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*"I will tell you now what I do not like. (There is no) bill of rights, providing . . . what the people are entitled to against every government on earth."* — Thomas Jefferson commenting on the Constitution

The authors of the Constitution trusted Congress would make good and just laws, and the court system would see that every person was treated fairly. However, many people feared the new government would be too strong, and perhaps, take away individual freedom, just as the British government had done.

Therefore, during the fight to ratify the Constitution, the Federalists were obliged to propose a bill of rights that would safeguard the rights of the people. The Federalists promised this bill of rights would be added to the Constitution as soon as the new Congress met.

As the delegates gathered in May 1787 to revise the Articles of Confederation, a Virginia delegate, George Mason, voiced his disappointment with the new constitutional proposals because "... there is no declaration of individual rights." Mason had earlier written the *Virginia Declaration of Rights* and that declaration had influenced Thomas Jefferson when he wrote the first part of the Declaration of Independence. Ultimately Mason's views were accepted by James Madison, the "Father of the Constitution."

In 1789, the new Congress took action when Madison proposed 15 amendments. In 1791, 10 of them were approved. They make up what we call the Bill of Rights or the first 10 amendments.

These amendments provide certain guarantees that had not been written into the Constitution. Their purpose was to protect the rights of the people against any misuse of governmental powers. These first 10 amendments guaranteed fundamental freedoms, including:

- freedom of religion, speech, and the press
- the right to assemble and petition the government
- the right to bear arms
- freedom from unreasonable search and seizure
- that no person be deprived of life, liberty, or property without due process of law
- the right to a fair and speedy trial
- the right to a trial by jury
- protection against excessive bail or unusual punishment

These were the rights the colonists had fought for against the English king, and they did not intend to give them up.

People are guaranteed these freedoms as long as they do not take away the freedom of others. Even today these important freedoms can be threatened. Controversial subjects are under the protection of the

Bill of Rights, such as religion, unpopular ideas, censorship, membership and activity in unpopular organizations, and expressions of minority opinions. It is the job of the courts to interpret the Constitution and decide the rights of individuals.

It is human nature to believe strongly in one's own beliefs and think those holding opposing views must be wrong. Many of us find opinions expressed by others offensive and distressing. We often wish others' opinions could be suppressed. However, we must remember, freedom to express only popular opinions is no freedom at all.

Especially in times of emergency, it is easy to believe that measures infringing upon individual rights can or should be taken "for the good of the country." But this attitude is dangerous to our country, since it strikes at the very foundation of our democratic system. More and more rights could be taken away under the justification that it is "for the good of the country."

Before you decide "it doesn't matter" if the rights of someone you do not agree with are violated, stop to consider whether you are willing to risk the loss of your rights because other people disagree with you.

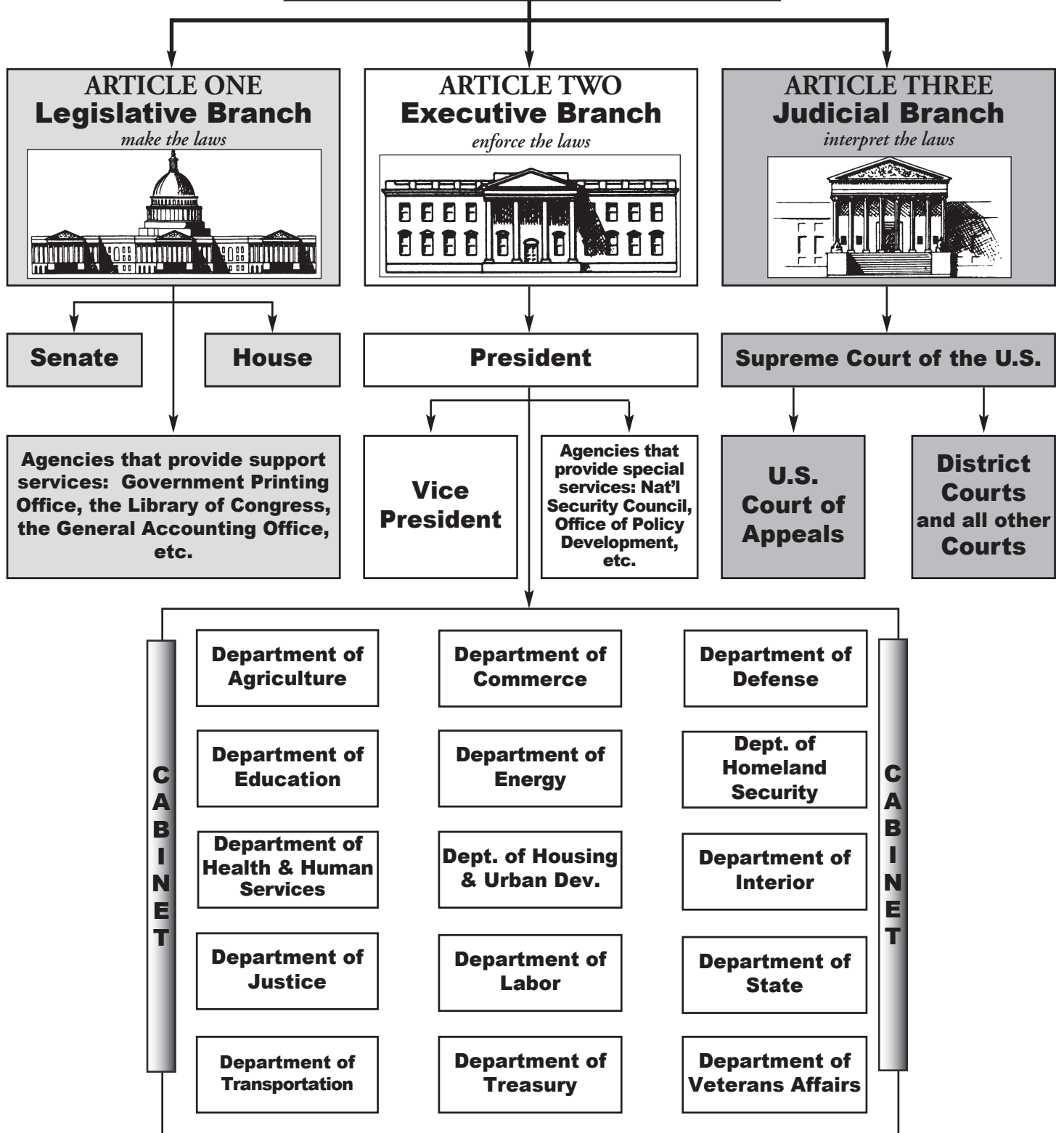
## QUESTIONS

### TRUE OR FALSE?

- \_\_\_ 1. The first 10 amendments were adopted a month after the Constitution was approved.
- \_\_\_ 2. Jefferson supported the idea of a Bill of Rights.
- \_\_\_ 3. The Bill of Rights applies to all levels of government.
- \_\_\_ 4. The Bill of Rights was proposed in an attempt to defeat the Constitution.
- \_\_\_ 5. The Bill of Rights does not give a person the right to criticize a government official.
- \_\_\_ 6. The Bill of Rights protects freedom of speech even if the speech is unpopular.
- \_\_\_ 7. The right to a trial by jury is in the Bill of Rights.
- \_\_\_ 8. The first 10 amendments make up the Bill of Rights.
- \_\_\_ 9. George Mason wrote the Virginia Declaration of Rights.

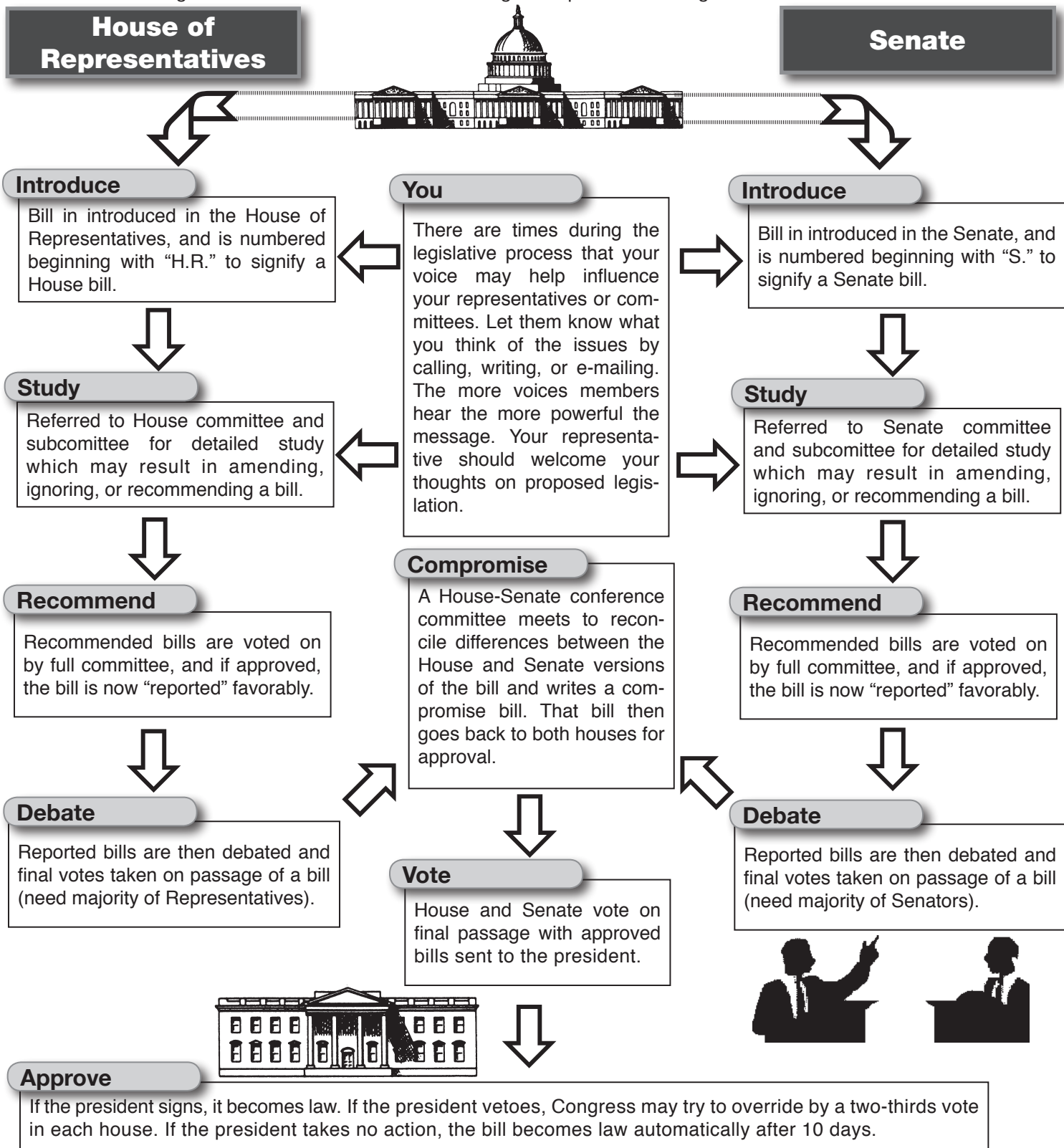
STUDENTS: NOW YOU WILL BEGIN A STUDY OF THE THREE BRANCHES OF GOVERNMENT AS OUTLINED BELOW. LOOK IT OVER CAREFULLY.

**THE CONSTITUTION  
SETS UP THREE BRANCHES**



AFTER YOU REVIEW THIS CHART, BEGIN YOUR STUDY OF THE THREE BRANCHES OF GOVERNMENT ON PAGE 16.

Although the chart below shows the lawmaking process it does not reflect how complicated this process actually is. There are many informal conversations and discussions that take place with members of Congress. Each wants to voice their position, learn what arguments opponents will use, and make the necessary adjustments to help get a bill passed. Members of Congress must understand the president's view on the bill, along with the political impacts of the bill. A representative who votes for or against a controversial bill will have that on their voting record. You will also notice how important committees are in the lawmaking process. Committees help make the decision-making process more efficient, effectively discussing the various points of view on a particular subject. More of the lawmaking process is described on Page 21 and follow an actual bill through this process on Page 22.



**Special Notes:**

- Any bill dealing with money must be first introduced in the House of Representatives.
- Thousands of bills are introduced each year with only a small percentage making it into law.

# How the Federal Government and States Divide Powers

## The Constitution Says...



### Certain Powers Belong to the Federal Government - Such As:

- ★ Regulate Interstate Commerce
- ★ Conduct Foreign Affairs
- ★ Coin and Issue Money
- ★ Establish Post Offices
- ★ Make War and Peace
- ★ Maintain Armed Forces
- ★ Admit New States and Govern Territories
- ★ Punish Crimes Against the U.S.
- ★ Grant Patents and Copyrights
- ★ Make Uniform Laws on Naturalization and Bankruptcy



### Certain Powers Belong to State Governments

- (Mainly comes from an interpretation of the reserved powers.)
- ★ Authorize Establishment of Local Governments
  - ★ Establish and Supervise Schools
  - ★ Provide for State Militia
  - ★ Regulate Commerce Within the State
  - ★ Charter Corporations
  - ★ Regulate Labor, Industry, and Business Within the State
  - ★ All Other Powers Not Delegated to the United States Government or Specifically Prohibited to the States

### Certain Powers Are Shared by Both Governments

Tax...Establish Courts...Promote Agriculture and Industry...Borrow...  
Charter Banks...Protect the Public Health...Provide For Public Welfare



### Certain Powers Are Prohibited to Both Governments

The personal rights of citizens of the United States, as listed in the Bill Of Rights (first 10 amendments to the Constitution) and in state constitutions, cannot be reduced or destroyed by the federal or the state governments. Also, certain specific prohibitions in the Constitution itself, such as no title of nobility, no ex post facto laws, no duty on exports, no bill of attainder, etc.

"Laws are a dead letter without courts to expound their true meaning and operation." – Alexander Hamilton

Judicial review is the name given to the process by which the courts interpret the meaning of the Constitution and the laws passed under it. It is clear that the Constitution is the supreme law of our land and takes precedence over any law passed or any action taken by any state or federal official.

But the Constitution is not a detailed legal code, and it is not always easy to see how the Constitution can be applied to particular cases. As conditions change, new interpretations may be placed on the Constitution; actions may be taken in areas that are not directly covered by the Constitution.

Someone, then, must have the authority to say exactly what the Constitution means and to decide if the government is acting within constitutional limits. Most historians agree that the members at the Constitutional Convention meant the courts to have the power of judicial review, even though they did not write it out in detail. Apparently, they thought that the idea had been conveyed adequately through the wording of Article 3, the judicial article, and Article 6, the "supreme law of the land" clause.

There had been some discussion of this question after the Constitutional Convention, but nothing had been settled until 1803, when the Supreme Court handed down its decision in the case of *Marbury v. Madison*. The court ruled that one section of a 1789 law was contrary to the Constitution and, therefore, was not a valid law. This case established the precedent for

judicial review, an important addition to the system of checks and balances to prevent any one branch of the federal government from becoming too powerful. Judicial review in the United States has been a model for other countries.

The Supreme Court's right to interpret the Constitution has been challenged at times, but has always been upheld. In a sense, all of our courts contribute to the interpretation of the Constitution through the rulings they hand down on various cases involving the Constitution. The Supreme Court has used its power of judicial review to overturn more than a hundred acts of Congress and more than a thousand state laws. In addition the Supreme Court can, and often does, overturn the rulings of lower courts. It is the final authority on the meaning of the Constitution.

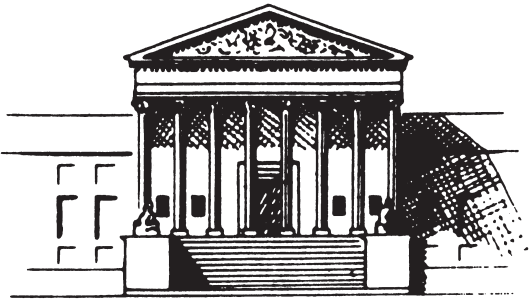
**QUESTIONS**

**FILL IN THE BLANKS**

1. This name is given to the process by which courts interpret the meaning of the Constitution and the laws passed under it. \_\_\_\_\_
2. What Article in the Constitution discusses the judicial branch? \_\_\_\_\_
3. What important case came before the Supreme Court in 1803? \_\_\_\_\_
4. What court is the final authority on the meaning of the Constitution? \_\_\_\_\_

**LEARNING AID**

**JUDICIAL BRANCH FACT SHEET**

<b>Main Courts</b>	The <i>Supreme Court</i> , <i>Court of Appeals</i> , and <i>District Courts</i> .	
<b>Number of Courts</b>	<i>Supreme Court</i> : 1 <i>Court of Appeals</i> : 13 <i>District Courts</i> : 94	
<b>Number of Judges</b>	<i>Supreme Court</i> : 9 <i>Court of Appeals</i> : 3 to 9 <i>District Courts</i> : 1 to 24	
<b>Supreme Court Salaries</b>	\$217,400 for Supreme Court chief justice \$208,100 for Supreme Court associate justices	
<b>Terms of Office</b>	For life; may be removed only by impeachment.	
<b>Duties</b>	Main duty of the judicial branch is to interpret laws and administer justice. <i>Supreme Court</i> : Decide if laws are constitutional <i>Court of Appeals</i> : Hear appeals from lower courts <i>District Courts</i> : Ordinary trial courts, federal cases begin here Other courts handle special cases, examples include U.S. Claims Court and U.S. Tax Court.	
<b>Meeting Place</b>	<i>Supreme Court</i> : Washington D.C. <i>Court of Appeals</i> : various circuits <i>District Courts</i> : various districts	
<b>Article Number in Constitution</b>	Article 3 of the U.S. Constitution	

**Outline of Wisconsin Constitution (1848)**

For an overview of the Wisconsin Constitution and for use as an index to the state constitution, an outline is presented here.

**Preamble:** *“We the people of Wisconsin, grateful to Almighty God for our freedom, in order to secure its blessings, form a more perfect government, insure domestic tranquility and promote the general welfare, do establish this constitution.”*

**Article 1** Declaration of Rights

**Section**

- 1 Equality; inherent rights
- 2 Slavery prohibited
- 3 Free speech; libel
- 4 Right to assemble and petition
- 5 Trial by jury; verdict in civil cases
- 6 Excessive bail; cruel punishments
- 7 Rights of accused
- 8 Prosecutions; double jeopardy; self incrimination; bail; habeas corpus
- 9 Remedy for wrongs
- 9m Victims of crimes
- 10 Treason
- 11 Searches and seizures
- 12 Bill of attainder; ex post facto; contracts
- 13 Private property for public use
- 14 Feudal tenures; leases; alienation
- 15 Equal property rights for aliens and citizens
- 16 Imprisonment for debt
- 17 Exemption of property of debtors
- 18 Freedom of religion and worship
- 19 Religious tests prohibited
- 20 Military subordinate to civil power
- 21 Rights of suitors
- 22 Maintenance of free government
- 23 Transportation of school children
- 24 Use of school buildings
- 25 Right to keep and bear arms
- 26 Right to fish, hunt, trap, and take game

- Article 2** Boundaries
- Article 3** Suffrage
- Article 4** Legislative
- Article 5** Executive
- Article 6** Administrative
- Article 7** Judiciary
- Article 8** Finance
- Article 9** Eminent Domain & Property of the State
- Article 10** Education
- Article 11** Corporations
- Article 12** Amendments
- Article 13** Miscellaneous Provisions
- Article 14** Schedule

The entire Wisconsin Constitution can be found in the Wisconsin Blue Book or at [www.legis.wi.gov](http://www.legis.wi.gov). A number

of other reference books on Wisconsin history and government can be found in your school library.

**Amending the State Constitution**

The process for making changes to the Wisconsin Constitution is stated in Article 12. An amendment to Wisconsin’s Constitution may be proposed in either house of the state Legislature. The identical amendment must then be approved by a majority of each house of the Legislature. The process requires two successive sessions of the Legislature; the first is called the *first consideration*, and the second, the *second consideration*. The final step is approval by a majority of the state’s qualified voters.

The Constitution may also be amended by a constitutional convention. A proposal to call such a convention must be approved by a majority of the Legislature and by a majority of the electorate. This method has never been used in Wisconsin.

The current Wisconsin Constitution has been amended over 100 times since it went into effect in 1848. The only states that have older constitutions are Massachusetts (1780), New Hampshire (1784), Vermont (1793), Maine (1820) and Rhode Island (1843).

**QUESTIONS**

In which article of the state Constitution would you find information on the following? (Give the section number where applicable.)

- 1. Use of schools for charitable events \_\_\_\_\_
- 2. Right to be treated equally \_\_\_\_\_
- 3. The governor \_\_\_\_\_
- 4. Jury trial \_\_\_\_\_
- 5. Religious freedom \_\_\_\_\_
- 6. The judicial system \_\_\_\_\_
- 7. Revising the state Constitution \_\_\_\_\_
- 8. The lawmaking process \_\_\_\_\_
- 9. Qualifications for senators \_\_\_\_\_
- 10. Victims rights \_\_\_\_\_

**TRUE OR FALSE?**

- \_\_\_\_\_ 1 Voters must approve changes in the state Constitution.
- \_\_\_\_\_ 2. The current state constitution has been amended twice.
- \_\_\_\_\_ 3 Both the United States Constitution and Wisconsin Constitution guarantee the right to freedom of speech.
- \_\_\_\_\_ 4. The governor or lieutenant governor may change the state Constitution.
- \_\_\_\_\_ 5. Providing an educational system is the duty of state government.
- \_\_\_\_\_ 6. An amendment to the Wisconsin Constitution may be proposed in either house of the Legislature.

**The Governor**

The executive branch of Wisconsin’s government enforces and administers the law. The governor is the chief executive officer of the state and represents all the people of Wisconsin.

**Qualifications and Duties**

Although there are no age or residency requirements, the Wisconsin Constitution does state that the governor must be a citizen of the United States and a qualified voter of the state of Wisconsin. The governor serves a term of four years and may be reelected. The governor receives a salary of \$137,092. In the event that the governor cannot complete the term, the lieutenant governor becomes governor. If the lieutenant governor is unable to serve, the secretary of state assumes the office.

The governor, besides enforcing and administering the law, also has the important duty of vetoing or approving bills passed by the Legislature.

The governor of Wisconsin has many other important duties:

- The governor appoints many members of the state government. Some appointments require approval by the Senate. The governor may also remove any of these officials he/she feels is incompetent.
- The governor may grant pardons, commutations, and reprieves, as deemed proper.
- The governor must approve the spending of all federal aid grants, state land purchases, and construction of highways and airports.
- The governor represents the state in interstate relations and at national meetings.
- The governor must spend a great deal of time explaining the goals of the administration to citizens.
- In addition to having the power to veto legislation, the governor influences the lawmaking process by submitting the state budget to the Legislature.
- The governor may call special sessions of the Legislature.
- The governor addresses the Legislature in a State of the State message and other special messages on topics of urgent or desirable legislation.
- The governor is commander-in-chief of the state militia.
- The governor must call for a special election to fill a vacancy in the Senate or Assembly.

**Veto**

The governor may take action on bills by:

1. The **regular veto** in which the whole bill is rejected, much like the veto of the president.

2. **Veto in part.** This is for *appropriation* or money bills and means that the governor may approve only some parts of a bill while rejecting others.

The governor’s office is similar in some ways to the Office of the President of the United States. However, there are some differences. Some of the most important differences are the lack of foreign affairs and national defense in the responsibilities of the governor.

Wisconsin has had many famous and talented governors and public officials. The lives of these people make an interesting and worthwhile study. Your local or school library should contain some interesting material on the lives of some of Wisconsin’s chief executives and officials.

**QUESTIONS**

1. What are the qualifications for governor?  
\_\_\_\_\_
2. What is the order of succession to the office of governor?  
\_\_\_\_\_

**TRUE OR FALSE?**

- \_\_\_ 1. The Legislature cannot be called into special session.
- \_\_\_ 2. The governor may remove an appointed official.
- \_\_\_ 3. The governor has the job of enforcing the law.
- \_\_\_ 4. The governor is the commander-in-chief of the state militia.
- \_\_\_ 5. The governor is appointed by the president.
- \_\_\_ 6. The governor is in charge of foreign affairs.
- \_\_\_ 7. The governor cannot grant pardons.
- \_\_\_ 8. The governor’s term of office is four years.
- \_\_\_ 9. The governor may veto only a part of a bill and approve the rest.
- \_\_\_ 10. The governor must be 35 years old or older.
- \_\_\_ 11. The governor may serve three terms.

**DEFINE**

1. grants \_\_\_\_\_
2. pardons \_\_\_\_\_
3. militia \_\_\_\_\_
4. succession \_\_\_\_\_
5. reprieves \_\_\_\_\_
6. vacancy \_\_\_\_\_

The following test will help you prepare for your final constitution test. It has questions similar to ones you will find on your final. It is suggested you write your answers on a piece of paper so you can take the test a number of times. You will find the correct answers at the bottom of the page.

Hard work on this page will assure you a better grade on your final exam. Be sure to look up any answers you don't understand or see your teacher for an explanation.

**MATCHING.** Match the person or body in **Column A** with the correct branch of state government in **Column B**. Put the letter of the correct answer in the blank at the left.

**Column A**

- \_\_\_\_\_ 1. The governor
- \_\_\_\_\_ 2. The state Assembly
- \_\_\_\_\_ 3. The Wisconsin Supreme Court
- \_\_\_\_\_ 4. Secretary of state
- \_\_\_\_\_ 5. The state Senate

**Column B**

- a. The Legislative Branch
- b. The Judicial Branch
- c. The Executive Branch

**FILL IN THE BLANKS.** Write the correct answer in the blank to the left of the question.

- \_\_\_\_\_ 6. Who can veto a bill passed by the Legislature?
- \_\_\_\_\_ 7. If the governor resigns, who becomes governor?
- \_\_\_\_\_ 8. The chief legal officer in Wisconsin.
- \_\_\_\_\_ 9. The year Wisconsin became a state.
- \_\_\_\_\_ 10. The election held before a general election.
- \_\_\_\_\_ 11. The governor of Wisconsin.
- \_\_\_\_\_ 12. The next presidential election will be held in what year?
- \_\_\_\_\_ 13. How many constitutions has Wisconsin operated under?
- \_\_\_\_\_ 14. What is the minimum age to vote?
- \_\_\_\_\_ 15. Hears appeals from circuit courts.

**TRUE OR FALSE?** Write a **T** or **F** in the space at the left of the question.

- \_\_\_\_\_ 16. Both the Wisconsin Constitution and the United States Constitution have a *Bill of Rights* or *Declaration of Rights*.
- \_\_\_\_\_ 17. The Wisconsin governor is the commander-in-chief of the state militia.
- \_\_\_\_\_ 18. Bills can start in either house of the state Legislature.
- \_\_\_\_\_ 19. Foreign affairs is one of the duties of state government.
- \_\_\_\_\_ 20. The governor must be 40 years old or older.
- \_\_\_\_\_ 21. Wisconsin voters must live in the state for two years.
- \_\_\_\_\_ 22. There are 72 counties in Wisconsin.
- \_\_\_\_\_ 23. The Legislature can override a governor's veto by a two-thirds vote.
- \_\_\_\_\_ 24. There are 33 members of the state Senate.
- \_\_\_\_\_ 25. Most of the local law violations are handled by municipal courts.
- \_\_\_\_\_ 26. The current constitution was adopted in 1848.
- \_\_\_\_\_ 27. The capital of Wisconsin is Milwaukee.
- \_\_\_\_\_ 28. The lieutenant governor is appointed by the governor.
- \_\_\_\_\_ 29. The governor is responsible for submitting the state budget.
- \_\_\_\_\_ 30. A member of the state Assembly serves a term of two years.

**Answers:** 1. c 2. a 3. b 4. c 5. a 6. governor 7. lieutenant governor 8. attorney general 9. 1848  
 10. primary election 11. answer will vary 12. 2012 (or 2016 13. one 14. 18 years of age 15. court of appeals 16. T 17. T 18. T 19. F 20. F 21. F 22. T 23. T 24. T 25. T 26. T 27. F 28. F 29. T 30. T