The Legislative Branch

Who represents us, what Congress can do, and how each chamber checks the other branches. Follow the four pages of your Congress notes.

1. Congress: structure and representation

Imagine a school making one rule for every classroom. Should larger classes receive more votes, or should every classroom receive the same number? The Constitution combines both ideas. Article I creates Congress, the legislative branch. Its main job is to make federal laws. A bicameral legislature has two chambers: the House of Representatives and the Senate.

The Great Compromise created representation based on population in the House and equal state representation in the Senate. The Virginia Plan favored representation based on population; the New Jersey Plan favored equal state representation. The final compromise combined these principles. Both chambers must approve legislation before it can go to the president.

A constituent is a person represented by an elected official. A representative serves a congressional district within a state. A senator represents the whole state. Every ten years, the census counts the population. Apportionment distributes the 435 House seats among the states. Redistricting redraws district boundaries. Gerrymandering means drawing boundaries to give a political party or group an unfair advantage.

House members face voters every two years, which encourages attention to immediate concerns. Senators serve six-year terms, giving them more time to consider longer-term issues. About one-third of Senate seats are elected every two years, so the whole Senate does not change at once. Voters directly elect members of both chambers. The 17th Amendment established direct election of senators.

Members have no federal term limit. The standard annual congressional salary listed in the House reference is $174,000; certain leaders earn more. Office budgets pay for work such as staff, constituent services, and official travel. Office funds are not personal income or campaign funds. Retirement benefits depend on service and legal eligibility; members do not automatically receive their full salary for life.

Compare	House of Representatives	Senate
Voting seats	435	100
Representation	Population; districts	Two per state; statewide

Compare	House of Representatives	Senate
Term	2 years	6 years
Minimum age	25	30
U.S. citizenship	At least 7 years	At least 9 years
Residence	In the state when elected	In the state when elected

See it in context: Ohio voters elect two U.S. senators regardless of Ohio's population. The number of Ohio's House seats can change after apportionment.

Keep this distinction: Apportionment distributes seats. Redistricting draws boundaries. Representation means speaking and voting for constituents.

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2. Expressed powers, implied powers, and limits

An expressed power is written directly in the Constitution. Expressed powers are also called enumerated powers. Congress can collect taxes, borrow money, regulate interstate and foreign commerce, coin money, establish post offices, protect inventions and creative works, establish lower federal courts, declare war, and support armed forces.

An implied power is a reasonable means of carrying out an expressed power. The Necessary and Proper Clause, sometimes called the Elastic Clause, allows Congress to choose appropriate ways to perform its constitutional responsibilities. It does not give Congress unlimited authority. An implied power must connect to a constitutional power.

For example, the Constitution does not explicitly say "create a national bank." A bank can help the government collect taxes, borrow money, and manage money. A military draft can help Congress raise armies. Federal minimum-wage legislation rests on Congress's power to regulate commerce. Identify the expressed power that supports the action rather than guessing from whether an action sounds useful.

Congress also faces constitutional limits. Habeas corpus allows a detained person to ask a court to review whether detention is lawful. The Constitution permits suspension of this protection only in cases of rebellion or invasion when public safety requires it. A bill of attainder punishes a person or group through legislation without a judicial trial. Congress cannot pass one. An ex post facto law retroactively criminalizes conduct or increases criminal punishment after the conduct occurred. Congress cannot pass that kind of criminal law.

See it in context: Congress creates a system to process military recruits. Connect the implied action to the expressed power to raise and support armies.

Keep this distinction: Expressed = the Constitution names the power. Implied = a way to carry out a named power. Denied = the Constitution prohibits the action.

3. Money and the special duties of each chamber

A budget is a plan for raising and spending money. The president proposes a federal budget, but Congress makes the legislative decisions needed to raise revenue and provide funding. An appropriation is legal authority to spend public money for a particular purpose. Congress's control over spending is called the power of the purse. A proposal from the president does not by itself make money available to spend.

Bills for raising revenue must originate in the House. The Senate may propose or agree to amendments. This rule does not mean every bill involving money must begin in the House. Keep revenue-raising bills distinct from other legislation.

The House has the sole power to impeach. Impeachment means bringing formal charges against a federal official. It does not itself remove the person from office. The Senate conducts the trial. Conviction requires two-thirds of senators present and results in removal. The Senate can also consider disqualification from future federal office. When a president is tried, the Chief Justice presides.

The Senate has special advice-and-consent responsibilities. It considers many presidential nominations, including Cabinet secretaries, ambassadors, and federal judges. It also decides whether to consent to treaties, which requires two-thirds of senators present. The president negotiates a treaty; the Senate's consent is a separate step.

If no presidential candidate receives an Electoral College majority, the House chooses the president from the top three electoral-vote recipients. Each state delegation gets one vote. In the corresponding vice-presidential election, the Senate chooses from the top two vice-presidential electoral-vote recipients. These are special constitutional procedures, not the normal election process.

See it in context: The House votes to impeach a judge. The judge has been formally charged, but removal requires a Senate conviction.

Keep this distinction: House: revenue bills begin and impeachment charges begin. Senate: confirmations, treaty consent, and impeachment trials.

4. Congress and checks and balances

Separation of powers gives different jobs to different branches. Checks and balances let each branch limit the others. Congress can pass laws, but the president can veto a bill and courts can review the constitutionality of laws.

Congress can override a regular presidential veto with a two-thirds vote in each chamber, with a quorum present. The chambers vote separately; combining all congressional votes into one total does not work. If everyone votes, the familiar classroom numbers are 290 of 435 House members and 67 of 100 senators. The constitutional threshold concerns the votes in each chamber, not a fixed combined total.

The Senate checks appointments through confirmation. Congress also investigates the executive branch through oversight, uses appropriations to control funding, and can impeach and remove eligible federal officials through the House–Senate process. The president cannot use a pardon to undo impeachment or removal.

Courts can declare a law unconstitutional. Congress cannot reverse that constitutional ruling simply by taking an ordinary vote. A later constitutional amendment can change the governing constitutional rule. One amendment route requires proposal by two-thirds of both chambers and ratification by three-fourths of the states. Congress may also write a different law that fits the Constitution.

> **See it in context:** A president nominates a federal judge. The Senate considers confirmation. If a serving federal judge later faces serious misconduct charges, the House can impeach and the Senate can conduct the trial.

> **Keep this distinction:** Name the actor, the power, and the limit: “The Senate checks the president by considering major appointments.”

Sources and class connections

Use the official references below to check the exact rules. Photo source links appear beside each image in the online reading.

U.S. Constitution · Articles I and II

Constitutional amendments

House · the legislative process

Senate · powers and procedures

House · salary reference