

# **THE THREE BRANCHES OF GOVERNMENT**

*SUPPLEMENTAL READINGS*

**Class 03**

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*Our Government*

# The Executive Branch

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The power of the Executive Branch is vested in the President of the United States, who also acts as head of state and Commander-in-Chief of the armed forces. The President is responsible for implementing and enforcing the laws written by Congress and, to that end, appoints the heads of the federal agencies, including the Cabinet. The Vice President is also part of the Executive Branch, ready to assume the Presidency should the need arise.

The Cabinet and independent federal agencies are responsible for the day-to-day enforcement and administration of federal laws. These departments and agencies have missions and responsibilities as widely divergent as those of the Department of Defense and the Environmental Protection Agency, the Social Security Administration and the Securities and Exchange Commission.

Including members of the armed forces, the Executive Branch employs more than 4 million Americans.

## The President

The President is both the head of state and head of government of the United States of America, and Commander-in-Chief of the armed forces.

Under Article II of the Constitution, the President is responsible for the execution and enforcement of the laws created by Congress. Fifteen executive departments — each led by an appointed member of the President’s Cabinet — carry out the day-to-day administration of the federal government. They are joined in this by other executive agencies such as the CIA and Environmental Protection Agency, the heads of which are not part of the Cabinet, but who are under the full authority of the President. The President also appoints the heads of more than 50 independent federal commissions, such as the Federal Reserve Board or the Securities and Exchange Commission, as well as federal judges, ambassadors, and other federal offices. The Executive Office of the President (EOP) consists of the immediate staff to the President, along with entities such as the Office of Management and Budget and the Office of the United States Trade Representative.

The President has the power either to sign legislation into law or to veto bills enacted by Congress, although Congress may override a veto with a two-thirds vote of both houses. The Executive Branch conducts diplomacy with other nations, and the President has the power to negotiate and sign treaties, which also must be ratified by two-thirds of the Senate. The President can issue executive orders, which direct executive officers or clarify and further existing laws. The President also has unlimited power to extend pardons and clemencies for federal crimes, except in cases of impeachment.

With these powers come several responsibilities, among them a constitutional requirement to “from time to time give to the Congress Information of the State of the

Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient.” Although the President may fulfill this requirement in any way he or she chooses, Presidents have traditionally given a State of the Union address to a joint session of Congress each January (except in inaugural years) outlining their agenda for the coming year.

The Constitution lists only three qualifications for the Presidency — the President must be 35 years of age, be a natural born citizen, and must have lived in the United States for at least 14 years. And though millions of Americans vote in a presidential election every four years, the President is not, in fact, directly elected by the people. Instead, on the first Tuesday in November of every fourth year, the people elect the members of the Electoral College. Apportioned by population to the 50 states — one for each member of their congressional delegation (with the District of Columbia receiving 3 votes) — these Electors then cast the votes for President. There are currently 538 electors in the Electoral College.

President Donald J. Trump is the 45th President of the United States. He is, however, only the 44th person ever to serve as President; President Grover Cleveland served two nonconsecutive terms, and thus is recognized as both the 22nd and the 24th President. Today, the President is limited to two four-year terms, but until the 22nd Amendment to the Constitution, ratified in 1951, a President could serve an unlimited number of terms. Franklin Delano Roosevelt was elected President four times, serving from 1932 until his death in 1945; he is the only President ever to have served more than two terms.

By tradition, the President and the First Family live in the White House in Washington, D.C., also the location of the President’s Oval Office and the offices of the his senior staff. When the President travels by plane, his aircraft is designated Air Force One; he may also use a Marine Corps helicopter, known as Marine One while the President is on board. For ground travel, the President uses an armored Presidential limousine.

## The Vice President

The primary responsibility of the Vice President of the United States is to be ready at a moment's notice to assume the Presidency if the President is unable to perform his duties. This can be because of the President's death, resignation, or temporary incapacitation, or if the Vice President and a majority of the Cabinet judge that the President is no longer able to discharge the duties of the presidency.

The Vice President is elected along with the President by the Electoral College — each elector casts one vote for President and another for Vice President. Before the ratification of the 12th Amendment in 1804, electors only voted for President, and the person who received the second greatest number of votes became Vice President.

The Vice President also serves as the President of the United States Senate, where he or she casts the deciding vote in the case of a tie. Except in the case of tiebreaking votes, the Vice President rarely actually presides over the Senate. Instead, the Senate selects one of their own members, usually junior members of the majority party, to preside over the Senate each day.

Michael R. Pence is the 48th Vice President of the United States. Of the 47 previous Vice Presidents, nine have succeeded to the Presidency, and four have been elected to the Presidency in their own right. The duties of the Vice President, outside of those enumerated in the Constitution, are at the discretion of the current President. Each Vice President approaches the role differently — some take on a specific policy portfolio, others serve simply as a top adviser to the President.

The Vice President has an office in the West Wing of the White House, as well as in the nearby Eisenhower Executive Office Building. Like the President, he also maintains an official residence, at the United States Naval Observatory in Northwest Washington, D.C. This peaceful mansion, has been the official home of the Vice President since 1974 — previously, Vice Presidents had lived in their own private residences. The Vice President also has his own limousine, operated by the United States Secret Service,

and flies on the same aircraft the President uses — but when the Vice President is aboard, the craft are referred to as Air Force Two and Marine Two.

## **Executive Office of the President**

Every day, the President of the United States is faced with scores of decisions, each with important consequences for America's future. To provide the President with the support that he or she needs to govern effectively, the Executive Office of the President (EOP) was created in 1939 by President Franklin D. Roosevelt. The EOP has responsibility for tasks ranging from communicating the President's message to the American people to promoting our trade interests abroad.

The EOP, overseen by the White House Chief of Staff, has traditionally been home to many of the President's closest advisers. While Senate confirmation is required for some advisers, such as the Director of the Office of Management and Budget, most are appointed with full Presidential discretion. The individual offices that these advisers oversee have grown in size and number since the EOP was created. Some were formed by Congress, others as the President has needed them — they are constantly shifting as each President identifies his needs and priorities, with the current EOP employing over 1,800 people.

Perhaps the most visible parts of the EOP are the White House Communications Office and Press Secretary's Office. The Press Secretary provides daily briefings for the media on the President's activities and agenda. Less visible to most Americans is the National Security Council, which advises the President on foreign policy, intelligence, and national security.

There are also a number of offices responsible for the practicalities of maintaining the White House and providing logistical support for the President. These include the White House Military Office, which is responsible for services ranging from Air Force One to the dining facilities, and the Office of Presidential Advance, which prepares sites remote from the White House for the President's arrival.

Many senior advisors in the EOP work near the President in the West Wing of the White House. However, the majority of the staff is housed in the Eisenhower Executive Office Building, just a few steps away and part of the White House compound.

## The Cabinet

The Cabinet is an advisory body made up of the heads of the 15 executive departments. Appointed by the President and confirmed by the Senate, the members of the Cabinet are often the President's closest confidants. In addition to running major federal agencies, they play an important role in the Presidential line of succession — after the Vice President, Speaker of the House, and Senate President pro tempore, the line of succession continues with the Cabinet offices in the order in which the departments were created. All the members of the Cabinet take the title Secretary, excepting the head of the Justice Department, who is styled Attorney General.

### DEPARTMENT OF AGRICULTURE

The U.S. Department of Agriculture (USDA) develops and executes policy on farming, agriculture, and food. Its aims include meeting the needs of farmers and ranchers, promoting agricultural trade and production, assuring food safety, protecting natural resources, fostering rural communities, and ending hunger in America and abroad.

The USDA employs more than 100,000 employees and has an annual budget of approximately \$95 billion. It consists of 17 agencies, including the Animal and Plant Health Inspection Service, the Food and Nutrition Service, and the Forest Service. The bulk of the department's budget goes towards mandatory programs that provide services required by law, such as programs designed to provide nutrition assistance, promote agricultural exports, and conserve our environment.

The USDA also plays an important role in overseas aid programs by providing surplus foods to developing countries.

The United States Secretary of Agriculture administers the USDA.

## **DEPARTMENT OF COMMERCE**

The Department of Commerce is the government agency tasked with improving living standards for all Americans by promoting economic development and technological innovation.

The department supports U.S. business and industry through a number of services, including gathering economic and demographic data, issuing patents and trademarks, improving understanding of the environment and oceanic life, and ensuring the effective use of scientific and technical resources. The agency also formulates telecommunications and technology policy, and promotes U.S. exports by assisting and enforcing international trade agreements.

The Secretary of Commerce oversees a \$6.5 billion budget and approximately 38,000 employees.

## **DEPARTMENT OF DEFENSE**

The mission of the Department of Defense (DOD) is to provide the military forces needed to deter war and to protect the security of our country. The department's headquarters is at the Pentagon.

The DOD consists of the Departments of the Army, Navy, and Air Force, as well as many agencies, offices, and commands, including the Joint Chiefs of Staff, the Pentagon Force Protection Agency, the National Security Agency, and the Defense Intelligence Agency. The DOD occupies the vast majority of the Pentagon building in Arlington, VA.

The Department of Defense is the largest government agency, with more than 1.3 million men and women on active duty, nearly 700,000 civilian personnel, and 1.1



million citizens who serve in the National Guard and Reserve forces. Together, the military and civilian arms of DOD protect national interests through war-fighting, providing humanitarian aid, and performing peacekeeping and disaster relief services.

#### **DEPARTMENT OF EDUCATION**

The mission of the Department of Education is to promote student achievement and preparation for competition in a global economy by fostering educational excellence and ensuring equal access to educational opportunity.

The Department administers federal financial aid for education, collects data on America's schools to guide improvements in education quality, and works to complement the efforts of state and local governments, parents, and students. The U.S. Secretary of Education oversees the Department's 4,200 employees and \$68.6 billion budget.

#### **DEPARTMENT OF ENERGY**

The mission of the Department of Energy (DOE) is to advance the national, economic, and energy security of the United States.

The DOE promotes America's energy security by encouraging the development of reliable, clean, and affordable energy. It administers federal funding for scientific research to further the goal of discovery and innovation — ensuring American economic competitiveness and improving the quality of life for Americans. The DOE is also tasked with ensuring America's nuclear security, and with protecting the environment by providing a responsible resolution to the legacy of nuclear weapons production.

The United States Secretary of Energy oversees a budget of approximately \$23 billion and more than 100,000 federal and contract employees.

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

The Department of Health and Human Services (HHS) is the United States government's principal agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. Agencies of HHS conduct health and social science research, work to prevent disease outbreaks, assure food and drug safety, and provide health insurance.

In addition to administering Medicare and Medicaid, which together provide health insurance to one in four Americans, HHS also oversees the National Institutes of Health, the Food and Drug Administration, and the Centers for Disease Control.

The Secretary of Health and Human Services oversees a budget of approximately \$700 billion and approximately 65,000 employees. The Department's programs are administered by 11 operating divisions, including 8 agencies in the U.S. Public Health Service and 3 human services agencies.

## **DEPARTMENT OF HOMELAND SECURITY**

The missions of the Department of Homeland Security are to prevent and disrupt terrorist attacks; protect the American people, our critical infrastructure, and key resources; and respond to and recover from incidents that do occur. The third largest Cabinet department, DHS was established by the Homeland Security Act of 2002, largely in response to the terrorist attacks on September 11, 2001. The new department consolidated 22 executive branch agencies, including the U.S. Customs Service, the U.S. Coast Guard, the U.S. Secret Service, the Transportation Security Administration, and the Federal Emergency Management Agency.

DHS employs 216,000 people in its mission to patrol borders, protect travelers and our transportation infrastructure, enforce immigration laws, and respond to disasters and emergencies.

The agency also promotes preparedness and emergency prevention among citizens. Policy is coordinated by the Homeland Security Council at the White House, in cooperation with other defense and intelligence agencies, and led by the Assistant to the President for Homeland Security.

#### **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

The Department of Housing and Urban Development (HUD) is the federal agency responsible for national policies and programs that address America's housing needs, that improve and develop the nation's communities, and that enforce fair housing laws. The Department plays a major role in supporting homeownership for lower- and moderate-income families through its mortgage insurance and rent subsidy programs.

Offices within HUD include the Federal Housing Administration, which provides mortgage and loan insurance; the Office of Fair Housing and Equal Opportunity, which ensures all Americans equal access to the housing of their choice; and the Community Development Block Grant Program, which helps communities with economic development, job opportunities, and housing rehabilitation. HUD also administers public housing and homeless assistance.

The Secretary of Housing and Urban Development oversees approximately 9,000 employees on a budget of approximately \$40 billion.

#### **DEPARTMENT OF THE INTERIOR**

The Department of the Interior (DOI) is the nation's principal conservation agency. Its mission is to protect America's natural resources, offer recreation opportunities, conduct scientific research, conserve and protect fish and wildlife, and honor our trust responsibilities to American Indians, Alaskan Natives, and our responsibilities to island communities.

DOI manages 500 million acres of surface land, or about one-fifth of the land in the United States, and manages hundreds of dams and reservoirs. Agencies within the DOI include the Bureau of Indian Affairs, the Minerals Management Service, and the U.S. Geological Survey. The DOI manages the national parks and is tasked with protecting endangered species.

The Secretary of the Interior oversees about 70,000 employees and 200,000 volunteers on a budget of approximately \$16 billion. Every year it raises billions in revenue from energy, mineral, grazing, and timber leases, as well as recreational permits and land sales.

## **DEPARTMENT OF JUSTICE**

The mission of the Department of Justice (DOJ) is to enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.

The DOJ is comprised of 40 component organizations, including the Drug Enforcement Administration, the Federal Bureau of Investigation, the U.S. Marshals, and the Federal Bureau of Prisons. The Attorney General is the head of the DOJ and chief law enforcement officer of the federal government. The Attorney General represents the United States in legal matters, advises the President and the heads of the executive departments of the government, and occasionally appears in person before the Supreme Court.

With a budget of approximately \$25 billion, the DOJ is the world's largest law office and the central agency for the enforcement of federal laws.

## **DEPARTMENT OF LABOR**

The Department of Labor oversees federal programs for ensuring a strong American workforce. These programs address job training, safe working conditions, minimum hourly wage and overtime pay, employment discrimination, and unemployment insurance.

The Department of Labor's mission is to foster and promote the welfare of the job seekers, wage earners, and retirees of the United States by improving their working conditions, advancing their opportunities for profitable employment, protecting their retirement and health care benefits, helping employers find workers, strengthening free collective bargaining, and tracking changes in employment, prices, and other national economic measurements.

Offices within the Department of Labor include the Bureau of Labor Statistics, the federal government's principal statistics agency for labor economics, and the Occupational Safety & Health Administration, which promotes the safety and health of America's working men and women.

The Secretary of Labor oversees 15,000 employees on a budget of approximately \$50 billion.

## **DEPARTMENT OF STATE**

The Department of State plays the lead role in developing and implementing the President's foreign policy. Major responsibilities include United States representation abroad, foreign assistance, foreign military training programs, countering international crime, and a wide assortment of services to U.S. citizens and foreign nationals seeking entrance to the U.S.

The U.S. maintains diplomatic relations with approximately 180 countries — each posted by civilian U.S. Foreign Service employees — as well as with international organizations. At home, more than 5,000 civil employees carry out the mission of the Department.

The Secretary of State serves as the President's top foreign policy adviser, and oversees 30,000 employees and a budget of approximately \$35 billion.

#### **DEPARTMENT OF TRANSPORTATION**

The mission of the Department of Transportation (DOT) is to ensure a fast, safe, efficient, accessible and convenient transportation system that meets our vital national interests and enhances the quality of life of the American people.

Organizations within the DOT include the Federal Highway Administration, the Federal Aviation Administration, the National Highway Traffic Safety Administration, the Federal Transit Administration, the Federal Railroad Administration and the Maritime Administration.

The U.S. Secretary of Transportation oversees approximately 55,000 employees and a budget of approximately \$70 billion.

#### **DEPARTMENT OF THE TREASURY**

The Department of the Treasury is responsible for promoting economic prosperity and ensuring the soundness and security of the U.S. and international financial systems.

The Department operates and maintains systems that are critical to the nation's financial infrastructure, such as the production of coin and currency, the disbursement of payments to the American public, the collection of taxes, and the borrowing of funds necessary to run the federal government. The Department works with other federal agencies, foreign governments, and international financial institutions to encourage global economic growth, raise standards of living, and, to the extent possible, predict and prevent economic and financial crises. The Treasury Department also performs a critical and far-reaching role in enhancing national security by improving the safeguards of our financial systems, implementing economic sanctions against foreign threats to the U.S., and identifying and targeting

the financial support networks of national security threats.

The Secretary of the Treasury oversees a budget of approximately \$13 billion and a staff of more than 100,000 employees.

#### **DEPARTMENT OF VETERANS AFFAIRS**

The Department of Veterans Affairs is responsible for administering benefit programs for veterans, their families, and their survivors. These benefits include pension, education, disability compensation, home loans, life insurance, vocational rehabilitation, survivor support, medical care, and burial benefits. Veterans Affairs became a cabinet-level department in 1989.

Of the 25 million veterans currently alive, nearly three of every four served during a war or an official period of hostility. About a quarter of the nation's population — approximately 70 million people — are potentially eligible for V.A. benefits and services because they are veterans, family members, or survivors of veterans.

The Secretary of Veterans Affairs oversees a budget of approximately \$90 billion and a staff of approximately 235,000 employees.



*Our Government*

# The Judicial Branch

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Where the Executive and Legislative branches are elected by the people, members of the Judicial Branch are appointed by the President and confirmed by the Senate.

Article III of the Constitution, which establishes the Judicial Branch, leaves Congress significant discretion to determine the shape and structure of the federal judiciary. Even the number of Supreme Court Justices is left to Congress — at times there have been as few as six, while the current number (nine, with one Chief Justice and eight Associate Justices) has only been in place since 1869. The Constitution also grants Congress the power to establish courts inferior to the Supreme Court, and to that end Congress has established the United States district courts, which try most federal cases, and 13 United States courts of appeals, which review appealed district court cases.



Federal judges can only be removed through impeachment by the House of Representatives and conviction in the Senate. Judges and justices serve no fixed term — they serve until their death, retirement, or conviction by the Senate. By design, this insulates them from the temporary passions of the public, and allows them to apply the law with only justice in mind, and not electoral or political concerns.

Generally, Congress determines the jurisdiction of the federal courts. In some cases, however — such as in the example of a dispute between two or more U.S. states — the Constitution grants the Supreme Court original jurisdiction, an authority that cannot be stripped by Congress.

The courts only try actual cases and controversies — a party must show that it has been harmed in order to bring suit in court. This means that the courts do not issue advisory opinions on the constitutionality of laws or the legality of actions if the ruling would have no practical effect. Cases brought before the judiciary typically proceed from district court to appellate court and may even end at the Supreme Court, although the Supreme Court hears comparatively few cases each year.

Federal courts enjoy the sole power to interpret the law, determine the constitutionality of the law, and apply it to individual cases. The courts, like Congress, can compel the production of evidence and testimony through the use of a subpoena. The inferior courts are constrained by the decisions of the Supreme Court — once the Supreme Court interprets a law, inferior courts must apply the Supreme Court's interpretation to the facts of a particular case.

## **The Supreme Court of the United States**

The Supreme Court of the United States is the highest court in the land and the only part of the federal judiciary specifically required by the Constitution.

The Constitution does not stipulate the number of Supreme Court Justices; the number is set instead by Congress. There have been as few as six, but since 1869 there have been nine Justices, including one Chief Justice. All Justices are nominated

by the President, confirmed by the Senate, and hold their offices under life tenure. Since Justices do not have to run or campaign for re-election, they are thought to be insulated from political pressure when deciding cases. Justices may remain in office until they resign, pass away, or are impeached and convicted by Congress.

The Court's caseload is almost entirely appellate in nature, and the Court's decisions cannot be appealed to any authority, as it is the final judicial arbiter in the United States on matters of federal law. However, the Court may consider appeals from the highest state courts or from federal appellate courts. The Court also has original jurisdiction in cases involving ambassadors and other diplomats, and in cases between states.

Although the Supreme Court may hear an appeal on any question of law provided it has jurisdiction, it usually does not hold trials. Instead, the Court's task is to interpret the meaning of a law, to decide whether a law is relevant to a particular set of facts, or to rule on how a law should be applied. Lower courts are obligated to follow the precedent set by the Supreme Court when rendering decisions.

In almost all instances, the Supreme Court does not hear appeals as a matter of right; instead, parties must petition the Court for a writ of certiorari. It is the Court's custom and practice to "grant cert" if four of the nine Justices decide that they should hear the case. Of the approximately 7,500 requests for certiorari filed each year, the Court usually grants cert to fewer than 150. These are typically cases that the Court considers sufficiently important to require their review; a common example is the occasion when two or more of the federal courts of appeals have ruled differently on the same question of federal law.

If the Court grants certiorari, Justices accept legal briefs from the parties to the case, as well as from *amicus curiae*, or "friends of the court." These can include industry trade groups, academics, or even the U.S. government itself. Before issuing a ruling, the Supreme Court usually hears oral arguments, where the various parties to the suit present their arguments and the Justices ask them questions. If the case involves the

federal government, the Solicitor General of the United States presents arguments on behalf of the United States. The Justices then hold private conferences, make their decision, and (often after a period of several months) issue the Court's opinion, along with any dissenting arguments that may have been written.

## The Judicial Process

Article III of the Constitution of the United States guarantees that every person accused of wrongdoing has the right to a fair trial before a competent judge and a jury of one's peers.

The Fourth, Fifth, and Sixth Amendments to the Constitution provide additional protections for those accused of a crime. These include:

- A guarantee that no person shall be deprived of life, liberty, or property without the due process of law
- Protection against being tried for the same crime twice ("double jeopardy")
- The right to a speedy trial by an impartial jury
- The right to cross-examine witnesses, and to call witnesses to support their case
- The right to legal representation
- The right to avoid self-incrimination
- Protection from excessive bail, excessive fines, and cruel and unusual punishments

Criminal proceedings can be conducted under either state or federal law, depending on the nature and extent of the crime. A criminal legal procedure typically begins with an arrest by a law enforcement officer. If a grand jury chooses to deliver an indictment, the accused will appear before a judge and be formally charged with a crime, at which time he or she may enter a plea.

The defendant is given time to review all the evidence in the case and to build a legal

argument. Then, the case is brought to trial and decided by a jury. If the defendant is determined to be not guilty of the crime, the charges are dismissed. Otherwise, the judge determines the sentence, which can include prison time, a fine, or even execution.

Civil cases are similar to criminal ones, but instead of arbitrating between the state and a person or organization, they deal with disputes between individuals or organizations. If a party believes that it has been wronged, it can file suit in civil court to attempt to have that wrong remedied through an order to cease and desist, alter behavior, or award monetary damages. After the suit is filed and evidence is gathered and presented by both sides, a trial proceeds as in a criminal case. If the parties involved waive their right to a jury trial, the case can be decided by a judge; otherwise, the case is decided and damages awarded by a jury.

After a criminal or civil case is tried, it may be appealed to a higher court — a federal court of appeals or state appellate court. A litigant who files an appeal, known as an “appellant,” must show that the trial court or administrative agency made a legal error that affected the outcome of the case. An appellate court makes its decision based on the record of the case established by the trial court or agency — it does not receive additional evidence or hear witnesses. It may also review the factual findings of the trial court or agency, but typically may only overturn a trial outcome on factual grounds if the findings were “clearly erroneous.” If a defendant is found not guilty in a criminal proceeding, he or she cannot be retried on the same set of facts.

Federal appeals are decided by panels of three judges. The appellant presents legal arguments to the panel, in a written document called a “brief.” In the brief, the appellant tries to persuade the judges that the trial court made an error, and that the lower decision should be reversed. On the other hand, the party defending against the appeal, known as the “appellee” or “respondent,” tries in its brief to show why the trial court decision was correct, or why any errors made by the trial court are not significant enough to affect the outcome of the case.

The court of appeals usually has the final word in the case, unless it sends the case back to the trial court for additional proceedings. In some cases the decision may be reviewed en banc — that is, by a larger group of judges of the court of appeals for the circuit.

A litigant who loses in a federal court of appeals, or in the highest court of a state, may file a petition for a “writ of certiorari,” which is a document asking the Supreme Court to review the case. The Supreme Court, however, is not obligated to grant review. The Court typically will agree to hear a case only when it involves a new and important legal principle, or when two or more federal appellate courts have interpreted a law differently. (There are also special circumstances in which the Supreme Court is required by law to hear an appeal.) When the Supreme Court hears a case, the parties are required to file written briefs and the Court may hear oral argument.



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# The Legislative Branch

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Established by Article I of the Constitution, the Legislative Branch consists of the House of Representatives and the Senate, which together form the United States Congress. The Constitution grants Congress the sole authority to enact legislation and declare war, the right to confirm or reject many Presidential appointments, and substantial investigative powers.

The House of Representatives is made up of 435 elected members, divided among the 50 states in proportion to their total population. In addition, there are 6 non-voting members, representing the District of Columbia, the Commonwealth of Puerto Rico, and four other territories of the United States. The presiding officer of the chamber is the Speaker of the House, elected by the Representatives. He or she is third in the line of succession to the Presidency.

Members of the House are elected every two years and must be 25 years of age, a U.S. citizen for at least seven years, and a resident of the state (but not necessarily the district) they represent.

The House has several powers assigned exclusively to it, including the power to initiate revenue bills, impeach federal officials, and elect the President in the case of an electoral college tie.

The Senate is composed of 100 Senators, 2 for each state. Until the ratification of the 17th Amendment in 1913, Senators were chosen by state legislatures, not by popular vote. Since then, they have been elected to six-year terms by the people of each state. Senator's terms are staggered so that about one-third of the Senate is up for reelection every two years. Senators must be 30 years of age, U.S. citizens for at least nine years, and residents of the state they represent.

The Vice President of the United States serves as President of the Senate and may cast the decisive vote in the event of a tie in the Senate.

The Senate has the sole power to confirm those of the President's appointments that require consent, and to ratify treaties. There are, however, two exceptions to this rule: the House must also approve appointments to the Vice Presidency and any treaty that involves foreign trade. The Senate also tries impeachment cases for federal officials referred to it by the House.

In order to pass legislation and send it to the President for his signature, both the House and the Senate must pass the same bill by majority vote. If the President vetoes a bill, they may override his veto by passing the bill again in each chamber with at least two-thirds of each body voting in favor.

## **The Legislative Process**

The first step in the legislative process is the introduction of a bill to Congress. Anyone

can write it, but only members of Congress can introduce legislation. Some important bills are traditionally introduced at the request of the President, such as the annual federal budget. During the legislative process, however, the initial bill can undergo drastic changes.

After being introduced, a bill is referred to the appropriate committee for review. There are 17 Senate committees, with 70 subcommittees, and 23 House committees, with 104 subcommittees. The committees are not set in stone, but change in number and form with each new Congress as required for the efficient consideration of legislation. Each committee oversees a specific policy area, and the subcommittees take on more specialized policy areas. For example, the House Committee on Ways and Means includes subcommittees on Social Security and Trade.

A bill is first considered in a subcommittee, where it may be accepted, amended, or rejected entirely. If the members of the subcommittee agree to move a bill forward, it is reported to the full committee, where the process is repeated again. Throughout this stage of the process, the committees and subcommittees call hearings to investigate the merits and flaws of the bill. They invite experts, advocates, and opponents to appear before the committee and provide testimony, and can compel people to appear using subpoena power if necessary.

If the full committee votes to approve the bill, it is reported to the floor of the House or Senate, and the majority party leadership decides when to place the bill on the calendar for consideration. If a bill is particularly pressing, it may be considered right away. Others may wait for months or never be scheduled at all.

When the bill comes up for consideration, the House has a very structured debate process. Each member who wishes to speak only has a few minutes, and the number and kind of amendments are usually limited. In the Senate, debate on most bills is unlimited — Senators may speak to issues other than the bill under consideration during their speeches, and any amendment can be introduced. Senators can use this to filibuster bills under consideration, a procedure by which a Senator delays a vote



on a bill — and by extension its passage — by refusing to stand down. A supermajority of 60 Senators can break a filibuster by invoking cloture, or the cession of debate on the bill, and forcing a vote. Once debate is over, the votes of a simple majority passes the bill.

A bill must pass both houses of Congress before it goes to the President for consideration. Though the Constitution requires that the two bills have the exact same wording, this rarely happens in practice. To bring the bills into alignment, a Conference Committee is convened, consisting of members from both chambers. The members of the committee produce a conference report, intended as the final version of the bill. Each chamber then votes again to approve the conference report.

Depending on where the bill originated, the final text is then enrolled by either the Clerk of the House or the Secretary of the Senate, and presented to the Speaker of the House and the President of the Senate for their signatures. The bill is then sent to the President.

When receiving a bill from Congress, the President has several options. If the President agrees substantially with the bill, he or she may sign it into law, and the bill is then printed in the Statutes at Large. If the President believes the law to be bad policy, he may veto it and send it back to Congress. Congress may override the veto with a two-thirds vote of each chamber, at which point the bill becomes law and is printed.

There are two other options that the President may exercise. If Congress is in session and the President takes no action within 10 days, the bill becomes law. If Congress adjourns before 10 days are up and the President takes no action, then the bill dies and Congress may not vote to override. This is called a pocket veto, and if Congress still wants to pass the legislation, they must begin the entire process anew.

## **Powers of Congress**

Congress, as one of the three coequal branches of government, is ascribed significant

powers by the Constitution. All legislative power in the government is vested in Congress, meaning that it is the only part of the government that can make new laws or change existing laws. Executive Branch agencies issue regulations with the full force of law, but these are only under the authority of laws enacted by Congress. The President may veto bills Congress passes, but Congress may also override a veto by a two-thirds vote in both the Senate and the House of Representatives.

Article I of the Constitution enumerates the powers of Congress and the specific areas in which it may legislate. Congress is also empowered to enact laws deemed “necessary and proper” for the execution of the powers given to any part of the government under the Constitution.

Part of Congress’s exercise of legislative authority is the establishment of an annual budget for the government. To this end, Congress levies taxes and tariffs to provide funding for essential government services. If enough money cannot be raised to fund the government, then Congress may also authorize borrowing to make up the difference. Congress can also mandate spending on specific items: legislatively directed spending, commonly known as “earmarks,” specifies funds for a particular project, rather than for a government agency.

Both chambers of Congress have extensive investigative powers, and may compel the production of evidence or testimony toward whatever end they deem necessary. Members of Congress spend much of their time holding hearings and investigations in committee. Refusal to cooperate with a Congressional subpoena can result in charges of contempt of Congress, which could result in a prison term.

The Senate maintains several powers to itself: It ratifies treaties by a two-thirds supermajority vote and confirms the appointments of the President by a majority vote. The consent of the House of Representatives is also necessary for the ratification of trade agreements and the confirmation of the Vice President. Congress also holds the sole power to declare war.

## Government Oversight

Oversight of the executive branch is an important Congressional check on the President's power and a balance against his discretion in implementing laws and making regulations.

A major way that Congress conducts oversight is through hearings. The House Committee on Oversight and Government Reform and the Senate Committee on Homeland Security and Government Affairs are both devoted to overseeing and reforming government operations, and each committee conducts oversight in its policy area.

Congress also maintains an investigative organization, the Government Accountability Office (GAO). Founded in 1921 as the General Accounting Office, its original mission was to audit the budgets and financial statements sent to Congress by the Secretary of the Treasury and the Director of the Office of Management and Budget. Today, the GAO audits and generates reports on every aspect of the government, ensuring that taxpayer dollars are spent with the effectiveness and efficiency that the American people deserve.

The executive branch also polices itself: Sixty-four Inspectors General, each responsible for a different agency, regularly audit and report on the agencies to which they are attached.



## Branches of the U.S. Government

Learn about the executive, legislative, and judicial branches of the U.S. government.

### On This Page

- [Infographic: 3 Branches of the U.S. Government](#)
- [How the U.S. Government Is Organized](#)
- [Legislative Branch of the U.S. Government](#)
- [Executive Branch of the U.S. Government](#)
- [Judicial Branch of the U.S. Government](#)
- [Infographic: How the Supreme Court Works](#)

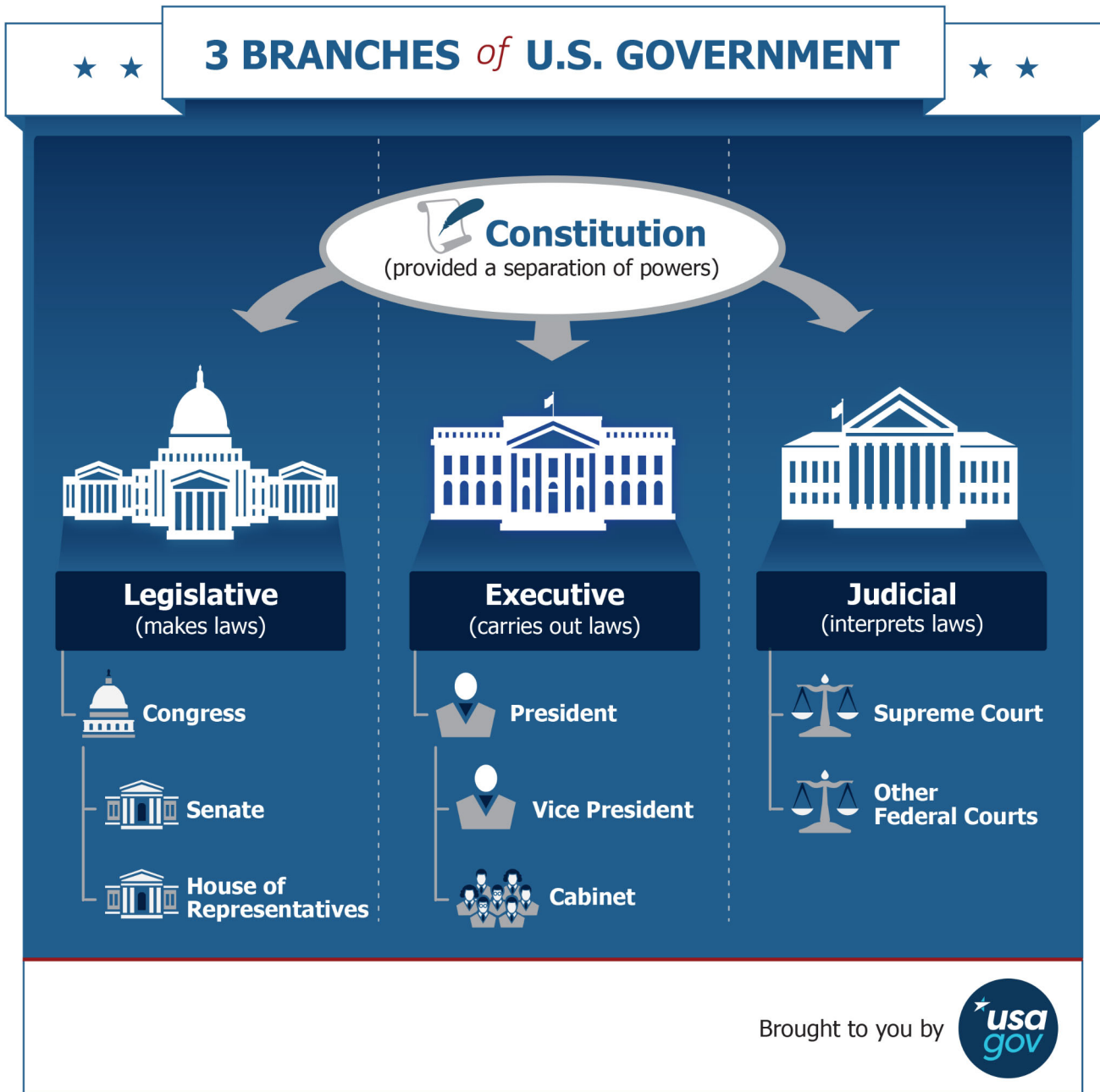
### Infographic: 3 Branches of the U.S. Government

Learn the executive, legislative, and judicial branches of government and see a lesson plan for teachers.



[View a larger version of the infographic.](#) (PDF, [Download Adobe Reader](#))

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## Show Description of Infographic

### U.S. Constitution

The [Founding Fathers](#), the framers of the [U.S. Constitution](#), wanted to form a government that did not allow one person to have too much control. With this in mind, they wrote the Constitution to provide for a separation of powers, or three separate branches of government.

Each branch has its own responsibilities and at the same time, the three branches work together to make the country run smoothly and to assure that the rights of citizens are not ignored or disallowed. This is done through [checks and balances](#). A branch may use its powers to check the powers of the other two in order to maintain a balance of power among the three branches of government.

### Legislative – Makes Laws

Congress is composed of two parts: the [Senate](#) and the [House of Representatives](#).

#### Senate

The Senate has 100 elected senators total; 2 senators per state. Each senator serves a 6-year term.

#### House of Representatives

The House has 435 voting representatives; the [number of representatives](#) from each state is based on the state's population. Each representative serves a two-year term and may be re-elected.

### Executive – Carries Out Laws

The executive branch is composed of the president, vice president, and Cabinet members.

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#### President

## How the U.S. Government Is Organized

The [Constitution of the United States](#) divides the federal government into three branches to make sure no individual or group will have too much power:

- Legislative—Makes laws (Congress, comprised of the House of Representatives and Senate)
- Executive—Carries out laws (president, vice president, Cabinet, most federal agencies)
- Judicial—Evaluates laws (Supreme Court and other courts)

Each branch of government can change acts of the other branches:

- The president can veto legislation created by Congress and nominates heads of federal agencies.
- Congress confirms or rejects the president's nominees and can remove the president from office in exceptional circumstances.
- The Justices of the Supreme Court, who can overturn unconstitutional laws, are nominated by the president and confirmed by the Senate.

This ability of each branch to respond to the actions of the other branches is called the system of checks and balances.

## Legislative Branch of the U.S. Government

The legislative branch [drafts proposed laws](#), confirms or rejects presidential nominations for heads of federal agencies, federal judges, and the Supreme Court, and has the authority to declare war. This branch includes Congress (the Senate and House of Representatives) and special agencies and offices that provide support services to Congress. American [Top](#) have the right to vote for Senators and Representatives through free, confidential ballots.

## Congress

Congress is composed of two parts:

- [Senate](#)—There are two elected Senators per state, totaling 100 Senators. A Senate term is six years and there is no limit to the number of terms an individual can serve.
- [House of Representatives](#)—There are 435 elected Representatives, which are divided among the 50 states in proportion to their total population. There are additional non-voting delegates who represent the District of Columbia and the territories. A Representative serves a two-year term, and there is no limit to the number of terms an individual can serve.

## Legislative Branch Agencies

The legislative branch includes Congress and the agencies that support its work.

- [Architect of the Capitol](#)
- [Congressional Budget Office](#)
- [Congressional Research Service](#)
- [Copyright Office](#)
- [Government Accountability Office](#)
- [Government Publishing Office](#)
- [House Office of Inspector General](#)
- [House Office of the Clerk](#)
- [Joint Congressional Committee on Inaugural Ceremonies](#)
- [Library of Congress](#)

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## Executive Branch of the U.S. Government

The executive branch carries out and enforces laws. It includes the president, vice president, the Cabinet, executive departments, independent agencies, and other boards, commissions, and committees.

American citizens have the right to vote for the president and vice president through free, confidential ballots.

Key roles of the executive branch include:

- President—The president leads the country. He or she is the head of state, leader of the federal government, and Commander in Chief of the United States armed forces. The president serves a four-year term and can be elected no more than two times.
- Vice president—The vice president supports the president. If the president is unable to serve, the vice president becomes president. The vice president can be elected and serve an unlimited number of four-year terms as vice president, even under a different president.
- The Cabinet—Cabinet members serve as advisors to the president. They include the vice president, heads of executive departments, and other high-ranking government officials. Cabinet members are nominated by the president and must be approved by a simple majority of the Senate—51 votes if all 100 Senators vote.

### Executive Branch Agencies, Commissions, and Committees

Much of the work in the executive branch is done by federal agencies, departments, committees, and other groups.

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## Executive Office of the President

The Executive Office of the president communicates the president's message and deals with the federal budget, security, and other high priorities.

- [Office of the President](#)
- [Office of the Vice President](#)
- [Council of Economic Advisers](#)
- [Council on Environmental Quality](#)
- [National Security Council](#)
- [Office of Management and Budget](#)
- [Office of National Drug Control Policy](#)
- [Office of Science and Technology Policy](#)

## Executive Departments

These are the main agencies of the federal government. The heads of these 15 agencies are also members of the president's cabinet.

- [U.S. Department of Agriculture](#)
- [U.S. Department of Commerce](#)
- [U.S. Department of Defense](#)
- [U.S. Department of Education](#)
- [U.S. Department of Energy](#)
- [U.S. Department of Health and Human Services](#)

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## Judicial Branch of the U.S. Government

The [judicial branch](#) interprets the meaning of laws, applies laws to individual cases, and decides if laws violate the Constitution. It is comprised of the Supreme Court and other federal courts.

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## Supreme Court

The [Supreme Court](#) is the highest court in the United States. The Justices of the Supreme Court are nominated by the president and must be approved by the Senate.

- [Nine members](#) make up the Supreme Court—a Chief Justice and eight Associate Justices. There must be a minimum or quorum of [six Justices](#) to decide a case.
- If there is an even number of Justices and a case results in a tie, the lower court's decision stands.
- There is no fixed term for Justices. They serve until their death, retirement, or removal in exceptional circumstances.

## Federal Courts and Judicial Agencies

The Constitution gives Congress the authority to establish other [federal courts](#) to handle cases that involve federal laws including tax and bankruptcy, lawsuits involving U.S. and state governments or the Constitution, and more. Other federal judicial agencies and programs support the courts and research judicial policy.

- [Administrative Office of the U.S. Courts](#)
- [Bankruptcy Courts](#)
- [Court of Appeals for the Armed Forces](#)
- [Court of Appeals for the Federal Circuit](#)
- [Court of Federal Claims](#)
- [Court of International Trade](#)
- [Federal Court Interpreters](#)
- [Federal Judicial Center](#)

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## Infographic: How the Supreme Court Works

Learn how cases reach the Supreme Court and how the Justices make their decisions. Use [this lesson plan](#) in class.



[View a larger version of the infographic.](#)

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# HOW THE SUPREME COURT WORKS



## The Supreme Court is:

- The highest court in the country
- Located in Washington, DC
- The head of the judicial branch of the federal government
- Responsible for deciding whether laws violate the Constitution
- In session from early October until late June or early July

## How a Case Gets to the Supreme Court

Most cases reach the Court on appeal. An appeal is a request for a higher court to reverse the decision of a lower court.

Most appeals come from federal courts. They can come from state courts if a case deals with federal law.

Rarely, the Court hears a new case, such as one between states.



State Trial  
Court

State Court  
of Appeals

State Supreme  
Court



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## Show Description of Infographic

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### 1. Dissatisfied parties petition the Court for review

Parties may appeal their case to the Supreme Court, petitioning the Court to review the decision of the lower court.

### 2. Justices study documents

The Justices examine the petition and supporting materials.

### 3. Justices vote

Four Justices must vote in favor for a case to be granted review.

## What Happens Once a Case is Selected for Review?

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### 1. Parties make arguments

The Justices review the briefs (written arguments) and hear oral arguments. In oral arguments, each side usually has 30 minutes to present its case. The

Last Updated: October 18, 2019

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