

Our State Constitution - A Student's Guide to the New York Constitution

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As in other states, federalism in New York is dynamic and can evolve due to changes in federal and state laws, court decisions, and shifts in political and policy priorities. This system of government allows for flexibility and adaptation to the needs and values of the state’s residents while respecting the overall framework of the U.S. Constitution.

Terrorist Attacks on September 11, 2001

The terrorist attacks of September 11, 2001, were felt by the whole country, the whole world, but nowhere more powerfully than in New York, New Jersey, Pennsylvania, and Washington DC. The attack left nearly 3,000 people dead and altered both the skyline of Manhattan and the trajectory of the United States forever. Our badly shaken nation came together in a spirit of patriotism, and reshaped homeland security.

Following 9/11, the federal government quickly developed a security framework to protect our country from large-scale attacks directed from abroad while enhancing federal, state, and local capabilities to prepare for, respond to, and recover from threats and disasters at home. A vital element of this framework included creating the Department of Homeland Security (DHS) in March 2003, bringing together 22 separate agencies and offices into a single, Cabinet-level department.

Created with the founding principle of protecting the American people from terrorist and other threats, DHS and its many partners across the federal government, public and private sectors, and communities throughout the country have strengthened the homeland security enterprise to better mitigate and defend against dynamic threats.

9/11 Memorial

The 9/11 Memorial, officially known as the *National September 11 Memorial & Museum*, is a tribute of remembrance and honor to the nearly 3,000 people killed in the terrorist attacks of September 11, 2001, at the World Trade Center site, near Shanksville, Pennsylvania, and at the Pentagon, as well as the six people killed in the World Trade Center bombing in February 1993. The names of every person who died in the attacks are inscribed into bronze panels edging the pools, providing a powerful reminder of the loss of life.

QUESTIONS

TRUE OR FALSE? Write a **T** or **F** in the space provided.

- ___ 1. In the early days, the Dutch controlled the area.
- ___ 2. The New York Constitution of 1938 has been amended 25 times.
- ___ 3. New York women were granted the right to vote three years ahead of the 19th Amendment.
- ___ 4. New York became a state in 1776.
- ___ 5. Both the New York Constitution and the United States Constitution have bills of rights.
- ___ 6. Foreign affairs is the duty of state government.
- ___ 7. The only city to host the state capital is Albany.
- ___ 8. New York could make a treaty with Switzerland.

NEW YORK BY THE NUMBERS. Choose the correct number from the bank that matches the statement.

Number Bank: 3, 5, 10, 11, 19, 24, 26

- ___ Number (in millions) of state residents
- ___ Number of state constitutions
- ___ This number state to join the Union
- ___ Amendment that recognizes the powers of state government
- ___ Number of branches in New York government
- ___ Number of representatives in the U.S. House

EVENTS IN ORDER. Write the numbers **1-4**, indicating which historical event happened *first (1), second (2), third (3), or fourth (4)*.

- ___ State adopts its current constitution
- ___ New York becomes a state
- ___ United States Constitution ratified
- ___ World War II ends

MATCH THE PERSON. Write the letter from **Section B** in the space that matches the person in **Section A**.

A

B

- | | | |
|-------------------|-----|-------------------------------|
| 1. Duke of York | ___ | a. river named after him |
| 2. da Verrazano | ___ | b. state named after him |
| 3. George Clinton | ___ | c. 1st President of the U.S. |
| 4. Henry Hudson | ___ | d. New York Governor |
| 5. G. Washington | ___ | e. hired by France to explore |

New York History, Government, and Constitution Timeline of Events (continued)

1812	1825	1827	1917	1954	2014	2037
NY was involved in the <i>War of 1812</i> fighting the British on land and water from Buffalo to Plattsburgh.	The <i>Erie Canal</i> made NYC the U.S. chief port and opened western territories to increased settlement and trade.	The Legislature ended two centuries of slavery within its borders making NY the first state to pass laws.	NY granted women the right to vote, 3 years before the 19th Amendment to the U.S. Constitution.	Ellis Island closes after serving as the gateway for over 12 million immigrants to the United States	Redistricting commission established to create fair and impartial legislative districts	The next opportunity for NY voters to decide whether or not a constitutional convention will take place.

ment is used, the final step in all cases is the approval by a majority of voters. This differs from U.S. Constitution amendments, which do not require voter approval.

Article 20 - When to Take Effect

With amendments adopted by the Constitutional Convention of 1938 and approved by voters on November 8, 1938, this article confirms that this Constitution shall be "in force" from January 1, 1939.

Separation of Powers in New York

The system of checks and balances reinforces the *separation of powers* concept. Not only is power divided, but one branch checks the other branches. For example, the courts have the power to declare laws and executive actions unconstitutional. The governor can veto bills from the Legislature. The Legislature must approve the government's budget and many of the governor's appointments. These are all examples of the constitution's attempts and ultimately of the people to avoid concentrating too much power in one place. The people always retain the right to control government by amending the constitution and rewriting state constitutions.

QUESTIONS

WHICH ARTICLE? In which article of the state constitution would you find information on the following? (Give section number when possible.)

1. education _____
2. rights of individuals _____
3. the governor _____
4. jury trial _____
5. religious freedom _____
6. local government taxation _____
7. the judicial system _____
8. revising the constitution _____
9. environment _____
10. voter qualifications _____
11. low income housing _____
12. "Forever Wild" provision _____

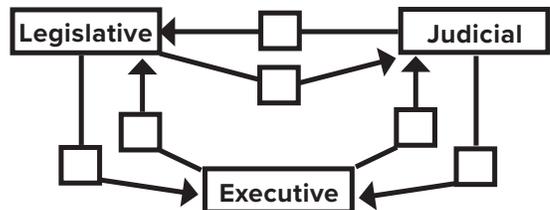
TRUE OR FALSE? Write a *T* or *F* in the space provided.

- ___ 1. Voters must approve changes in the state constitution.
- ___ 2. The governor may change the state constitution without voter or Legislature approval.
- ___ 3. An amendment to the state constitution may be proposed in either house of the Legislature.
- ___ 4. State constitutions are always shorter and contain fewer details than the U.S. Constitution.
- ___ 5. The New York Bill of Rights contains ten sections or amendments.
- ___ 6. There are 15 executive branch officers listed in the New York Constitution.

WHICH CONSTITUTION? To compare and contrast the New York Constitution with the U.S. Constitution, put an "X" next to the details that apply to one or both.

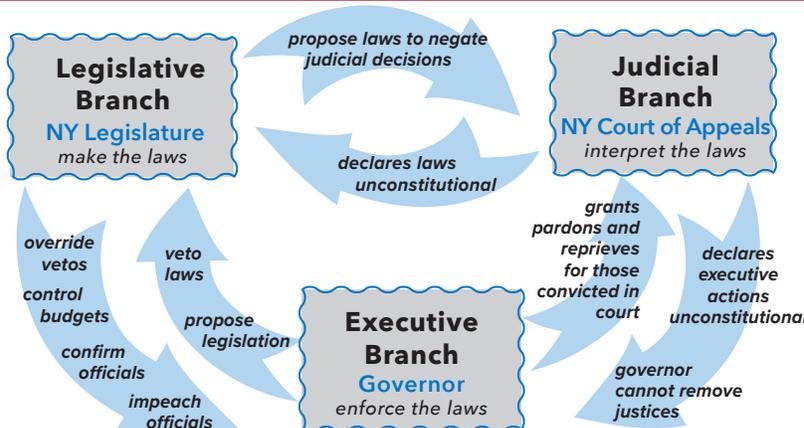
Item	NY	US
Contains freedom of speech		
Establishes federal laws and treaties		
Have a bill of rights		
Government with three branches		
Make laws to govern state's affairs		
Is the "Supreme Law of the Land"		
Utilize the principle of separation of powers		

FILL IN THE BOXES (CHECKS & BALANCES)



- a. governor can grant pardons to those convicted
- b. proposes laws to avoid judicial decision rulings
- c. may pass laws by overriding a governor's veto
- d. may declare laws from the Legislature unconstitutional
- e. may veto laws passed by the Legislature
- f. may declare executive orders unconstitutional

System of Checks and Balances in the State of New York



All state governments are modeled after the federal government and have three branches: executive, legislative, and judicial. The principle guiding federal and state constitutions is the **separation of powers**. The distribution of power with a system of **checks and balances** only allows a single branch of government to have a limited amount of power. Some of the most critical "checks" by the branch are listed in the shaded arrows.

The New York Constitution

Present one was adopted in 1938

New York voters choose our elected officials.

Legislative Branch

makes the laws

New York Legislature

Senate
upper house

Assembly
lower house

63
State senators

150
Assembly Members

Quick Facts

The New York Legislature is made up of the state Senate and state Assembly.

New York Senate

Members: 63

Term: 2 years

Term limit: none

Salary: \$142,000

Qualifications:

- ▶ U.S. citizen
- ▶ At least 18 years old
- ▶ State resident for at least 5 yrs
- ▶ Live in district for at least 1 yr

New York Assembly

Members: 150

Term: 2 years

Term limit: none

Salary: \$142,000

Qualifications:

- ▶ U.S. citizen
- ▶ At least 18 years old
- ▶ State resident for at least 5 yrs
- ▶ Live in district for at least 1 yr

Executive Branch

enforces the laws

Governor

Executive Officers:

Lieutenant Governor
Secretary of State
Attorney General
State Comptroller
Various Departments
(maximum of 20)

Quick Facts

The New York Constitution provides for 4 executive offices (plus the Secretary of State).

Executive Officers

Number: 4

Term: 4 years

Term limit: none

Qualifications:

- ▶ U.S. citizen
- ▶ At least 30 years old
- ▶ Resident of state for at least 5 years

Salaries:

- ▶ Governor: \$250,000
- ▶ Lt. Governor: \$220,000
- ▶ Sec. of State: \$220,000
- ▶ Atty. General: \$220,000
- ▶ Comptroller: \$210,000

With a few exceptions, the Governor appoints the heads of all State departments and agencies of the executive branch.

Judicial Branch

administers justice

Court of Appeals

Intermediate Appellate Courts

Trial Courts & Other Specific Courts

Quick Facts

Court of Appeals

- ▶ *Final court of appeal for state matters*

Number of justices: 7

Term: 14 years

Appointed by: the governor after review by commission

Justices:

- ▶ Chief Justice is nominated by governor
- ▶ retirement age is 70 for all justices, can be extended
- ▶ Supervises state courts

Appellate Courts

- ▶ *Most appeals are first heard here*

Courts include:

- ▶ Appellate Terms of the Supreme Court
- ▶ Appellate Divisions of the Supreme Court
- ▶ County Courts

Trial Courts

- ▶ *Hear initial cases in most court proceedings*

Courts include:

- ▶ Supreme Court
- ▶ Surrogate's Court
- ▶ Family Court

“The state-wide courts shall consist of the court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate’s court and the family court...” — New York Constitution, Article 6

The judicial branch of government in New York administers justice and interprets the laws. These state courts are the workhorses of the American legal system. Each court has specific responsibilities and restrictions on legal matters. New York has one of the most complicated court systems in the United States. Please refer to the chart below.

Criminal and Civil Cases

All courts handle both *criminal* and *civil* cases. A criminal case involves a violation of a law for which there is a fine or other penalty like a prison sentence or probation. Criminal cases range from relatively minor offenses, such as traffic infractions, to serious ones, such as robbery or murder. These typical crimes are classified as *felonies*, *misdemeanors*, or *infractions*.

Felonies – Serious crimes are often punishable by a state prison sentence or even death in extreme cases.

Misdemeanors – A lesser offense than a felony. It is punishable by fine or incarceration for less than a year in a city or county jail rather than in a state penitentiary.

Infractions – These are not punishable by jail or prison time but rather by a fine. The most common infractions are traffic violations.

Civil cases are brought against individuals or organizations by other individuals or organizations. In some civil cases, the plaintiff seeks monetary damages to be paid by the defendant. In other civil cases, the parties ask the court to take specific action, such as to dissolve a marriage, decide the custody of minor children, review property rights, or stop someone from doing something.

Now that you know the type of court cases, it is time to learn more about the courts themselves.

Court of Appeals

The *Court of Appeals* sits atop the state judicial system. This is the final authority on the state Constitution and the highest tribunal for any action begun in the state courts, except when a federal question is raised. This ultimate decision-maker on state laws hears cases on appeal for the other appellate courts involving criminal and civil appeals. This court convenes at the State Capital in Albany and consists of six associate judges and one chief judge, each appointed to a 14-year term.

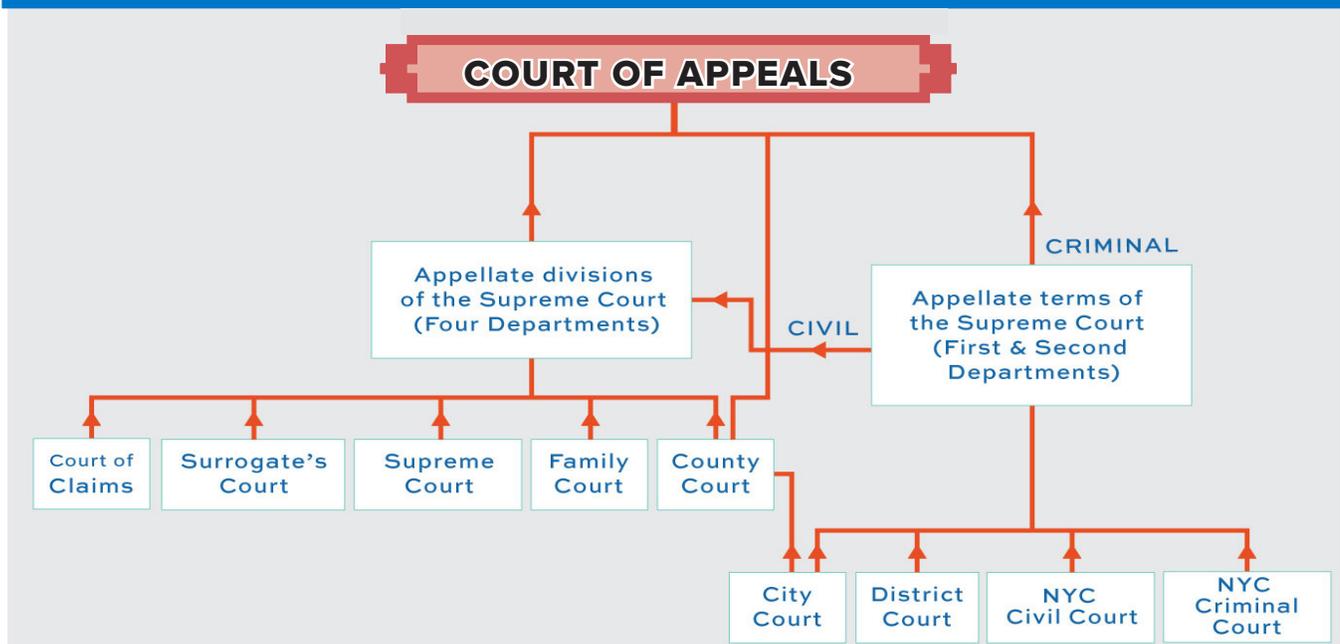
Vacancies on New York’s highest court are filled via merit selection. Candidates submit their “applications” to the *Commission on Judicial Nomination*, a bipartisan body of 12 members. The governor appoints four members: four by the chief judge, one each by the senate majority leader and the assembly speaker, and one each by the Senate and Assembly minority leaders. The commission evaluates the candidates and narrows the list of well-qualified candidates to a maximum of seven. This list is forwarded to the governor, who may choose only from the candidates on it. The governor’s nominee is then sent to the New York State Senate for confirmation.

Appellate Divisions of the Supreme Court

The state of New York is divided into 12 *judicial districts*. These judicial districts are divided into four *judicial departments*, each with an Appellate Division of the Supreme Court. This intermediate appellate court hears civil and criminal appeals, reviewing the record and decisions of the lower courts. If cases involve a death penalty or a question of constitutionality, it may skip this court and go directly to the Court of Appeals. The governor appoints these judges from among the Supreme Court Justices. Five justices must sit in any case, and four are required for a quorum.

continued

OVERVIEW OF THE NEW YORK COURT SYSTEM



Over \$1 trillion is spent by state and local government in our country each year. The graph to the right will show you how the tax money is spent in the state of New York each year.

Today's state and local governments provide such services as public schools, welfare, police, mass transit, public health programs, courts, and highway construction. The money to pay for these services comes from taxes and other sources, such as federal grants and revenue from a business operated by the state and local governments. Most of the money, however, is provided by taxes.

Limitations on State Taxation

The state's taxation power is limited by the federal Constitution, the state's own laws, and its own constitution. The federal Constitution, for instance, does not allow states to make import or export taxes, nor are states allowed to tax commerce between states. The U.S. Constitution prohibits states from taxing federal property, such as military bases. Also, the 14th Amendment says that taxes must be administered fairly and for public purposes.

Sales Taxes

Taxes on the sale of goods, called sales taxes, provide states with more than half of their incomes. Forty-five states, including New York, have a general sales tax.

Income Taxes

Forty-three states, including New York, tax personal income. Forty-six states make corporations pay tax on their profits, as well. New York has a corporate income tax also. Over one-third of states' tax revenues are provided by income tax.

Local Taxation

Like the state, each local government must operate with a balanced budget. The most important local government tax is the property tax, used to support county and municipal government, the school district, and special districts, such as a fire district. Some local governments also raise money through a type of income or earnings tax.

State Budgets

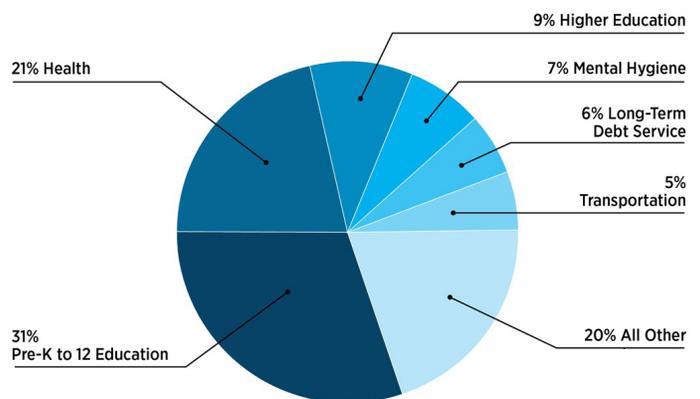
State budgets may be critical today, but until the 1920s, they were generally put together in a confused manner with each state department fighting for funds. Today's budgets must be carefully drawn. The four major areas to which most state budgets give money are education, highways, public welfare, and retirement and unemployment benefits.

Although it is the governor, in most states, who has the responsibility to make the budget, he or she usually has a professional budget director and staff. The state constitution requires that in mid-January, or by February 1st in the year following a gubernatorial election, the

governor submit to the Legislature the budget (also called the *Executive Budget*). The budget details the estimated receipt and spending of state monies for the upcoming fiscal year (April 1st to March 31st). The governor works closely with the Division of the Budget to put this plan together. The budget is submitted to the Legislature in the form of appropriation bills and goes through the same procedure as other bills. The Senate and Assembly Appropriation committees study the budget and may make changes. The budget must be passed by a majority vote in both houses and then returned to the governor for their signature.

Annual revenues in New York is approximately \$229 billion. Collecting and spending such funds is indeed a tremendous responsibility for the governor and the Legislature. If citizens want to see this money collected fairly and spent wisely, they need to be involved and informed citizens. By participating in your current studies, you are beginning to meet your responsibility.

Typical New York State Spending



Approximate Annual Budget: Fiscal Year 2024 = \$229 billion

QUESTIONS

FILL IN THE BLANKS

- The annual New York state budget is presented by the _____.
- The budget is presented to the _____.
- The fiscal year of the state begins in _____.
- States are not allowed to make *i* _____ or *e* _____ taxes.
- Annual spending in New York is now \$ _____ billion.

TRUE OR FALSE? Write a *T* or *F* in the space provided.

- The U.S. Constitution puts some limitations on state taxation. _____
- New York does not receive any money from the federal government. _____
- Income taxes are a significant source of revenue. _____
- Capital and infrastructure funding is the largest item in New York spending. _____
- Property taxes are used to fund projects from the federal government. _____

B. Executive Branch, Article 4 (continued)

- C. Governor's salary: \$250,000 per year
- D. Term: Four years, no term limits
- 3. Other executive branch officers
 - A. Lieutenant governor — presides over state Senate, first in line to succeed and serve as governor
 - B. Attorney general — chief legal officer of the state
 - C. Secretary of State — handles state business such as licensing, record keeping, and regulatory functions
 - D. State comptroller — manages state funds and heads the Department of Audit and Control
- 4. All executive officers are elected together and serve four-year terms.

C. Judicial Branch, Article 6

- 1. Main duty: interpret laws, administer justice
- 2. Court system handles both criminal and civil cases
 - A. Court of Appeals
 - 1. state's highest court
 - 2. hears appeals from the Appellate Divisions
 - B. Appellate Terms and Divisions
 - 1. hear appeals from lower courts
 - 2. Appellate Divisions of the Supreme Court is divided into four departments
 - C. State Supreme Court
 - 1. trial-level court with broad jurisdiction over civil and criminal cases
 - 2. hears cases involving marriage and civil cases with no monetary limit
 - D. Other Statewide Courts
 - 1. Surrogate's Courts
 - 2. Family Courts
 - 3. City and County Courts
 - E. Juries - the New York Constitution guarantees the right of trial by jury

Voting and Elections

I. Elections

- A. Primary elections nominate a candidate for their party
 - 1. Includes presidential primary election for president candidates every four years
- B. General elections (held in November, biennially), to select both state and national candidates

II. Voting

- A. Requirements: 18 years old, resident of New York for at least 30 days, must be a U.S. citizen, a registered voter
- B. Early voting option allows voters to submit their ballot ahead of Election Day

Local Government

I. Local governments established and organized under state Constitution and state laws:

- A. Municipal government includes cities and towns
 - 1. Municipalities use mayor-and-council, council-manager, and commission forms of government
 - 2. Home rule enable local governments to enact local laws from taxation to zoning to public safety
- B. Special districts, provide special services for the people of New York
- C. County government, carry out state policy
 - 1. 62 counties in New York providing a variety of local government duties
 - 2. Governing body is the county board

Financing Government

- I. State budgets prepared for New York's fiscal year, April 1 through March 31
- II. Taxes help fund state and local government services
 - A. Sales taxes
 - B. Income taxes
 - C. Property taxes
- III. State budgets are prepared and submitted annually by the governor, approved by the Legislature