American Government B

**Unit 3: Federal Government**

**Unit Summary:** The federal government of the United States consists of three branches that have their own unique set of powers and responsibilities, which are outlined in the Constitution. Power is divided among the three branches so that no one branch becomes too powerful. The three branches are the executive, legislative, and judicial branches. These branches work both independently and collaboratively to do what is in the best interests of the people. While there are three main branches of the federal government, there are countless people who are elected or appointed to positions within these branches who strive to uphold the founding principles written in the Constitution.

**Unit Timeline:** This timeline provides *some* events included in this unit’s learning. The goal is to assist understanding chronologically.

* 1787 – U.S. Constitution created and signed; Supreme Court created
* 1791 – First National Bank of the U.S. created by Congress
* 1803 – *Marbury v. Madison* Supreme Court ruling that established the principle of judicial review.
* 1804 – Electoral College process created with the ratification of the Twelfth Amendment
* 1819 – *McCulloch v. Maryland* created the implied powers doctrine when the Supreme Court ruled that Congress had the power to create a national bank.
* 1857 – *Dredd Scott v. Sanford* ruling from the Supreme Court
* 1906 – Food and Drug Administration established
* 1913 – Department of Labor and the Federal Reserve created
* 1929 – Permanent Apportions Act passed to set the number of representatives in the House to 435
* 1933 – January 23, 1933: Twentieth Amendment ratified moving the presidential transition date from March 4th to January 20th
* 1933 – Tennessee Valley Authority (TVA) created by Congress
* 1934 – Federal Communications Commission established
* 1947 –Department of Defense established combining the Department of War and Department of Navy
* 1951 – Twenty-second Amendment ratified limiting presidents to a maximum of two, four-year terms
* 1954 - *Brown v. Board of Education of Topeka* case decision led to updated legislative action based on the Supreme Court’s interpretation of the Constitution
* 1958 – NASA established
* 1961 – *Mapp v. Ohio* Supreme Court ruling that the Fourteenth Amendment justified the application of the Fourth Amendment to the states
* 1963 – *Gideon v. Wainwright* Supreme Court ruling resulting in requiring state courts to appoint the right to counsel.
* 1967 - February 10, 1967: Twenty-fifth Amendment ratified detailing the methods necessary for presidential succession if ever needed.
* 1967 – Congress created the Department of Transportation; Thurgood Marshall was the first Black American to be appointed a Supreme Court Justice
* 1970 – Environmental Protection Agency (EPA) and United States Postal Service (USPS) established
* 1971 – Occupational Health and Safety Administration established
* 1973 – Congress passed the War Powers Act, making it a requirement for presidents to keep Congress informed of armed conflicts and required congressional approval for troops to remain somewhere for more than 60 days; *Roe v. Wade* Supreme Court ruling that a woman’s right to an abortion is a right to personal privacy, protected by the Fourteenth Amendment
* 1981 – Sandra Day O’Connor was the first woman to serve on the Supreme Court

**Lesson 2 – Presidency**

**Objective 1:** Describe the presidential requirements, term of office, and the process for impeachment and removal of the president as outlined in Article II of the U.S. Constitution.

**Big Ideas**:

**Presidential Requirements:** According to Article II of the U.S. Constitution, there are three legal requirements necessary for an individual to be president:

* must be 35 years of age or older,
* have lived within the U.S. for at least 14 years,
* and be a natural-born citizen.

**Term of Office**: Article II of the U.S. Constitution says that the President will serve a four-year term of office. It does not, however, say how many terms a president should serve. It was not until the Twenty-Second Amendment was ratified in 1951 that presidents were limited to a maximum of two, four-year terms. Before this new rule, President Franklin D. Roosevelt (FDR) was elected to an unprecedented third term on November 5, 1940. In the case where a vice president assumes control of the presidency, they are granted additional time in office. If there are less than two years left in a presidential term when a vice president assumes the presidential office, they may serve a maximum of 10 total years in office.

**Presidential Impeachment and Removal**: Article II of the Constitution says that a president can be removed from office if convicted of “Treason, Bribery, or other high Crimes and Misdemeanors.”

Impeachment is a way for government officials to hold the president accountable for misconduct. It is the process of charging sitting presidents and beginning an investigation that could lead to their removal.

* First the House of Representatives votes to impeach the president.
* The House then gathers and sends any evidence of the alleged misconduct to the Senate.
* The Senate then holds a trial to go over the evidence and hear from witnesses.
* After considering all the charges and evidence, the Senate then votes on whether the president is found guilty or not. For a president to be officially removed from office, the Constitution requires that there be a two-thirds majority vote in the Senate.

The impeachment process has occurred only four times in the history of the U.S. presidency. No president has ever been removed from power after being impeached.

**Objective 2:** Identify the Twentieth, Twenty-second, and Twenty-fifth Amendments and how they each contributed to the change of the presidential term of office and succession.

**Big Ideas:** The United States Constitution was signed on September 17, 1787, to provide a fair and just government for the peoples of the nation. To ensure matters remained fair and just, U.S. legislation incorporated the ability to amend written laws and legislation.

**The Twentieth Amendment:** This amendment changed the date when a newly elected president took over from March 3rd to January 20th at noon. Prior to this amendment, the presidential term change would occur on the evening of March 3rd. The five-month period from the election in November to the inauguration in March came to be known as the lame duck period, because the outgoing president while still in power had less political influence during this time.

**The Twenty-second Amendment**: This amendment was proposed to restrict the potential for a presidential power monopoly and to keep anyone from becoming a lifelong president. In 1951, the Twenty-second Amendment was ratified, forever limiting the terms in presidential office.

**The Twenty-fifth Amendment**: The Twenty-fifth Amendment was ratified on February 10, 1967, including a four-section amendment that detailed the methods necessary for presidential succession if ever required.

* The first section of the Twenty-fifth Amendment states that in the case of death or removal, the acting vice president assumes control as the new president.
* The second section of the amendment addresses a situation if a vice president were to pass away or be removed. In situations like this, the acting president is given the right to nominate his choice for a new vice president. The nominee would need to be approved by Congress.
* The third section of the amendment allows for the president to state that they are unable to discharge the powers and duties of their office or simply incapable of fulfilling their position. In cases such as these, the vice president would assume command as the acting president. This section also allows the president to declare in writing to the same officials that they are capable of returning to power and act as the president once again.
* The fourth section of the amendment provides a way for the vice president and majority of cabinet members (or some other group Congress chooses) to remove a president who is unwilling to admit they are incapable of fulfilling their duties. If this occurs, the powers of the office would then be given to the vice president. If the president disagrees, they can inform Congress in writing of their disagreement and be granted power once again. If, after four days, opinions have not changed, Congress would be given 21 days to resolve the situation. If Congress can successfully obtain two-thirds of the votes from both the House and the Senate, the power would then be stripped from the president and given to the vice president.

**Objective 3:** Explain how the Electoral College makes the election process for the president different from other federal elected officials. Also, explain how the Twelfth Amendment clarified the Electoral College.

**Big Ideas:** The Electoral College is the process used to elect the president of the United States. This process was created in 1804 when the Twelfth Amendment of the U.S. Constitution was ratified.

**The Process for Electing the President**: The president and vice president are selected by a group of state-appointed “electors” through a process called the Electoral College. Each state gets the number of electors it has in its members of House and Senate, totaling 538 electors in all. Each state’s political party gets to choose its own electors.

On Election Day, when a voter casts their ballot for president, that vote enters a statewide count. In 48 states and Washington, D.C., if a candidate wins a state’s popular vote, that candidate wins all of that state’s electoral vote. Maine and Nebraska, however, use the Congressional District system. The candidate who wins the state’s popular vote wins two electoral votes based on the state’s number of senators. The other electoral votes are awarded to the candidate who wins specific congressional districts.

A candidate needs at least 270 electors to win the presidential election. If no candidate receives the majority of electoral votes, the vote goes to the House of Representatives. If the vote goes to the House, the House will choose the president and the Senate will select the vice president based on each delegate casting one vote for their state.

As a result of this system, it is possible for a presidential candidate to win the national popular vote and still lose the election.

**The Process for Electing Federal Officials**: The House of Representatives is directly elected by the voters within their congressional districts. Members of the Senate are elected directly by voters in their state. The person who receives the highest number of votes wins the election.

Today, there are a total of 435 seats in the U.S. House of Representatives. In 1929, the Permanent Apportionment Act was passed to set the number of representatives at 435.

**History of the Electoral College**: Before the Twelfth Amendment was ratified, the process for electing the president as outlined in Article 1 Section II of the Constitution required that electors in each state cast two separate ballots: one vote for president and one for vice president. The candidate who won the majority of the vote became president, and the candidate who finished second became vice president. The Twelfth Amendment requires electors to cast separate votes for president and vice president, and to clearly indicate whom they are selecting for president.

**Objective 4:** Describe the oath of office the president takes on Inauguration Day as outlined in Article II of the U.S. Constitution.

**Big Ideas:** The president of the United States takes office every four years on January 20 at the U.S. Capitol building in Washington, D.C. This is called Inauguration Day.

**Presidential Oath of Office**: The president-elect pledges to defend the Constitution and the powers of the president by taking the oath outlined in Article II, Section I, Clause 8 of the Constitution. The president-elect has historically placed their left hand on a Bible, raised their right hand, and recited the oath. The oath is as follows:

“I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.”

After the president has taken the oath, they deliver an inaugural address, which is then followed by a parade through Washington, D.C.

**Article II of the Constitution**: Article II of the U.S. Constitution establishes the executive branch of government that enforces federal laws created by Congress. It also lays out the powers of the presidency. In Article II of the Constitution, it states that the president has the following powers:

* To serve as commander-in-chief of the armed forces
* To grant reprieves and pardons for federal offenses against the United States, except in cases of impeachment
* To convene Congress in special sessions
* To receive ambassadors
* To sign or veto legislation
* To appoint cabinet officials, White House staff and Supreme Court Justices

The president also has the power to call Congress into special sessions or adjourn Congress under Article II, Section 3 of the Constitution.

The president also has the power to grant pardons for federal crimes, except impeachment.

**Expansion of Presidential Power**: Throughout history, many presidents have used the oath of office to justify expanding their power.

**Keywords**:

* **amendment** – a change or addition to the U.S. Constitution
* **impeachment** – the process of charging a sitting president with misconduct and beginning an investigation that could lead to their removal
* **inaugural address –** a speech given by the newly elected president that informs citizens of the president’s vision for America
* **lame duck period** – a five-month period where the sitting president who did not win or did not run in the presidential election remains in office before the next elected president’s term begins
* **natural-born citizen** – someone who is considered to be a U.S. citizen at birth because they were born within the borders of the United States, its military bases, extended territories, or have a parent who is a U.S. citizen

**Quick Check**

Question 1: Which of the following describes the process of impeachment and trial for removal?

* Two-thirds of Congress must vote for impeachment and removal.
* **A majority of the House of Representatives must vote in favor for impeachment and move to a trial before the Senate.**
* A majority of the Senate must vote in favor of impeachment and move to the House of Representatives for removal.
* A majority of Congress vote on impeachment and removal in one session.

Question 2: Identify what is addressed in the Twentieth amendment.

* the number of years in office
* presidential succession upon death
* vice president replacement upon their death or resignation
* **the president’s term of office during the lame duck period**

Question 3: Which statement best explains how the president is elected?

* The president is elected based on the popular vote.
* **The president is elected through the process of an indirect method called the Electoral College.**
* The president is elected by members of Congress.
* The president is elected through a direct voting method in which the highest number of votes wins.

Question 4: The process of the Electoral College was clarified by which of the following amendments?

* the First Amendment
* **the Twelfth Amendment**
* the Seventh Amendment
* the Fifteenth Amendment

Question 5: The presidential Oath of Office can be described as

* an oath the president recites to sign new legislation into law.
* a promise by the president to make laws that benefit the good of the people.
* **a peaceful transfer of power where the president swears an allegiance to uphold the Constitution.**
* a speech given by the president.

**Lesson 5 – Executive Roles**

**Objective 1:** Describe the most important roles of the president.

**Big Ideas**: Article 2 of the U.S. Constitution outlines the executive branch of the federal government. It begins by establishing the main role of the president as chief executive.

* **Head of the Executive Branch and Head of Government**: As chief executive, the president is in charge of ensuring that the law is properly executed and enforced. As chief of state, the president takes on the role of being the representative of the country.
* **Influencing the Law and the Political Party**: As chief legislator, the president can influence legislation. This influence comes from the president’s power to sign or veto legislation. Because the president can give an executive order, this allows them to also influence the way a law is carried out. The president also gives Congress a State of the Union. This is an annual address to Congress informing them of the occurrences within the executive branch and the administration. Because the president is the most well-known individual in their political party, they can have much influence over their party. As party leader, the president helps expand and enact the party platform. They also help fundraise money for party candidates and push for support in elections.
* **Head of the Military and International Representative**: As commander-in-chief, the president has the power to oversee the entire armed forces. They can send military forces to foreign countries. And they can decide the amount, place, and time of deployment, subject to congressional approval. The president also appoints generals and top military advisors. They have the ultimate decision on where and when to detonate nuclear weapons. And they can call on the military to help in times of domestic emergency. This includes natural disasters, violent protest, and acts of terrorism. As chief diplomat, the president participates and represents the U.S. in international events and organizations. They travel to meet foreign leaders and have the power to negotiate treaties. The president also appoints an ambassador to each country who is responsible for representing the U.S. in that particular country. Treaties and ambassadors are subject to senatorial approval.

**Objective 2:** Describe the role of the president and Senate in the appointment and confirmation process of cabinet secretaries.

**Big Ideas:** The Framers of the U.S. Constitution understood the need for a powerful executive branch, which is why they gave the president the power to nominate members of the executive and judicial branches. This includes the *cabinet*, or the heads of executive departments that work closely with the president. Yet they also wanted to ensure that the president would not become a tyrant. This meant that the Senate, would have the final say in executive appointments with the power of advice and consent. This is an example of checks and balances. The nomination and confirmation process is based on information that is gathered in the process of both choosing and accepting a nominee.

**Nominating the Secretaries of Executive Departments**: When a new president is elected, there is a transition plan to help the president-elect fulfill the duties of the new job, including deciding who will head the executive departments, becoming members of the president’s cabinet.

* The president-elect's team explores potential candidates to appoint to these positions.
* They gather information about each individual’s background, qualifications, and finances.
* Although not required, presidents will ask the senators of the nominee’s home state for their opinion.
* When the president has possible candidates for positions, the Office of Government Ethics reviews the information that has been gathered to advise on the ethics of each nomination. The Federal Bureau of Investigation, or FBI, also conducts criminal background checks on the individual nominees.

**The Senate Confirmation Process**:

* The president formally sends their nomination to the Senate.
* With some exceptions, some nominations will go directly to the Senate floor without their information being reviewed by the committee.
* The secretary of the Senate will send the nomination to one of the Senate committees for review.
* The committee holds public hearings in which senators question each candidate. Questions can cover background, policy positions, qualifications, and situations nominees may face on the job.
* The committee issues a recommendation. Committees can either report favorably, adversely, or not report at all. This recommendation helps to guide the voting process on the Senate floor.
* Before voting takes place, the full Senate holds a debate. A majority, or 51 votes, is needed for a nominee to be confirmed by the Senate.

This process may be ignored on the rare occasion that the Senate is in recess. Any position appointed under this condition is temporary, as the process of nomination and confirmation has not been completed.

**Objective 3:** Describe how the executive departments and agencies have changed and adapted their compositions and roles over time.

**Big Ideas:** The executive departments were created to help the president execute and enforce the law. The executive branch originally had three departments, and now has 15. The creation of these executive departments was the result of new challenges that the United States faced both nationally and internationally.

With changes in technology, scientific innovation, and economic activity, Congress has created new executive agencies to help execute and regulate these new industries. The changing technology in the field of communication has also led to the creation and evolution of the Federal Communications Commission. First regulating television, satellite, and radio, now it also oversees cable and wire communications. Since the evolution of the internet, the role of the FCC expanded to regulate internet carriers and activities.

Finally, the Food and Drug Administration has gained importance with scientific advancement. The FDA protects the health of the public by supervising the development of food products, pharmaceuticals, and vaccines, among other substances.

**Keywords**:

* **cabinet** – the major advisors to the president. Made up mostly of the secretaries that control the various departments in the executive branch
* **checks and balances** – the powers and ability to check other branches, given to each one of the three branches to ensure that no one section of the government can obtain excessive, unchecked power
* **Department of Defense** – the department that protects the nation and organizes the military
* **Department of Labor** – the department that oversees workers safety, protection, and labor legislation
* **Department of Transportation** – the department that ensures equal access to transportation and regulates all methods of transportation
* **inherent power** – a power that is not stated in the Constitution but is necessary to fulfill constitutional duties
* **recess appointments** – the power of the president to fully appoint individuals to empty positions within the executive branch when the Senate is in recess
* **veto** – the action taken by executive heads to block legislation from continuing

**Quick Check**

Question 1: Describe the role of the president as chief executive.

* This role permits the president to appoint important generals and military advisors.
* This role permits the president to represent America’s values and its people.
* **This role permits the president to appoint members of departments, agencies, and commissions to help enforce the law.**
* This role permits the president to help advance the party platform and fundraise money for elections.

Question 2: Which statement best describes the president’s authority in appointing individuals to cabinet secretaries?

* **The president nominates possible candidates for cabinet secretaries and sends their nominations to the Senate.**
* The president confirms cabinet secretaries after interviewing individuals.
* The president has the sole power to nominate and confirm cabinet secretaries.
* The president approves individuals for cabinet secretaries that are nominated by the Senate.

Question 3: Why was the Senate given the power of advice and consent?

* **The Framers wanted the Senate to be able to check executive power.**
* The Framers wanted the Senate to have complete control over executive departments.
* The Framers wanted the Senate to be able to run criminal background checks on nominees.
* The Framers wanted the Senate to work closely with executive departments.

Question 4: Which statement best describes how the executive branch has changed over the years?

* The executive branch has combined its executive departments and agencies to make government more efficient.
* **The executive branch has increased its executive departments and agencies to respond to the country’s changing needs.**
* The executive branch has decreased its executive departments and agencies to make state governments more powerful.
* The executive branch has delegated the role of execution and enforcement of laws to the legislative branch.

Question 5: Which executive agency had to adapt to new scientific advancement in television, internet, and radio?

* Food and Drug Administration
* Department of Labor
* **Federal Communications Commission**
* NASA

**Lesson 6 – Executive Powers**

**Objective 1:** Describe the executive, legislative, and clemency powers of the president.

**Big Ideas**: Article II of the U.S. Constitution outlines the structure of the executive branch and states the powers given to the president. These powers include executive power, or the power to enforce laws, as well as legislative and clemency power. These powers help balance the federal government and also give the president the necessary structure to be an effective leader.

|  |  |
| --- | --- |
| Executive Powers | * Organize and run the executive branch * Ensure laws are enforced * Nominate candidates to their cabinet who will execute the law according to their vision * Use executive orders to direct how to enforce a law |
| Legislative Powers | * Sign legislation into law * Veto legislation * Call special session of Congress when needed * State of the Union address to inform and persuade Congress on the president’s legislative agenda |
| Clemency Powers | * Related to punishments issued by federal courts, power to: * Reprieve (postponement) * Pardon (removal) * Issue amnesty which is a general pardon to a group of individuals violating the same law * Commute (reduce) |

**Objective 2:** Describe the military and foreign policy powers of the president as outlined in Article II of the U.S. Constitution.

**Big Ideas:** Article II of the Constitution outlines the powers of the president. It grants the president foreign policy powers and establishes the power of commander-in-chief.

The military powers of the president have been interpreted differently over the years. During war times, or times of emergency, presidents tend to expand and use this power beyond the scope of the Constitution.

|  |  |
| --- | --- |
| Foreign Policy Powers | * Negotiate a treaty with a foreign nation * Appoint positions to help advance the foreign policy agenda:   + secretary of state   + secretary of defense   + ambassadors * Establish relationships with other countries * Establish executive agreements – agreements between the president and foreign leaders to establish some relationship or action |
| Military Powers | * Send and remove troops from combat zones * Appoint generals and other important positions in the armed forces |

**Objective 3:** Explain how presidents have used inherent powers to expand their power during periods of conflict.

**Big Ideas:** When the Framers wrote the Constitution, it was impossible to predict or prepare for all situations. By focusing on the powers that each branch had, they wrote the Constitution with a certain degree of flexibility. The president has made use of this flexibility by using *inherent power*, or a power that is not explicitly listed in the Constitution but is needed to fulfill constitutional duties.

Over the years, presidents have made use of their inherent powers to respond to a variety of situations. These powers have been justified based on the *vesting clause* and *take care clause* of the Constitution. These clauses give all executive powers to the president and call for the president to take care of executing the law.

**Keywords**:

* **ambassador** – an individual who represents their country in a foreign nation
* **cabinet** – the major advisors to the president made up mostly of the secretaries who control the various departments in the executive branch
* **signing statement** – a written statement issued by the president when signing a bill to explain why they signed the bill into law
* **special session** – a meeting of the U.S. Congress that occurs if the president forces Congress to deal with urgent issues when they are not already in session
* **State of the Union** – the annual address the president delivers to Congress on the condition of the United States
* **treaty** – a legal agreement between countries
* **veto** – the action taken by executive heads to block legislation from continuing
* **War Powers Resolution** – a resolution passed by Congress in 1973 to limit the military powers of the president

**Quick Check**

Question 1: Which of the following describes an executive power of the president?

* vetoing legislation sent from Congress
* **using executive orders to send instructions to executive agencies and departments**
* pushing their agenda in the State of the Union address
* issuing amnesty to individuals who illegally avoid a military draft

Question 2: Which of the following describes a foreign policy power of the president?

* the ability to approve a military intervention abroad
* **the ability to negotiate treaties**
* the ability to grant a commission
* the ability to send troops into combat

Question 3: Why did Congress pass the War Powers Resolution?

* to allow the president to appoint the secretary of defense
* to allow the president to negotiate treaties
* to limit the president’s power to appoint ambassadors
* **to limit the president’s ability to send troops into combat**

Question 4: Which of the following best explains why presidents claim inherent powers?

* Presidents have had these powers given to them by Congress in the past.
* Presidents do not need other branches of government to fulfill their duties.
* Presidents claim these powers are explicitly written in Article II of the Constitution.
* **Presidents need to perform certain actions that are not listed in the Constitution.**

Question 5: Which constitutional provisions has been used to justify the inherent powers of the president?

* the War Powers Act
* the power to declare war
* **the take care clause**
* **the vesting clause**

**Lesson 7 – Departments, Bureaucracy, and Agencies**

**Objective 1:** Identify important executive departments and independent federal agencies and their main areas of control.

**Big Ideas**: Executive departments and independent federal agencies each have an area of expertise within the executive branch to help enforce the law. With 15 executive departments and over 100 independent agencies, the president has the support to ensure that policy in all areas is being executed.

**The Broad Areas of Policy: The Executive Departments**: There are 15 executive departments with many subagencies and bureaus.

1. Department of State - ensures that foreign policy is executed properly
2. Department of Treasury - oversees the enforcement of economic policy
3. Department of Defense - provides military support to protect the nation; originally called the Department of War
4. Department of Justice - ensures that U.S. law is carried out and enforced in a court of law
5. Department of Health and Human Services: helps enforce essential services needed for the health of Americans; supports the Centers for Disease Control (CDC) and services such as Medicare and Medicaid
6. Department of Commerce - gathers important demographic data and takes measures to ensure competition to help build economic growth and strong U.S. businesses
7. Department of Homeland Security - helps protect the United States from domestic and foreign threats; protects the country’s infrastructure, cyber network, and borders

Eight additional executive departments oversee agriculture, education, energy, housing and urban development, labor, transportation, veteran affairs, and the interior (which manages public lands and federal responsibilities to Indigenous Americans).

**The Specific Areas of Policy: Independent Federal Agencies**: Independent federal agencies are part of the executive branch and are either independent of an executive department or of the president.

* The Central Intelligence Agency (CIA) oversees collecting and analyzing foreign intelligence, supporting U.S. security and policymaking in a variety of areas.
* The Environmental Protection Agency (EPA) conducts research to protect Americans against environmental pollution. The EPA also writes rules and regulations that protect the environment.
* The National Aeronautics and Space Administration (NASA) provides research and development about space, Earth, climate, and the solar system. NASA and its research have helped a variety of policy areas from defense to health and human services.
* The Social Security Administration organizes and runs the national social insurance system. It ensures that people have money for retirement by collecting money from people’s paychecks. It provides Social Security numbers to keep track of people’s income.

Other agencies are independent of presidential control and influence. This allows these agencies to act in the best interest of the country.

* The Federal Election Commission oversees the use of campaign funds in elections. It also reviews the amount of donations given to campaigns.
* The Securities and Exchange Commission reviews transactions done in the stock, bond, and mutual fund markets. It ensures that competition is fair and that companies don’t cheat investors or the government.
* The Commission on Civil Rights monitors and informs the evolution and enforcement of civil rights. Since its inception in 1957, it has helped identify and correct civil rights violations.

**Objective 2:** Explain bureaucratic discretion and how it allows federal bureaucrats to be more independent from other branches.

**Big Ideas:** *Bureaucratic discretion* refers to the power given to the bureaucracy to decide how policies will be implemented.

A *bureaucrat* is an expert within a bureaucracy who is not elected and not associated with a political party. Because bureaucrats are nonpartisan, they are not concerned with what it takes to be elected or re-elected. They are only concerned with creating policies that support the laws that are passed, so they can be independent when making decisions.

Independent executive agencies are established by Congress to create and enforce regulations.

In addition to issuing rules and regulations, bureaucratic discretion allows for spending power. The government provides grant programs to help fund projects and ideas that will benefit the public and encourage economic growth. Through bureaucratic discretion, agencies are able to use their specialized knowledge to more effectively distribute these funds.

Due to elections, members in the legislative branch are not able to stay nonpartisan. But bureaucrats are not elected. The head of an executive department is a civil servant who is nominated by the president and confirmed by the senate.

The iron triangle helps illustrate relationships among the bureaucracy, Congress, and the interest groups involved in policymaking. Each part of the triangle is important in maintaining the balance of the relationships. Although each part has its own goals and interests, each is dependent on the others. All three groups influence each other and have a mutually beneficial relationship.

A diagram of a government

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**Objective 3:** Summarize the purposes of the following independent agencies: NASA, EPA, OSHA, FDA, and the FCC.

**Big Ideas:** There are more than thirty independent agencies. The experts in these agencies are given the independence to make decisions without interference from the executive branch.

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**Objective 4:** Compare the responsibilities and organization of executive departments, regulatory agencies, and government corporations.

**Big Ideas:** Executive departments ensure that government operations run smoothly; government corporations allow the government to exert private, corporation-style business strategies to allow certain systems to run that are important to the country. Regulatory agencies ensure that the economy and commerce are functioning to benefit the American people. To assist each agency in its specific purpose, different rules apply to each.

* Executive departments are responsible for a broad area of governmental policy.
* Government corporations are not included in any other agency department. They function like private corporations and are usually run by a board of directors who are appointed by the president. They are often funded with public funds and serve the public.
  + Examples include:
    - First National Bank of the U.S. created by Congress in 1791 to collect taxes.
    - U.S. Postal Service (USPS) created in 1970 to deliver mail and packages.
    - The Tennessee Valley Authority (TVA) was created by Congress in 1933 as part of the New Deal to oversee the development of the Tennessee River Valley. Today, the TVA is responsible for bringing millions of Americans electricity by building dams, hydroelectric power plants, and maintaining hundreds of miles of navigation on the river.
* Regulatory agencies make rules regarding businesses that affect most Americans. Because of this unique role, they are created to be independent from both the executive and legislative branches. The president appoints heads of regulatory agency boards, and the Senate confirms them. Once appointed and confirmed, those board members sit for terms that are fixed so that they remain outside of the political arena. A regulatory head can only be removed if they have broken the law.
  + Examples include:
    - The Federal Reserve System: central banking system of the U.S. created in 1913 to control the flow of money
    - The Federal Election Commission: ensuring election finance laws are enforced
    - Securities and Exchange Commission: responsible for regulating the stock market, brokers, and investment practices

**Keywords**:

* **bureaucracy** – the group of departments, agencies, and commissions that make up the executive branch
* **executive departments** – the largest organizations in the federal government, with each department being responsible for a different area of public policy
* **independent federal agency** – an agency established outside of departments or outside of the influence of the president
* **infrastructure** – the public works that include transportation systems (roads, bridges, railroads, airports) and water systems essential for economic activity
* **iron triangle** – a concept that helps illustrate the relationship between the bureaucracy, Congress, and interest groups involved in policymaking
* **nonpartisan** – not associated with a political party

**Quick Check**

Question 1: Identify which of the following is a key independent agency.

* the Internal Revenue Service
* the Department of the Interior
* **the Federal Reserve**
* Centers for Disease Control

Question 2: What are some responsibilities of the Department of Health and Human Services?

* to monitor and ensure that federal civil rights are enforced
* **to provide services such as Medicare and Medicaid**
* to provide Social Security benefits for all Americans
* to provide research and protection against environmental pollutants

Question 3: Which of these statements explains a way that the bureaucracy stays independent?

* **Those who work in the bureaucracy are civil servants.**
* Those who work in the bureaucracy are up for re-election every two years.
* Those who work in the bureaucracy are elected by citizens.
* Those who work in the bureaucracy have no say in regulations that are created.

Question 4: Which best summarizes the purpose of NASA?

* NASA is concerned with the creation and enforcement of regulations that ensure the health of our nation.
* NASA makes sure that workplaces are healthy and safe by providing trainings and education.
* NASA regulates radio, TV, wire, and satellite communications.
* **NASA is the agency that focuses on space exploration and aeronautics research.**

Question 5: Compare the vulnerability of the heads of executive departments versus those of regulatory agencies.

* In the former, heads cannot be fired during their terms of service, while in the latter, the president can fire the heads at will.
* Neither heads can be fired by anyone except a congressional committee.
* **The heads of the former can be fired at the will of the president; while the heads of the latter can’t be fired during their terms except for extreme misconduct.**
* Both types of heads can be fired at the president’s will.

**Lesson 8 – Structure and Role of Congress**

**Objective 1:** Identify the bicameral structure of the United States Congress.

**Big Ideas**: Article I of the U.S. Constitution created Congress, a bicameral legislative branch that consists of the U.S. Senate and the U.S. House of Representatives.

When the Constitution was being written, the delegates argued over state representation and did not agree at first that Congress should have two houses. Each state wanted to ensure that it would receive as much representation as possible, as representation would translate to power in Congress.

The Virginia Plan proposed a bicameral legislature where representation in both houses would be based on a state’s population. States with a small population, such as New Jersey, would not benefit from this suggested proportional representation. The New Jersey Plan proposed a unicameral, or one-house, legislature whose representation would be equal regardless of population. This disagreement over representation led to the Great Compromise. This plan, written by Oliver Ellsworth and Roger Sherman, proposed a bicameral Congress that would consist of the Senate and the House of Representatives. In the upper house, the Senate, each state would receive two senators regardless of population. In the lower house, the House of Representatives, representation would be based on population. This is the system that we still have today.

The House of Representatives has 435 members who represent districts around the United States. The House of Representatives is based on proportional representation. The Senate has 100 members whose constituencies, or body of voters, include the entire state. The Constitution requires each state to have two senators, regardless of population.

**Objective 2:** Summarize the role of Congress as outlined in Article I of the Constitution.

**Big Ideas:** Article I of the Constitution establishes Congress as the legislative branch of the U.S. government. It also set forth the legislative process and a list of powers given to each chamber of Congress.

In Article I, Section 1, is the constitutional principle of *separation of powers*, or the division of responsibilities among different branches of government to prevent one branch from becoming more powerful than another. This section specifies that all legislative power is vested in Congress. This means that executive and judicial branches do not have the power to make laws.

Checks and balances is also introduced in Article I. *Checks and balances* is a system in which one branch of government can check or counteract another.

Article I also describes the differences in requirements for membership, terms, constituencies, organization, and purpose of the House of Representatives and the Senate.

A senator is elected by constituents of their entire states, while representatives are elected by people in specific districts. This is because the primary purpose of the bicameral Congress is for the House of Representatives to make and pass laws that represent the people’s interests, while the Senate makes and passes laws that represent the states’ interests.

Article I also gives the Senate the power to confirm executive and judicial appointments with a simple majority vote, and to ratify treaties negotiated by the president with a two-thirds vote.

**Legislative Process**: The primary role of the U.S. Congress is to pass laws that reflect the interests of the people and the states. Article I, Section 7 describes the legislative process. The legislative process was intended to be slow and deliberate to avoid laws from being hastily passed, therefore ensuring the rights of citizens. This deliberative process is demonstrated in a few ways.

* First, there are two houses in which bills must be approved by a simple majority.
* Second, the president must sign the bill for it to become a law. Article I, Section 7 states that the president has 10 days to sign a bill into law. If not signed or rejected by the president within 10 days, the bill will become a law without the president’s approval. If the president does veto a bill, the bill goes back to Congress and Congress is able to override the veto with a two-thirds majority vote in both houses.

**The Powers of Congress**: Some of the enumerated powers of Congress:

*Economic Powers*

* Create federal budget
* Regulate interstate and foreign commerce, and trade with Indigenous American tribes
* Levy taxes
* Coin money
* Establish uniform laws of bankruptcy
* Pay debts
* Punish counterfeiters
* Borrow money

*War & Military Powers*

* Declare war
* Raise and support armies
* Provide and maintain a navy
* Call forth a militia

*Other Powers*

* Punish pirates
* Establish a post office
* Create lower courts

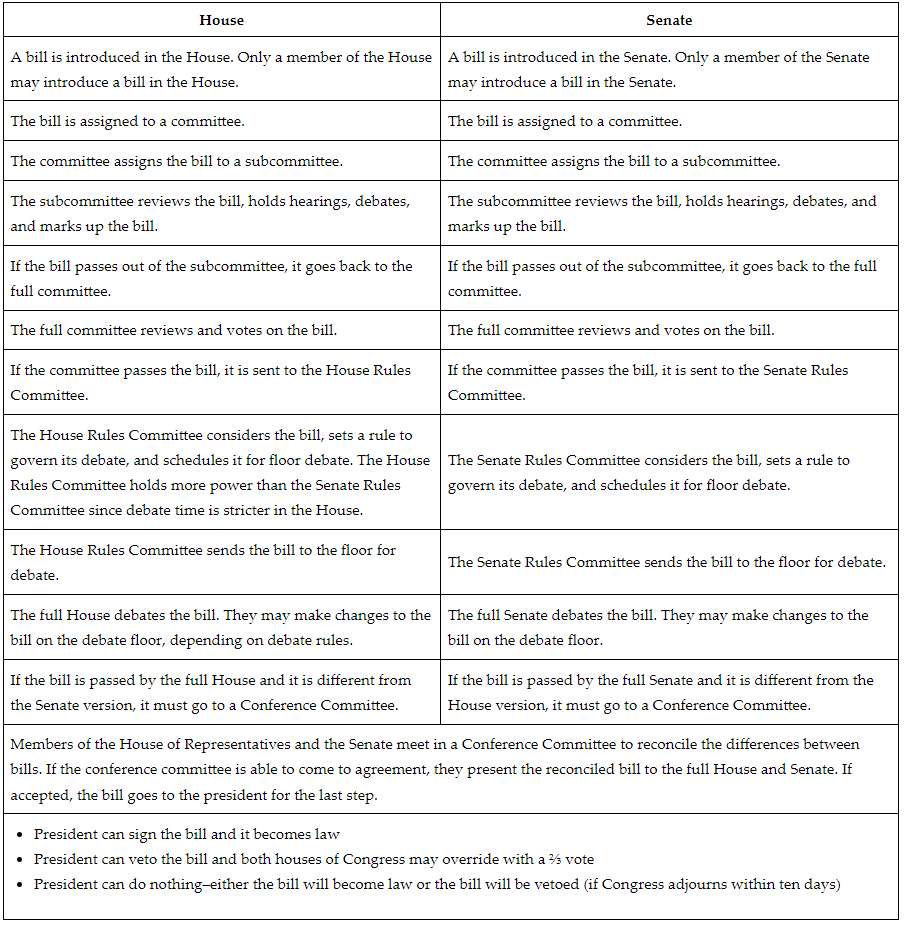
**Objective 3:** Construct a visual aid that outlines each congressional chamber’s approach to the legislative process.

**Big Ideas:** For a bill to become a law, Article I of the Constitution specifies that both the House of Representatives and the Senate must approve the bill with a simple majority vote. A presidential signature is also required once the bill passes through both houses of Congress. However, if the president does veto, or reject, a bill, Congress may override the veto with a two-thirds vote in both houses.

A bill may begin in either chamber, except for tax bills, which must begin in the House of Representatives. The Constitution does grant the Senate the power to amend tax bills during the legislative process.

Both the House of Representatives and the Senate utilize a congressional committee system to develop specialization on certain topics and to identify and research issues.

The Speaker of the House is the most influential person in the House of Representatives, as they are responsible for assigning bills to committees. The Senate majority leader, like the Speaker of the House, plays a prominent role in the Senate’s legislative processes, assuming most of the same powers as the Speaker, including the ability to assign bills to committees.



**Objective 4:** Explain the role of Congress in taxing and spending federal money.

**Big Ideas:** The power to tax and spend federal money was granted to Congress under Article 1, Section 8 of the United States Constitution.

Under the Articles of Confederation, the states were given the power to tax, not Congress. Congress could only raise money by asking states for the funds, borrowing from other countries, or selling land in the West. This created a problem as it gave Congress no means of regulating foreign or interstate commerce within the country. When the Constitution replaced the Articles, it attempted to correct many of the flaws within the document including giving the power to tax and spend money to Congress.

Throughout most of American history, tax money was generated and collected through excise and import taxes. Import taxes, also known as tariffs, were a way for the federal government to generate revenue that mostly was used for defense and military spending. It wasn’t until 1913 when Congress gained the power to collect federal income tax through the ratification of the Sixteenth Amendment.

The top annual expenses are Social Security, which is aimed at financial security for the retired and disabled; health care programs such as Medicare and Medicaid; and military defense.  Other tax revenues are used for building and maintaining the country’s infrastructure such as roads, public education, and public transportation.

**Fiscal Policy in Tax**: The government uses *expansionary fiscal policy* to increase money available to the people. This happens through lowering taxes and increasing government spending. This fiscal policy is intended to prevent a recession.

When governments use *contractionary fiscal policy*, such as increasing taxes and lowering government spending, it decreases the amount of money available to the people. This reduces consumer spending and creates lower prices. This type of fiscal policy is used to reduce inflation.

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**Debt vs Deficit**: The federal government spends more money than it takes in annually. This is referred to as a *budget deficit*. As deficits grow, they are added to the overall debt of the national government.

**Keywords**:

**cloture** – a procedure used to end a filibuster

**conference committee** – a temporary committee consisting of members from both chambers, whose purpose is to reconcile different versions of a bill

**congressional committee** – a subgroup within Congress that focuses on a specific subject area

**enumerated powers** – the powers granted to the federal government by the Constitution

**filibuster** – a process used by members of the minority party in the Senate to extend debate to delay or prevent the passage of legislation

**fiscal policy** – the use of government spending and tax policies to influence economic conditions in the United States

**House Rules Committee** – an influential committee in the House of Representatives that schedules and makes rules for debate of bills

**inflation** – a condition of the economy in which prices become so high that purchasing power diminishes

**Necessary and Proper Clause** – the section of the Constitution that allows Congress to do what “is necessary and proper” to carry out the power given to it specifically by the Constitution

**pocket veto** – a veto that happens when the president fails to sign a bill after Congress has been adjourned for 10 days

**recession** – a significant decline in the economy

**subcommittee** – a division within a congressional committee that works on a specific aspect of the committee’s jurisdiction

**veto** – rejection of a bill

**Quick Check**

Question 1: Identify the two houses of the United States Congress.

* Senate and Supreme Court
* **House of Representatives and Senate**
* House of Representatives and Supreme Court
* Senate and Electoral College

Question 2: Which statement best summarizes the role of Congress as outlined in Article I of the Constitution?

* Congress is a democratic governing body with impeachment power and the ability to enforce laws.
* Congress is a democratic governing body responsible for ratifying treaties that are negotiated by the president.
* Congress is a democratic governing body responsible for levying taxes and interpreting laws.
* **Congress is a democratic governing body responsible for creating a federal budget and making national laws.**

Question 3: Which type of visual aid would you construct to best explain the legislative process?

* a flowchart showing the process of the passage of the bill in the House of Representatives and then the Senate
* **a flowchart showing the passage of the bill in both houses and then moving on for the president’s approval**
* a Venn diagram showing the process of the passage of the bill in both houses and then the president’s approval
* a T-Chart showing the process of the passage of the bill in both houses and then moving on for the president’s approval

Question 4: How can Congress override the president’s veto of a bill?

* with a simple majority in both houses
* with a two-thirds majority in conference committees
* by using the filibuster
* **with a two-thirds majority in both houses**

Question 5: Which of the following statements best explains the importance of taxing by Congress?

* **The importance of taxing is to raise revenue for the federal government.**
* The importance of taxing is to help all citizens fund and pay for personal living expenses.
* The importance of taxing is to eliminate personal consumer debt and loans.
* The importance of taxing is to decrease the national debt.

**Lesson 9 – The Powers of Congress**

**Objective 1:** Identify the powers of each congressional chamber as outlined in Article I of the Constitution.

**Big Ideas**: The main function of Congress is to make national laws. However, Congress does have other roles, such as the power to check other branches through congressional oversight and impeachment power.

The enumerated powers of Congress can be broken into three main categories: economic powers, foreign policy powers, and national security powers. Other powers involve checks on the executive branch and the judicial branch. Implied powers derive from the necessary and proper clause, which states that Congress has the power “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof.”

**Congress’s Economic Powers**

* Levy taxes (tax bills must start in the House)
* Coin money
* Borrow money
* Regulate interstate and foreign commerce, and commerce with Indigenous Americans
* Pay debts
* Create laws that are “necessary and proper” to carry out enumerated powers
  + For example, the power to create a national bank

**Congress’s Foreign Policy and National Security Powers**

The Senate’s foreign policy powers include the power to:

* Confirm the president’s appointment of ambassadors with a majority vote
* Ratify treaties negotiated by the president with a two-thirds majority vote

National security powers are shared by both congressional chambers. National security powers include the power to:

* Declare war
* Raise and support armies and a naval force
* Punish pirates
* Create laws that are “necessary and proper” to carry out enumerated powers
  + For example, the power to institute a mandatory military draft

**Congress’s Other Powers Involving the Executive and Judicial Branches**

Both chambers are responsible for creating inferior courts, or levels of the judicial branch below the Supreme Court.

Only the Senate has the power to confirm presidential nominations of executive branch officers and federal judges with a majority vote.

The impeachment process is a two-step process. Each congressional chamber has specific roles.

* The House of Representatives issues articles of impeachment against members of the executive branch (such as the president or vice president) and members of the federal judiciary (such as a Supreme Court justice).
* The Senate tries and convicts impeached officials with a two-thirds majority vote. If convicted, that official is removed from office.

**Objective 2:** Describe the necessary and proper clause and how it led to the development of Congress’s implied powers.

**Big Ideas:** Delegated powers are powers that are assigned to the national government based on the language in the Constitution. Delegated powers consist of expressed powers and implied powers. *Expressed powers* are the powers that are explicitly stated and belong to the federal government. *Implied powers* derive from the *necessary and proper clause*. It allows Congress to make laws that carry out the federal government’s expressed powers. The necessary and proper clause is often referred to as the “elastic clause” since it stretches the power of the federal government.

Some examples of expressed powers are:

* The power to coin money
* The power to tax
* The power to declare war
* The power to establish a post office
* The power to raise and support an army and navy

Some examples of implied powers are:

* The creation of the Internal Revenue Service to collect taxes
* The creation of the draft to raise and support military forces
* The creation of the Federal Reserve to regulate the amount of money in circulation

Throughout United States history, the interpretation of the necessary and proper clause has stirred debate. As an example, a national bank is not explicitly mentioned in the Constitution. However, Congress’s expressed economic powers to collect taxes, pay debts, and borrow money implied the power to create a national bank. Using a loose interpretation of the necessary and proper clause, the Supreme Court ruled that Congress had the power to create a national bank in the case of *McCulloch v. Maryland* (1819).

**Objective 3:** Hypothesize why the Constitution provides for implied powers, expressed powers, and the elastic clause.

**Big Ideas:** The Articles of Confederation was the first governing document of the United States following independence from Britain. It created a confederal system of government, in which states delegate power to the national government. The primary reason that the Framers gathered to write the Constitution is because the Articles of Confederation failed, mainly due to the national government’s lack of power to tax the states and maintain an army.

Expressed powers demonstrate the Framers’ intent to create a limited government. The government is restricted to those powers listed, and those not listed are reserved to the states. However, the Framers did not want to tip the balance of power too much in favor of the states, so they left the door open to expand on the powers of the national government.

**Keywords**:

* **congressional chamber** – refers to each of the chambers of Congress known as the Senate Chamber and the House Chamber
* **congressional oversight** – the power of Congress to act as a watchdog over the executive branch by holding hearings, monitoring, and supervising federal agencies
* **delegated powers** – the powers that are assigned to the national government based on the language in the Constitution
* **elastic clause** – the last clause of Article I, Section 8 that gives Congress the flexibility to make laws that are necessary and proper for carrying out the powers listed in the same section known as the enumerated powers
* **expressed powers**– part of the delegated powers that are explicitly stated in the Constitution
* **implied powers**– part of the delegated powers that are implied from the expressed powers
* ***McCulloch v. Maryland***– the Supreme Court case in which the Court adopted a “loose” interpretation of the necessary and proper clause, allowing an expansion of implied powers

**Quick Check**

Question 1: Use the chart to answer the question.

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Use the chart to identify the correct powers of each congressional chamber as outlined in Article I of the Constitution.

* **B**
* D
* A
* C

Question 2: Which of the following statements best describes how the necessary and proper clause led to Congress’s implied powers?

* The necessary and proper clause allows Congress to limit states’ rights, which led to Congress’s implied powers.
* The necessary and proper clause states that the Constitution is the supreme law of the land, which allowed Congress to create implied powers.
* **The necessary and proper clause allows Congress to expand upon the powers stated in the Constitution, from which implied powers derive.**
* The necessary and proper clause limits Congress’s power relative to the states in the Constitution, which created implied powers.

Question 3: How did *McCulloch v. Maryland* establish the implied powers doctrine?

* It allowed Congress to establish a post office even though it was not expressed in the Constitution.
* **It allowed Congress to create a national bank even though it was not expressed in the Constitution.**
* It allowed Congress to collect taxes even though it was not expressed in the Constitution.
* It allowed Congress to declare war even though it was not expressed in the Constitution.

Question 4: Which of the following statements best hypothesizes why the Constitution provides for expressed powers?

* Congress needed the power to pass laws involving taxation.
* Congress needed unlimited power, so the Framers provided for that.
* **Congress needed sufficient power to govern, but not unlimited power.**
* Congress needed the power to add amendments to the Constitution in the future.

Question 5: *Use the excerpt to answer the question.*

*“What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing, but the power of employing the MEANS necessary to its execution? What is a LEGISLATIVE power, but a power of making LAWS? What are the MEANS to execute a LEGISLATIVE power but LAWS? What is the power of laying and collecting taxes, but a LEGISLATIVE POWER, or a power of MAKING LAWS, to lay and collect taxes? What are the proper means of executing such a power, but NECESSARY and PROPER laws?”*

Which of the following best summarizes this quote from Federalist, no. 33?

* The elastic clause would create a tyrannical government and should not be part of the Constitution.
* **The elastic clause would not create a tyrannical government but enable the government to perform basic functions crucial for its effectiveness.**
* Expressed powers are necessary for a government to function because Congress needs a certain amount of power.
* Allowing for implied powers by adding the elastic clause could potentially take power away from the executive branch.

**Lesson 10 – Congressional Qualifications and Districts**

**Objective 1:** Identify the required qualifications, election process, and terms for members of the House of Representatives and the Senate.

**Big Ideas**:

**Required Qualifications**: Members of the United States House of Representatives must be 25 years of age, U.S. citizens, and seven-year residents of the states they intend to represent. Members of the U.S. Senate must be 30 years of age, U.S. citizens, and nine-year residents of the states they intend to represent.

**Election Process**: The election process for members of Congress begins with a primary or caucus, depending on which state they are running in. A primary election determines which candidate will be nominated by their party to run in the general election. Voters appear at polling locations without anyone knowing who they are or what their preferences are. A caucus determines which candidate will be nominated by their party to run in the general election. It requires voters to appear in a meeting with other voters to discuss who the candidate will be.

Typically, the winner of the primary or caucus is determined by the candidate with the majority vote. If no candidate receives a majority, then there is a runoff election between the top two candidates. Runoff elections do not require the voters to meet with each other. States have open or closed primaries or caucuses. An open primary or open caucus means that anyone can participate in the election. A closed primary or closed caucus means that only registered party members can participate.

Once the parties have determined who their nominees are, the nominees compete in a general election that determines which candidate will hold office. The winner only needs a plurality vote to win. A plurality is one more vote than the other candidates.

**Terms for Members**: Members of the U.S. House of Representatives serve two-year terms with no limit on the number of terms they can serve. Members of the U.S. Senate serve six-year terms with no limit on the number of terms they can serve.

**Objective 2:** Identify how Congressional districts are established.

**Big Ideas:** Each Congressional district has one representative, and the districts in each state have equal numbers of constituents.

Apportionment is the process of assigning the number of representatives to a state according to the population of the state. There are 435 total members of the U.S. House of Representatives. The number of constituents for each Congressional district is determined by dividing 435 into the population of the country as determined by the census.

Redistricting is the process of drawing new boundary lines for each Congressional district so that the districts are still approximately equal in size. This process is very controversial because the result of drawing the boundaries can create an advantage or a disadvantage for a member of Congress or a political party. The lines are redrawn by the state legislature in most states. If the Democrats control the state legislature, then they will draw the lines to favor Democrats. Likewise, if the Republicans hold the majority of the legislature, they will draw the lines to favor Republicans. Redistricting is also controversial because the result can either increase or diminish the numbers of people from a racial or ethnic group in a given district. This could lead to a greater or lesser likelihood of that group being represented in Congress.

When Congressional district lines are drawn to favor a particular race, ethnicity, or political party, it is called *gerrymandering*.

The concept of one person, one vote was established by two cases in the U.S. Supreme Court. The two cases, *Baker v Carr* and *Reynolds v Simms*, both decided that, based on the fourteenth amendment right of equality, districts should be drawn to equal population sizes. Votes in every district would have equal value if each district had similar numbers of voters.

**Objective 3:** Identify local Congressional representatives and district boundaries.

**Big Ideas:** The United States Congress is bicameral, which means that it is composed of two parts, referred to as houses or chambers. These chambers are formally called the U.S. House of Representatives (the House) and the U.S. Senate (the Senate). The members of the House are referred to as members of the House or congresspersons. Sometimes they are referred to in their masculine or feminine form as congressman or congresswoman, respectively. Each representative has a Congressional district, or the territory that contains constituents who are represented by a member of Congress.

Every state has two senators. The number of representatives your state has is based on its population. The U.S. House of Representatives has 435 members, and the U.S. Senate has 100 members, adding to 535 members of Congress in total. Each representative is assigned to a district with a corresponding number.

You can reference this [site](https://www.house.gov/representatives/find-your-representative) to determine who is your Congressional representative and locate your Congressional district.

**Keywords**:

* **apportionment** – the process of assigning representatives to states according to the population of the state
* **bicameral** – the structure of a legislative body in which there are two parts, referred to as houses or chambers
* **caucus** – an election among party members, who gather and interact with each other, to determine which member will be nominated to run in the general election against the nominee of the other political party
* **closed caucus/primary** – a caucus/primary that is only open to party members
* **Congressional district** – a territory in which constituents reside that is represented by a particular member of the U.S. House of Representatives
* **constituents** – the individuals represented by a particular member of Congress or other legislative body
* **general election** – the election that determines which candidate will hold office in the government
* **gerrymandering** – the process of drawing lines for Congressional districts that results in an advantage or disadvantage for a political party, race, or ethnicity
* **majority vote** – a number of votes greater than half of all total votes
* **open caucus/primary** – a caucus/primary that is open to anyone
* **plurality vote** – a number of votes for one candidate that is more than votes for any other candidate, but is not a majority of the total votes
* **primary election** – an election by a political party, where members do not interact with each other and the voting process is anonymous, to determine which member will be nominated to run in the general election against the opponent of the other party
* **redistricting** – the process of drawing lines for Congressional districts according to changes that result from the census and apportionment
* **runoff election** – the election that is required when no candidate receives a majority of the vote in a primary and/or caucus
* **simple majority** – an election outcome where the candidate receives the minimal number of votes to win, which is half of all votes plus one
* **supermajority** – an outcome where the candidate receives somewhere between a simple majority and a unanimous total of votes
* **unanimous** – an outcome where the candidate receives all possible votes
* **unicameral** – the structure of a legislative body in which there is only one chamber or house

**Quick Check**

Question 1: Identify the type of election that determines which candidate will be the nominee of their party and requires party members to meet face-to-face.

* primary
* **caucus**
* general
* runoff

Question 2: Identify the vote result a candidate needs to win a primary or caucus.

* supermajority vote
* unanimous vote
* **majority vote**
* plurality vote

Question 3: Identify the definition of *gerrymandering*.

* **the process of redrawing congressional district lines to create an advantage or disadvantage for a race, ethnicity, or political party**
* the process of drawing congressional district lines to create malapportioned districts
* the process of redrawing congressional district lines according to race alone
* the process of redrawing congressional district lines to ensure equal numbers of Democratic and Republican voters

Question 4: Identify the structure of Congress.

* **Congress is bicameral.**
* Congress is at-large.
* Congress is unicameral.
* Congress doesn’t have a structure.

Question 5: How many members are there in the U.S. House of Representatives?

* 52
* 535
* **435**
* 100

**Lesson 11 – How a Bill Becomes a Law**

**Objective 1:** Explain the process for a bill to become a law.

**Big Ideas**: A bill passes through multiple steps to become a law. Each step contributes to improving the proposed legislation by ensuring that multiple viewpoints are considered and that members of Congress can carefully consider the costs and benefits to the American people.

Six steps in the process for a bill to become a law:

1. A draft of a bill is introduced on the floor by either the House or the Senate.
2. Committee Review: A bill is assigned to a committee for study and revision.
3. Chamber Review: The bill is presented to members of the House or the Senate and they debate and/or alter the bill before they vote on it. A simple majority is needed to pass the bill.
4. After one chamber of Congress approves the legislation, it is moved to the other chamber for consideration. The bill passes through a similar committee process and floor vote, where a simple majority is needed for it to pass.
   1. If any changes have been made to the bill, it must be sent back to the chamber where it originated for a process known as *concurrence*. There may be debate on the floor about the changes made to the bill, and sometimes, a conference committee will be convened so that members from both chambers can work together to find compromises between the two drafts.
5. Both the House and the Senate must vote on the bill. If a majority of representatives pass the bill in both chambers of Congress, the bill is presented to the president.
6. President’s Review: A president can take: sign the bill into law, veto the bill, or take no action. If the president approves the bill, they will sign it and it will become a law.
   1. If Congress is in session and the president takes no action for 10 days, the bill will automatically become a law.
   2. If Congress adjourns within 10 days of the president receiving the bill, the president can choose not to sign it. When this happens, the bill does not become a law because it cannot go back to Congress, and Congress will not have an opportunity to override the veto. This maneuver is known as a *pocket veto*.
   3. Chances of veto are small. By the time a bill arrives on the president’s desk, the president already has a clear indication of whether they will sign it into law. If the president expresses disapproval of legislation, Congress members revise and alter the bill to ensure that the president will sign it.

**Objective 2:** Analyze how a law is enacted after it is passed by Congress and signed by the president.

**Big Ideas:** After a bill is signed by the president, it must be enacted into law. Often, the federal agencies of the executive branch manage the process of a bill’s enactment. Federal agencies enact laws because they usually have subject-area expertise. Their specialization allows them to implement new laws effectively.

The Administrative Procedure Act of 1946 (known as the APA) created the procedures for a process known as *rulemaking*. Rulemaking is the process federal agencies use to propose and issue regulations. It helps executive agencies implement and enact the laws. When a bill is written, it does not contain all the specific details needed to enact a law. Therefore, agencies set new rules and decide what actions to take to implement the law.

* Formal rulemaking involves federal agencies holding hearings to create a public record of the rulemaking process.
* Informal rulemaking is when federal agencies create a public notice of proposed rules and invite individuals and organizations to respond to the proposal.

The APA Rulemaking Process:

* An agency overseeing the enactment of a passed bill drafts proposed rules.
* The Office of Information and Regulatory Affairs (OIRA) reviews the draft of the proposed rules to ensure that the proposed rules comply with executive orders, which require rule-makers to consider the costs and benefits of proposed rules as well as alternatives to the rules.
* After OIRA approves the draft of the rules, they are published in *The Federal Register* to receive public comment and revisions.
* After OIRA reviews any revisions, the final rules are published in *The Federal Register*.

Even after a law goes through the rulemaking process, the president does not have to implement it. The strategy a president usually uses to avoid implementing a law is not to *promulgate*, or make broadly known, the regulations. They can do this by signing executive orders to slow down the process of publishing new rules or changing their start dates.

All final rules are composed of four parts:

1. Summary: explains the necessity of the rule by sharing the societal problem it addresses and any regulatory goals
2. Effective date and any other implementation dates
3. Basis and purpose of the rule: the goals or problems the rule addresses
4. Statement of the agency’s legal authority for creating and implementing the rule

*The Federal Register* is published daily. Agencies give notice of rules under consideration in the publication, and members of the public can comment on the proposed rules. Final rules are also published in this document. The Federal Register is available for free online and in print. Anyone who wants to learn about the activities of federal agencies can access the register.

**Keywords**:

* **adjourn**– to go out of session
* **bill**– a proposal for a new law
* **checks and balances** – a system in which one institution of government can check or counteract another institution
* **concurrence** – a change made to a bill to make the House of Representatives and the Senate version the same
* **conference committee** – a temporary committee comprised of members from both chambers of Congress that convenes to work on a specific project
* **enact**– to put a passed bill into action making it a law
* **judicial review** – a review by a court to determine the legality of a law or rule
* **pocket veto**– a veto that happens when the president fails to sign a bill after Congress has been adjourned for 10 days
* **promulgate**– to promote; to make broadly known
* **rulemaking** – the process federal agencies use to propose and issue regulations to put laws into effect
* **simple majority** – more than half the votes in one chamber of Congress
* **veto**– a rejection of a proposal, such as a bill

**Quick Check**

Question 1: Which of the following accurately explains the process for a bill to become a law?

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Question 2: Explain what happens when a bill is vetoed.

* When a bill is vetoed, a committee member rejects the bill.
* When a bill is vetoed, it moves from committee review to chamber review.
* When a bill is vetoed, Congress rejects the bill.
* **When a bill is vetoed, the president rejects the bill.**

Question 3: Which statement explains what happens when the president issues a pocket veto?

* Congress will revise the legislation within 10 days of the president vetoing a bill. If the president does not sign the bill, Congress can revise, revote, and force a bill to become a law.
* Congress will return to session within 10 days to debate and plan next steps. At this time, Congress will vote to override the veto, revise the legislation, or abandon the bill altogether.
* **Congress will adjourn within 10 days of the president receiving the bill. If the president does not sign the bill, the bill does not become a law because Congress will not have an opportunity to override the veto.**
* Congress will vote to override the president’s pocket veto within 10 days. If Congress rejects the president’s veto, the bill will automatically become a law as long as there is a simple majority.

Question 4: Which statement accurately analyzes how a new law is enacted after is it passed by Congress and signed by the president?

* Federal agencies implement the rules from the original text of the bill to faithfully execute the legislation Congress created.
* Congress develops rules in accordance with the Administrative Procedure Act of 1946 to effectively implement the new law.
* The president and their immediate staff develop rules to effectively implement each new law that they have signed.
* **Federal agencies develop rules in accordance with the Administrative Procedure Act of 1946 to effectively implement the new law.**

Question 5: Which table accurately depicts the structure of a final rule?

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**Lesson 12 – President and Congress**

**Objective 1:** Explain how Congress can use its “power of the purse” to facilitate its oversight of executive departments.

**Big Ideas**: An important part of congressional oversight is the power of funding, which is sometimes referred to as controlling the “purse strings” of the government. This power, granted to Congress in the U.S. Constitution, is also known as appropriation. Controlling the government’s funding is part of the system of checks and balances in the federal government.

The House of Representatives was created to be a more localized, directly connected arm of the legislative branch. Elections for members of the House of Representatives are held every two years, and districts are tied specifically to regions and voters. With this direct connection, the Framers put the power to raise taxes and allocate government funding in the hands of the House of Representatives to avoid the issue of taxation without representation that had angered so many citizens when under Great Britain’s rule.

The government relies on money to pay workers, build roads, train agents, clean water, and do anything else needed to run a country. Without money, programs cannot function as usual. This power of the purse is a remarkable check on executive power, as it makes sure the president is working with Congress instead of acting on their own.

**Objective 2:** Describe how a president can use their office to communicate with the people and increase their political power.

**Big Ideas**: As the face of the executive branch, the president’s power is enhanced by name notoriety and access to modern media. Using these enhanced powers of the office, the president can go directly to the people and shape public opinion about various issues.

In 1909, the *New York Times* credited President Theodore Roosevelt with coining the term *bully pulpit*. A bully pulpit is the president’s use of the chief executive position to dominate an issue with the public and shape public opinion. President Roosevelt used the term to describe the combination of access to the public and presidential fame to gain an audience of the American people. The president then uses the manipulation of public opinion as leverage against Congress and other groups to achieve their presidential agenda. The president’s employment of the bully pulpit depends on three things: a means of communication, a leadership vision, and name recognition.

President Theodore Roosevelt routinely used the railroad to travel to various places around the country to speak directly to Americans before there was radio or TV. President Roosevelt presented a message that reflected his belief that government had a responsibility to protect the American public. President Roosevelt’s personal appeal to the average American led to significant pressure on Congress to pass legislation that aligned with his vision.

**Objective 3:** Explain how presidents have used executive orders throughout American history and how this has affected public policy.

**Big Ideas**: The Constitution provides executive power to the president and requires that the president carries out the nation’s laws. Although the Constitution may not have explicit provisions for executive orders, these presidential responsibilities imply that executive orders are a reasonable exercise of presidential power to protect and serve the American citizenry.

For the first one hundred years of American history, presidential use of executive orders was limited as presidents regularly deferred to Congress to make laws.

Following the Civil War, presidents began to doubt Congress’s ability to pass laws addressing social change. Some examples of increasing use of executive orders include:

* To protect the civil rights of Black Americans, President Grant began a trend of issuing a significant number of executive orders when congressional action appeared unlikely.
* During President Theodore Roosevelt’s presidency, America confronted the growth of industrial titans like J.P. Morgan and John D. Rockefeller whose industrial practices threatened both workers and the environment during the *Second Industrial Revolution*. Confronted by a Congress that was sympathetic to these industrial leaders, President Roosevelt issued 1,081 executive orders during his presidency to protect the environment and workers.
* The *Great Depression* was a period of severe economic downturn, beginning in 1929 and lasting through the 1930s, leading to high levels of unemployment and poverty in America and the world. Congressional opinion was to allow the Great Depression to run its course without any government intervention. As FDR saw the numbers of unemployment and impoverishment grow, he disagreed and argued that government must take an active role in the economy. During his presidency, FDR issued 3,721 executive orders, many addressing the dire economic situation of the Great Depression.

**Key Words**:

* **appropriation** – the money given by Congress to a federal department or agency
* **bully pulpit** – the president’s use of the chief executive position to dominate an issue with the public and shape public opinion
* **congressional oversight** – the power of Congress to check the powers of the executive branch of government through hearings or funding bills
* **executive order** – a directive signed by the president that has the same power as federal law
* **Great Depression** – a period of severe economic downturn, beginning in 1929 and lasting to the 1930s, leading to high levels of unemployment and poverty in America and the world
* **power of the purse** – the power of Congress to give or withhold money from federal agencies
* **Second Industrial Revolution** – a period of rapid industrialization from the late nineteenth century to the early twentieth century in which standardization and uniformity in the workplace replaced small artisans as sources of manufactured goods

**Quick Check**

Question 1: Which statement best explains how Congress uses its power of the purse to facilitate oversight of executive departments?

* by withholding all money from executive departments and agencies
* by approving presidential budget requests
* by deciding whether taxes will be raised
* **by providing or withholding money from executive departments and agencies**

Question 2: How did the Constitution prevent the issue of taxation without representation?

* by allowing citizens to vote directly on how to fund the government
* by having a set budget and never changing it
* **by putting the House of Representatives in charge of the allocation of government funding**
* by setting aside funds specifically for executive departments and agencies

Question 3: Describe the concept of the bully pulpit.

* congressional efforts to pressure the president to sign legislation
* the use of the White House as a place of worship to preach to the American people
* the constitutional powers of the president to address the public
* **the president's use of the chief executive position to dominate an issue with the public and shape public opinion**

Question 4: Identify a historical example of a president using the bully pulpit.

* President Lyndon Johnson’s use of personal appeals to Congress to pass Great Society legislation
* President Trump’s veto of the 2020 Fiscal Year Defense Bill
* President Lincoln’s issue of the Emancipation Proclamation
* **President Franklin D. Roosevelt’s use of fireside chats to achieve passage of legislation easing the Great Depression**

Question 5: Explain how historians would characterize the use of executive orders for the first 100 years of American presidential history.

* **For the first 100 years of American history, despite significant societal changes, presidents deferred to congressional lawmaking to adapt to change.**
* There was very little change in the first 100 years of American history, making the need for executive orders very small.
* For the first 100 years of American history, presidential employment of executive orders was the highest in American history.
* There were significant changes, such as the Second Industrial Revolution and the Great Depression, and Congress was unwilling to act.

**Lesson 13 – American Judiciary**

**Objective 1:** Explain what role the judicial branch has in our government and why it is important to have an independent judiciary, as well as the rule of law in the American judicial system.

**Big Ideas**: The judicial branch is made up of three distinct levels of courts. The lowest level of federal court is district or trial court, which hears criminal and civil cases. Once the district court has decided on a case, the ruling can be appealed to the circuit court, also known as the court of appeals. The circuit court has nationwide jurisdiction over certain issues such as patents. Cases heard at this level can be appealed to the Supreme Court if either party chooses.

The Supreme Court is the highest court in the country and where cases are heard regarding potential constitutional violations. There are nine justices who make up the Supreme Court, with one justice having the title of chief justice, who is the head of the branch. The lifetime appointment for the justices means they will keep their position unless they decide to retire or resign. The main duty of the judicial branch is to interpret the law as it applies to cases brought before them and see if the Constitution has been violated, known as judicial review.

The combination of independent judiciary and the rule of law creates a society that is structured and stable.

* The judicial branch must be insulated from influence so that its decisions are based on what is right and just, not what is popular. This is known as *independent judiciary*. With the judicial branch working separately from the other branches and the judges and justices being given lifetime appointments, they can interpret law without influence from the other branches.
* The people are ruled by laws and retain rights established in the Constitution, agreeing to abide by laws that are created by the legislative branch and enforced by the executive branch, which is the concept of *rule of law*.

Once the Supreme Court has made a ruling, there are only two ways in which it can be changed: by a new court ruling later it or by an amendment to the Constitution.

*Brown v. Board of Education of Topeka* in 1954: This case was related to segregation in public schools. Initially, a U.S. District Court three-judge panel ruled in favor of the school board noting that schools were similar and thus equal. The case was appealed to the U.S. Supreme Court, which ruled that laws establishing segregation in public schools violated the equal protection clause within the Fourteenth Amendment and were therefore unconstitutional. The new decision led to updated legislative action based on the Supreme Court’s interpretation of the Constitution.

**Objective 2:** Describe the jurisdictions of the different levels of the federal court system.

**Big Ideas:** Federal courts operate under *limited jurisdiction*, which means that they can only hear cases that are criminal or civil that deal with constitutional law.

The federal court system has three levels that include district court, circuit court, and the Supreme Court. The district court is the first court that hears a case when a judge and jury are present. The circuit court is a panel of three judges that hears cases that have been appealed and can either confirm the previous ruling or overturn it. The Supreme Court, which is the highest, can make a ruling on any case brought to federal court.

In the U.S. there are 94 district or trial courts with at least one in each state. *Original jurisdiction* lies with the district court for federal cases.

Once a ruling or decision has been made in the district court, the case may be appealed to the circuit court by either the plaintiff or the defendant in the case. *Appellate jurisdiction* resides with the circuit court, giving them the ability to hear cases from the lower-level court.

The Supreme Court is the final stop in the federal court system and has both original and appellate jurisdiction. This court has the power to decide on appeals of any case that is brought in the federal court as well as new cases. The Supreme Court also has the ability to decide on cases at the state level that deal with federal law.

**Objective 3:** Analyze the advantages and disadvantages of lifetime appointments for federal judges, including a description of the tenure of federal judges.

**Big Ideas:** Article III of the U.S. Constitution establishes the federal court system. It outlines the process and requirements for the appointment, length of service, and payment of federal judges. Acting presidents appoint federal judges who receive *tenure*, or lifetime appointments. The Senate confirms the appointments of federal judges. By including the executive and legislative branches in this process, there are checks and balances that give equal power to the governmental structure.

**Advantages of Lifetime Tenure**: It is important for the judges to be able to clearly communicate their interpretations of the law as they oversee various cases throughout the years. Judges having tenure allows them to interpret cases based on law alone without fear of the president who appointed them retaliating if they disagree with the decisions.

**Disadvantages of Lifetime Tenure**: More frequent turnover of federal judges would allow for a more modern perspective and interpretation of the laws. The mental capacity and stamina of federal judges have been called into question as some judges approach age ranges beyond most of the working class.

**Objective 4:** Explain the powers of the U.S. Supreme Court and how it functions.

**Big Ideas:** The final and highest level of the federal court system is the Supreme Court. This court can hear appeals on any case that is brought in federal court as well as state cases that deal with federal law and has both original jurisdiction and appellate jurisdiction.

If a party is granted a *writ of certiorari*, or request to appeal to a high court, the Supreme Court will take the briefs from each side and hear their arguments. The rule of four states that four of the nine justices must vote to accept a case. If the writ is not granted, the original decision will stand.

The Supreme Court has the power to determine whether acts by the legislative or executive branches are constitutional through a doctrine known as judicial review.

**Key Words**:

* **appellate jurisdiction** – the authority of a court to hear appeals from lower-level courts
* ***Brown v. Board of Education of Topeka*** – the U.S. Supreme Court case that ruled that separate but equal educational facilities are inherently unequal
* **diversity jurisdiction** – a method used to allow federal courts the authority to hear civil cases involving parties who are citizens of two different states
* ***Dred Scott v. Sandford*** – the U. S. Supreme Court case that ruled that African Americans, whether enslaved or free, were not citizens of the United States and were not protected under the U.S. Constitution
* **independent judiciary**– the idea that the judiciary should be insulated from influence so that its decisions are based on what is right and just, not what is popular
* **judicial branch** – the branch of government that interprets laws, consisting of the U.S. Supreme Court and federal court system
* **judicial review** – the doctrine that the U.S. Supreme Court has the power to determine whether the actions of the legislative branch or the executive branch are constitutional
* **limited jurisdiction** – the authority of a court to hear only certain types of cases
* **original jurisdiction** – the authority of the court to hear cases for the first time based on evidence
* **rule of four** – the rule that four of the justices need to be in agreement before a case can be added to the Supreme Court’s calendar
* **rule of law**– the restriction of the arbitrary use of government power based on well-defined and established laws
* **writ of certiorari** – the process by which information about a case is sent to a higher court from a lower court

**Quick Check**

Question 1: Explain the responsibilities of the judicial branch.

* The judicial branch carries out the laws.
* The judicial branch is required to make laws for all citizens to follow.
* The judicial branch creates the rule of law in the United States.
* **The judicial branch is required to interpret the meaning of the laws and provide a ruling on court cases.**

Question 2: Which phrase describes the level of the district court?

* when the plaintiff and defendant reside in different states
* the court of appeals that is second in the federal court system
* **the starting point for any case in federal court**
* the highest court in the federal court system

Question 3: Which statement best analyzes the disadvantages of lifetime appointments for federal judges?

* Judges are appointed by the president and confirmed by the Senate, making them more vulnerable to influenced decision-making.
* **Diminished mental clarity and stamina could impede judges from fully carrying out their assigned duties without age and term limits.**
* Less frequent turnover creates problems with positions being available for new judges being appointed.
* Appointment by the president who appointed them can sway their rulings.

Question 4: What is the reason for giving the president the power to make federal judge appointments?

* The acting president appoints federal judges to make the executive branch more powerful than the legislative branch.
* The acting president appoints federal judges so they can choose individuals who will rule on cases in their favor.
* **The acting president appoints federal judges as a way to enforce the system of checks and balances.**
* The acting president appoints federal judges that will carry out their wishes after they have left office.

Question 5: Which answer best defines the power given to the Supreme Court in regard to original and appellate jurisdiction?

* The Supreme Court is only provided appellate jurisdiction if the case has previously been heard in a lower court.
* The Supreme Court has complete jurisdiction in all cases at a state and federal level.
* **The Supreme Court has original jurisdiction over any case involving constitutional law or federal statutes and has appellate jurisdiction from lower courts.**
* The Supreme Court is only provided original jurisdiction and is not able to hear appeals on a case.

**Lesson 14 – Supreme Court**

**Objective 1:** Explain the roles of the president and the Senate in the appointment of Supreme Court justices.

**Big Ideas**: The president is responsible for nominating federal judges and justices, and the Senate confirms those nominations. Having the legislative and executive branches participate in the appointments for federal judges and justices creates the system of checks and balances that keeps one branch from becoming more powerful than the others.

The president gets information and suggestions from trusted sources to help make the decision about whom to nominate. They also look at the experience, political party, and background of potential nominees. Traditionally, the practice of *senatorial courtesy* is given for new nominations where the president consults the senators of a given state before nominating any person to a federal vacancy within the senators’ state.

Once the president has made a nomination, it is sent to the Senate Judiciary Committee, which listens to sworn statements from the nominee and asks them questions. Background checks through the Federal Bureau of Investigation, the Internal Revenue Service, Office of Government Ethics, and agency-specific ethics offices are ordered.

Following the hearing, the Judiciary Committee sends its recommendation on the nominee to either confirm or reject the president’s nomination of the candidate to the full Senate for debate.

The Senate used to have unlimited debates, known as a *filibuster*. A required vote of three-fifths or 60 Senators, known as *cloture*, was needed to end the debate. In 2017, the Senate changed the rule, allowing for a simple majority vote of 51 senators to end a debate for Supreme Court nominations. If there is a tie in the voting procedure, the vice president casts the final deciding vote.

**Objective 2:** Explain how policy differences between branches and levels of government are resolved by the Supreme Court.

**Big Ideas:** It is the responsibility of the Supreme Court to resolve disputes between the other branches of government. Some state cases might end up in federal court, depending on the type of dispute or crime.

The Supreme Court uses *judicial review* and can declare laws and presidential actions unconstitutional. This power lets the court review acts by Congress and the president. The power of judicial review is not explicitly stated in the Constitution. It was established in the *Marbury v. Madison* case of 1803.

The Supreme Court interprets the law to decide whether certain actions by the legislative branch go against the Constitution. This is how the judicial branch checks the power of the legislative branch. It does this to ensure that the rights of the people are protected, and that all laws passed by Congress are constitutional.

Presidential actions and executive orders can be reviewed and ruled unconstitutional. It is the job of the Supreme Court to interpret and decide if the president has violated any part of the Constitution or the rights of the people.

The Supreme Court hears disputes on constitutional law from any level of the government. Cases can be reviewed from state supreme courts, lower federal courts, or direct appeal if they revolve around conflicts of rights given to the people.

**Objective 3:** Explain how the power of judicial review held by the Supreme Court is used to check the powers of the other two branches of government.

**Big Ideas:** The Supreme Court falls within the judicial branch and checks the legislative and executive branches through a process known as judicial review, where laws made by Congress or executive orders made by the president can be ruled unconstitutional. The purpose of judicial review is to allow for a balance of powers within the three branches of government. The Supreme Court uses the power of judicial review to check the other branches and make sure that laws made by Congress and executive orders by the president are constitutional.

The case of *United States v. Alvarez* shows how the Supreme Court reviews laws passed by Congress and decides whether they are legal to make sure that Congress is acting in accordance with the Constitution. The decision of the Supreme Court is final, and the president can make an order that redefines items listed in the initial law, while Congress can revise its initial law and make a new one that aligns with the Constitution.

**Key Words**:

* **cloture** – a procedure used to end a filibuster in the Senate
* **filibuster** – a process used by members of the minority party in the Senate to extend debate to delay or prevent the passage of legislation
* **judicial review** – the doctrine that the U.S. Supreme Court has the power to determine whether the actions of the legislative branch or the executive branch are constitutional
* **senatorial courtesy** – a custom in the U.S. Senate by which the president consults the senators of a given state before nominating any person to a federal vacancy within the senators’ state

**Quick Check**

Question 1: What best explains the president’s role in Supreme Court justice nominations?

* The legislative and executive branch make the nominations together before the Senate votes on them.
* The president votes on the final nominees after the Senate nominates candidates.
* The Senate selects the nominees and votes on them while the president signs off on their selection.
* **The president makes the final nominations to the Senate after they decide on the best candidates.**

Question 2: Which answer best explains the power of judicial review used by the Supreme Court to resolve policy differences?

* the power to nominate members of Congress for their terms
* **the power to determine whether acts by the legislative and executive branches are constitutional**
* the power to impeach a president for unconstitutional executive orders
* the power to assist the executive and legislative branches in the creation of policies

Question 3: Which item gives the Supreme Court the ability to resolve policy differences between the branches?

* executive order
* judicial review
* writ of mandamus
* **the Constitution**

Question 4: Which statement best explains the power of judicial review held by the Supreme Court?

* **the review of congressional or presidential acts to make sure they are constitutional**
* the review of acts of Congress to make sure they are constitutional
* the review of all laws within the United States at any level to make sure they are constitutional
* the review of executive orders issues by the president to make sure they are constitutional

Question 5: What doctrine gives the Supreme Court the authority to check the executive and legislative branches?

* **judicial review**
* *Marbury v. Madison*
* appellate jurisdiction
* original jurisdiction

**Lesson 15 – Judicial Process and Concepts**

**Objective 1:** Describe the Supreme Court’s process when issuing majority, concurring, and dissenting opinions.

**Big Ideas**: The process for deciding which cases will be reviewed begins when briefs are filed, and the Supreme Court justices vote to accept and review a case. The brief filed by each side gives the court an idea of each side’s stance before justices review the details of a case and hear each side’s arguments. Following verbal arguments, the Supreme Court holds a private conference where the justices vote on how to decide the case. Nine justices make up the Supreme Court, and all can participate in a vote. The final opinion of the Supreme Court will be written up and include the outcome and reasoning decided by the justices.

**Majority Opinion**: When five of the nine justices share a judicial opinion, they issue a majority opinion, which becomes law. The decision of the court can either reverse an earlier decision on the case or *affirm* that the previous ruling of the case was correct. The court also can reverse the decision of the lower court if the justices find a constitutional issue, or *vacate* the previous court’s ruling, which would cancel it. In a *per curiam* opinion, a majority opinion of at least five justices must still be present. But it is not always clear which justices were part of the majority.

**Concurring Opinion**: Concurring opinion, or *concurrence*, includes the judicial opinion of a justice who also voted with the majority but disagrees with the reasoning. A concurrence explains the vote and rationale of the justice and can discuss parts of the decision. In a concurring opinion, the outcome is still the same, but the reason the justice believes the outcome to be accurate can be from a different perspective on the case.

**Dissenting Opinion**: Dissenting opinion, or *dissent*, explains a justice’s opinion that differs from the majority. A dissenting opinion is often issued at the same time as the majority opinion and explains why the justice disagrees with the majority opinion.

**Objective 2:** Describe the Supreme Court’s process to grant a writ of certiorari.

**Big Ideas:** A writ of certiorari is used when a party requests a lower court to send the records of their case up to the Supreme Court for further review. The Supreme Court is not obligated to hear a case, and the justices decide if they will review the case from the lower court.

Rule 10 of the Supreme Court starts the process and describes how cases can be considered for review, stating “a writ of certiorari is not a matter of right, but of judicial discretion.” The process the Supreme Court uses to grant a writ of certiorari begins with the initial vote to accept the case. For a case to be reviewed, a minimum of four justices of the court must vote in favor of reviewing the case. Once the vote has taken place, the case is added to the court’s calendar for further review. A deciding factor in the vote is if the person requesting the review will be directly affected by the vote.

A case that does not receive at least four votes will have its writ of certiorari denied. A denial does not mean that the Supreme Court agrees with the lower court’s decision, but that the case does not have enough favor to be reviewed and so the previous ruling will stand.

**Objective 3:** Review concepts of judicial restraint and judicial activism while determining how they contrast and affect court decisions.

**Big Ideas:** *Judicial activism* is warranted when there is a clear violation of the Constitution. When it seems that there can be no other resolution between parties, the Supreme Court intervenes and becomes active in the resolution.

*Judicial restraint* supports the main concepts of democratic self-government. By refusing to exercise judicial review on certain issues, the Supreme Court allows the people to participate in democracy through their elected representatives, making this the more desired approach. If a case can be decided by another court, it is best if the Supreme Court exercises restraint. Only as a last resort in resolving disputes or reviewing constitutional issues should the court step in to make a final decision.

*Originalism* and *pragmatism* are two philosophies justices use to interpret the Constitution during judicial review. Originalism is a philosophy in which a judge interprets the Constitution based its original meaning, historical context, and intent of the framers, or those who drafted and signed the document. The philosophy of judicial pragmatism gives more leverage to judicial precedent and allows the judge to take into consideration the current societal norms and values when deciding cases.

**Key Words**:

* **affirm** – a ruling by the Supreme Court that upholds the previous ruling on a case
* **concurring opinion** – an opinion that agrees with the majority opinion but not the reason for the ruling
* **dissenting opinion** – an opinion that disagrees with the majority on a case
* **judicial activism** – the ruling on laws based on political or personal views that lead to a preferred or desired outcome regardless of the law that is written
* **judicial pragmatism**– a theory of analysis that uses societal norms as well as present and future needs as a driver for decision making
* **judicial restraint** – the idea that judges should not rule on matters of the constitutionality of the actions of the executive or legislative branch because those matters should be decided by the voting public
* **majority opinion** – the official ruling of the Supreme Court on a case with a minimum of five justice votes
* **originalism** – a way of understanding the constitution based on the ideas and intentions of the framers
* **per curiam opinion** – an opinion issued by the Supreme Court that does not identify the justice who wrote the opinion
* **vacate** – a Supreme Court decision on a case that cancels the previous ruling
* **writ of certiorari** – the process by which information about a case is sent to a higher court from a lower court

**Quick Check**

Question 1: What statement best describes the process used by the Supreme Court to issue an opinion?

* **The Supreme Court receives briefs and oral arguments from both sides before justices privately review the case and conduct a vote to issue their final opinion.**
* A single Supreme Court justice will review briefs, listen to oral arguments, and decide on the outcome of a case before issuing the final opinion.
* A select group of Supreme Court justices will hear oral arguments and decide whether the case should be heard by all the justices before accepting to review the case.
* The Supreme Court justices listen to briefs and oral arguments from both sides and will publicly debate the case to vote and decide on their final opinion.

Question 2: A minimum of five justice votes must be included for what type of opinion to be issued?

* per curiam opinion
* **majority opinion**
* concurrent opinion
* dissenting opinion

Question 3: What best describes the process used by the Supreme Court to grant a writ of certiorari?

* The court must review all cases where a review is requested.
* A majority vote of five justices requires a review of the case.
* A unanimous vote by the justices grants a review of the case.
* **A vote of four justices can grant a review of the case.**

Question 4: What type of jurisdiction gives the Supreme Court the authority to grant a writ of certiorari?

* original jurisdiction
* Rule 10
* **appellate jurisdiction**
* appellate and original jurisdiction

Question 5: What is the contrast between judicial restraint and judicial activism in the Supreme Court?

* Judicial restraint means the court takes ownership of the issues; judicial activism means the court has a lot of power.
* **Judicial restraint means the court does not get involved; judicial activism means the court reviews the action.**
* Judicial restraint means the court reviews the action; judicial activism means the court does not get involved.
* Judicial restraint means the court does not include its own preferences; judicial activism means the court is silent on the issues of the branches.

**Lesson 16 – Interpreting the Constitution**

**Objective 1:** Contrast the concepts of strict and loose construction and how they lead to different interpretations of the U.S. Constitution.

**Big Ideas:** *Loose construction* and *strict construction* are two different approaches to interpreting the Constitution. Loose construction is a broad interpretation of the U.S. Constitution in which the document is treated as a living document. Strict construction interprets the U.S. Constitution exactly as it is written.

Both arguments were based on the Constitution’s necessary and proper clause, also known as the *elastic clause*, as outlined in Article 1, Section 8, Clause 18 of the Constitution. The elastic clause allows Congress the power to pass laws that are deemed “necessary and proper” to help Congress to carry out the enumerated powers. These words meant something different to loose and strict constructivist interpretations.

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**Objective 2:** Identify how the Supreme Court’s decisions in *Mapp v. Ohio*, *Miranda v. Arizona*, and *Gideon v. Wainwright* affect constitutional interpretation.

**Big Ideas:** Constitutional interpretation is important because the Constitution can often be ambiguous, as the intent of its authors isn’t always clear. Decisions on cases can be impacted depending on how different judges interpret the Constitution.

***Mapp v. Ohio***: The Fourth Amendment protects people from unreasonable searches and seizures by the government. At the time of the case, illegally seized evidence was banned only from federal courts but not in state courts. Because federal courts prohibited the use of illegally obtained evidence, the U.S. Supreme Court examined the constitutionality of search-and-seizure usage in state courts.

The Fourth Amendment protects against unreasonable searches and seizures, and the Fourteenth Amendment extends that protection to state jurisdictions. The Supreme Court stated that the Fourteenth Amendment justified the application of the Fourth Amendment to the states. This interpretation of the Constitution changed the way state law enforcement carried out procedures and the Supreme Court adopted the exclusionary rule as a national standard.

***Miranda v. Arizona***: The Miranda v. Arizona case was a result of constitutional interpretation because the Miranda warnings were not part of the original text of the Fifth and Sixth Amendments of the Constitution and were the basis of the ruling decision in this case. Since this case, these warnings were created and must be given by law enforcement to inform suspects of their right to remain silent and their right to an attorney.

***Gideon v. Wainwright***: The original wording of the Sixth Amendment had always been interpreted by the courts as only forbidding the state from denying a defense attorney at trial. However, in this case, the Supreme Court reconsidered the nature of the Sixth Amendment and Fourteenth Amendment. They concluded that by denying court-appointed attorneys, the state courts were denying a defendant the right to a fair trial. This case decision was a result of constitutional interpretation by the Supreme Court and made a significant impact on the criminal justice system by requiring state courts to appoint the right to counsel.

**Objective 3:** Identify how the Supreme Court’s decisions in *Roe v. Wade*, *U.S. v. Eichman*, and *McDonald v. Chicago* affect constitutional interpretation.

**Big Ideas:** Justices are required to interpret and apply the Constitution to new situations that are not explicitly outlined in the Constitution. Some Supreme Court justices, however, do not always support constitutional interpretation and believe the Constitution should be interpreted exactly as it is written. In the following cases, differing interpretations of the Constitution led to different outcomes and rulings that continue to impact the rights of citizens and the laws within the states.

***Roe v. Wade***: The Supreme Court decided that a woman’s right to an abortion is a right to personal privacy, which is protected by the Fourteenth Amendment. This ruling struck down the Texas law banning abortion. The constitutional right to privacy that is interpreted from the due process clause of the Fourteenth Amendment does not exactly state that citizens have a right to privacy. This broad interpretation has been recognized as a right as far back as the early 1890s. In this case, the Supreme Court interpreted the Constitution as saying that the right to privacy extends to a woman’s control over her pregnancy.

* On June 24, 2022, the Supreme Court overturned *Roe v. Wade*, reversing 49 years of established precedent in the *Dobbs v. Jackson Women’s Health Organization* case. The majority opinion states that abortion is not an essential component of liberty because it is not explicitly mentioned in the Fourteenth Amendment, thereby leaving the legality of abortion to be decided by each state. The dissenting opinion argues that women have lost the constitutional protection of liberty and equality that are guaranteed by the Fourteenth Amendment because of the *Dobbs v. Jackson* decision.

***United States v. Eichman***: Although flag burning is not explicitly stated under the First Amendment, the Supreme Court interpreted the Constitution to conclude that flag burning is a freedom of expression and that denying citizens that freedom suppresses their right to free expression.

***McDonald v. Chicago***: The majority opinion of the Supreme Court said the Second Amendment did apply and was included in the Fourteenth Amendment’s due process clause. The dissenting opinion of the justices disagreed and stated that owning a firearm was not a liberty protected by the due process clause. They continued that there was not any text in the Constitution that specifies owning a personal firearm as a fundamental right justified through the Fourteenth Amendment.

**Objective 4:** Assess the rulings made in *Marbury v. Madison* and *McCulloch v. Maryland* and how they affect the understanding of the U.S. Constitution.

**Big Ideas**: In some cases, there are debates about what powers are granted to the federal government and what powers are granted to the states. In the landmark cases of *Marbury v. Madison*and McCulloch *v. Maryland*, constitutional powers were in question. Both of these landmark cases resulted in the expansion of federal power. With *Marbury* *v. Madison*, congressional acts and executive orders are subject to review by the Supreme Court. In the case of *McCulloch v. Maryland*, Congress was granted expanded power.

***Marbury v. Madison***: In the 1803 landmark case of *Marbury v. Madison*, the principle of judicial review was established in federal courts. Judicial review is the authority of the U.S. Supreme Court to determine whether the actions of the legislative or executive branches are constitutional.

***McCulloch v. Maryland***: The court stated that the Constitution has *expressed powers*, also known as *enumerated powers*, which are powers explicitly stated in the Constitution. The power to establish a federal bank is not one of those powers. However, the federal government also has *implied powers*, or political powers delegated to the United States government that are not explicitly stated in the Constitution, that are outlined in Article 1, Section 8 of the Constitution. This necessary and proper clause gave Congress the power to establish a national bank.

The court also ruled that Maryland’s tax on the federal bank was unconstitutional and allowing a state to tax the federal government would impede the federal government from executing its constitutional powers. Article VI of the Constitution states that the Constitution is the supreme law of the land and states cannot pass laws that impede the federal government in executing powers given by the Constitution. The impact of this decision expanded federal power and provided Congress more authority and powers not stated in the Constitution.

**Key Words:**

* **constitutional interpretation** – when judges have a different viewpoint of the Constitution and how it is applied to court cases and legislation
* **elastic clause** – the last clause of Article 1, Section 8 that gives Congress the flexibility to make laws that are necessary and proper for carrying out the powers listed in the same section known as the enumerated powers
* **enumerated powers**– the specific powers of the national government listed in the Constitution
* **expressed powers**– part of the delegated powers that are explicitly stated in the Constitution
* **Fifth Amendment** – the part of the Bill of Rights that protects people accused of a crime by requiring a grand jury, prohibiting trials for the same crime twice, preventing self-incrimination, and prohibiting the taking of private property without compensation
* **Fourteenth Amendment** – an amendment to the U.S. Constitution, part of which includes the due process and equal protection clauses, which reads, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”
* **Fourth Amendment** – the part of the Bill of Rights that protects people from unreasonable searches
* **implied powers** – political powers delegated to the U.S. government that are not explicitly stated in the Constitution
* **judicial activism**– the idea that a judge should consider the ramifications of the actions of the legislative and judicial branches rather than merely the constitutionality of those actions
* **loose construction** – a broad interpretation of the U.S. Constitution in which the document is treated as a living document that can change as the nation changes and should give the federal government powers to do what is necessary
* ***Marbury v. Madison***– U.S. Supreme Court decision that established the doctrine of judicial review
* ***McCulloch v. Maryland***– Supreme Court case where the court adopted a “loose” interpretation of the necessary and proper clause, allowing an expansion of implied powers
* **Miranda warning** – the rights notification given by police that came from a U.S. Supreme Court case that ruled that suspects must be advised of their right to remain silent and their right to an attorney
* **strict construction** – the interpretation of the Constitution exactly as it is written, which provides limited powers to the federal government
* **Sixth Amendment** – the part of the Bill of Rights that protects people accused of a crime by requiring a speedy and public trial, requiring an impartial jury, identifying the specific crime committed, making witness testimony public, and providing a lawyer for the accused
* **Tenth Amendment**– the part of the Constitution that states that the powers not given to the national government, nor denied to the states, are left to the states

**Quick Check**

Question 1: Which statement accurately contrasts the concepts of loose construction and strict construction?

* Loose construction interprets the Constitution as the original intent of its authors, whereas strict construction allows for interpretations to reflect modern-day issues.
* Loose construction was favored by the Anti-Federalists and strict construction was favored by the Federalists.
* **Loose construction is a broad interpretation of the Constitution, whereas strict construction interprets the Constitution exactly as it is written.**
* Loose construction allows for limited federal power, whereas strict construction allows for more federal power.

Question 2: Which statement best identifies the impact of constitutional interpretation?

* Constitutional interpretations create new amendments.
* Constitutional interpretations lead to disputes between state and federal courts.
* Constitutional interpretations do not impact a Supreme Court decision.
* **Constitutional interpretations can lead to a change in law enforcement procedures.**

Question 3: How did the ruling in the *Miranda v. Arizona* case change law enforcement procedures?

* **Law enforcement must read a suspect their Miranda rights prior to being interrogated.**
* Law enforcement may search a home without a warrant.
* Law enforcement may interrogate a suspect without the presence of an attorney.
* Law enforcement may question a suspect before reading a suspect their rights.

Question 4: Which statement best identifies how the Second Amendment was interpreted in the *McDonald v. Chicago* case?

* The Second Amendment was interpreted to include the rights included in the First Amendment.
* The Supreme Court extended rights that are not explicitly outlined in the Constitution.
* The Supreme Court does not have the authority to interpret any amendment in the Constitution.
* **The Second Amendment was interpreted to include the due process clause of the Fourteenth Amendment.**

Question 5: Which statement best assesses the impact of the cases *Marbury v. Madison* and *McCulloch v. Maryland* on the Constitution?

* Both cases increased the powers of the executive branch.
* Both cases did not increase any federal power.
* Both cases increased the powers of the judicial branch.
* **Both cases increased the powers of the federal government.**