aug. 29

Introduction to the Legislative Process: Case Study of the Civil Rights Act of 1964
Readings: pgs. 1-38 (but a quick read)

Tuesday, Aug. 30

Case Study: Interpreting the Civil Rights Act
Readings: pgs. 38-47; 87-100
United Steelworkers of America v. Weber

Monday, Sept. 5

Labor Day – no class

Tuesday, Sept. 6

Case Study: Using Precedent
Readings: pgs. 104-115; 632-646
Johnson v. Transportation Agency, Santa Clara County
Flood v. Kuhn

UNIT TWO: THEORIES OF STATUTORY INTERPRETATION

Monday, Sept. 12

Introduction to Theories of Interpretation
Readings: pgs. 689-705; 707-709
Holy Trinity Church v. United States

Tuesday, Sept. 13

Legal Process Theories
Readings: pgs. 712-737; 743-746
Shine v. Shine
In the Matter of Jacob
State of New Jersey v. 1979 Pontiac Trans Am etc.

Monday, Sept. 19

Textualism
Readings: pgs. 749-764
TV/A v. Hill
Griffin v. Oceanic Contractors, Inc.
Tuesday, Sept. 20
Textualism's Limits
Readings: pgs. 765-790
*Chisom v. Roemer*

Monday, Sept. 26
Using the Theories
Readings: Problem #1 (TWEN)

UNIT THREE: STATUTORY INTERPRETATION DOCTRINES

A. Canons/Intrinsic Sources

Tuesday, Sept. 27
Introduction to the Canons of Interpretation
Readings: pgs. 847-868

Monday, Oct. 3
Textual Canons in Action
Readings: pgs. 868-880
*People v. Walsh* (TWEN)

Tuesday, Oct. 4
Substantive Canons
Readings: pgs. 880-884 (skim the list)
*U.S. v. Millis* (TWEN)
pgs. 907-920
*National Labor Relations Board v. Catholic Bishop of Chicago*

Monday, Oct. 10 & Tuesday, Oct. 11
Fall Break

Monday, Oct. 17
New Federalism
Readings: pgs. 922-941
*Gregory v. Ashcroft*

B. Extrinsic Sources of Statutory Meaning

Tuesday, Oct. 18
The Common Law
Readings: 955-971
*Smith v. Wade*
Monday, Oct. 24

**Legislative Background and Committee Reports**

Readings: pgs. 971-979; 981-998

*Leo Sheep Co. v. United States*
*Blanchard v. Bergeron*
*In re Sinclair*

Tuesday, Oct. 25

**Lawmaker Statements**

Readings: pgs. 94-100 (re-read/skim Justice Rehnquist’s dissent in *Weber*)

*Hamdan v. Rumsfeld* materials (TWEN)

Monday, Oct. 31

**Legislative Hearings**

Readings: pgs. 1020-1022; 820-827; 1027-1046

*FDA v. Brown & Williamson Tobacco Corp.*
*Montana Wilderness Assn. v. U.S. Forest Service I*
*Montana Wilderness Assn. v. U.S. Forest Service II*

Tuesday, Nov. 1

**Legislative Inaction**

Readings: pgs. 1047-1066

*Bob Jones University v. United States*

Monday, Nov. 7

**Other Statutes**

Readings: pgs. 1066-1088

*Cartledge v. Miller*
*Lorillard v. Pons*
*Zerbe v. State*
*Morton v. Mancari*

C. Agency Interpretation

Tuesday, Nov. 8

**Administrative State and Deference**

Readings: pgs. 1117-1128; 1136-1139; 1185-1194

Monday, Nov. 14

**Deference continued**

Readings: pgs. 1194-1223

*Chevron, U.S.A., Inc. v. Natural Resources Defense Council*
*MCI Telecommunications Corp. v. AT&T*
*United States v. Mead Corp.*
UNIT FOUR: PROBLEMS

Tuesday, Nov. 15
Readings: Problem #2 (TWEN)

Monday, Nov. 21
Readings: Problem #3 (TWEN)

Tuesday, Nov. 22
Readings: Problem #4 (TWEN)

Monday, Nov. 28
Readings: Problem #5 (TWEN)

Tuesday, Nov. 29
Concluding Thoughts
Readings: pgs. 47-82