

# Federal and State Powers

**GUIDING QUESTION** *How does the federal system allow the national government and state governments to share power?*

If you have ever traveled on a highway, you might have seen a road sign with a red, white, and blue shield and a number. This symbol shows that the road is an interstate highway. These roads connect major cities and are mostly paid for by the federal government. The sign might also have had an outline of a state with a number, which means that the road is a state highway.

Why would the same road be both a state and a federal highway? That happens because the United States has a federal system of government. In a **federal system**, the national government and the state governments share and divide powers. Both build highways. That is just one example of how these two levels of government do similar jobs.

In our federal system, some powers are left to the state governments and others to the federal government. Some powers are shared by both. There has been an ongoing debate about how our federal system should work. Some favor states' rights over the power of the national government. Others argue that the powers of the national government should be increased.

State Governments and  
Federal Government

Similarities	Differences

## Content Vocabulary

- **federal system**
- **reserved powers**
- **concurrent powers**
- **supremacy clause**
- **grants-in-aid**

**federal system**  
the sharing of power  
between the central  
and state governments

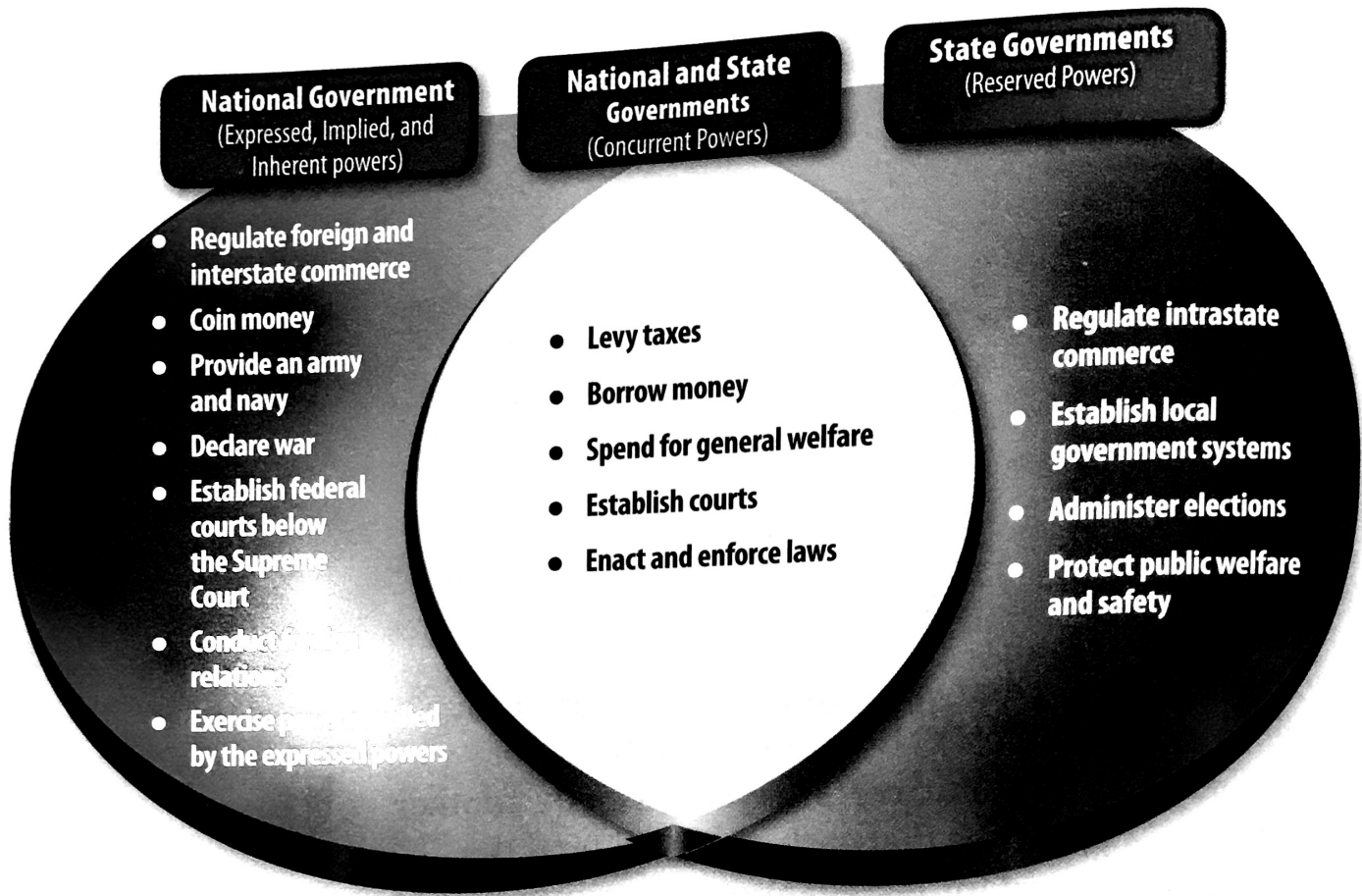
# States in the Constitution

Do you remember what kind of system the Articles of Confederation set up? Under that government, the nation was a loose union of states. The states were relatively stronger than the central government.

In writing the Constitution, the Framers created a stronger central government. However, they believed that state governments were important as well. Anti-Federalists like Patrick Henry were against giving states less power. Even James Madison, who believed in a strong central government, knew that it was important for states to keep certain powers.

As a result, the Framers created a federal system that divides powers between state and national governments. The Constitution limits the powers of states while offering states protections. For instance:

- Article IV, Section 1 says that each state must respect legal actions taken by other states. Because of this section, for example, one state accepts a driver's license given by another.
- Article IV, Section 2 promises that each state will treat the people of other states equally. For example, states cannot give people from another state tougher punishment for a crime than their own citizens would get.
- Article IV, Section 3 guarantees each state's area. The section says that land cannot be taken from any state to make a new state without its approval. It also says that two states cannot be joined into a new state unless they agree.
- Article IV, Section 4 promises each state a republican form of government. It also vows to protect that government against an enemy attack or a revolt.



**CHART SKILLS**

The Constitution gives some powers to the federal government and reserves some to the states. Both levels share other powers.

**1 Identifying** Which level creates local government? **SS.7.C.3.14**

**► CRITICAL THINKING**

**2 Making Inferences** Why do you think the states are blocked from coining money?

**Sharing and Dividing Powers**

The key to federalism is the way the Constitution assigns powers. Some powers are given only to the federal government. The federal government has three kinds of power.

- *Expressed* powers are those listed in the Constitution. Most of these powers are given in Article I, Section 8.
- *Implied* powers are not listed in the Constitution but can be based on it. For instance, it says that the president is commander in chief of the armed forces. Therefore, the president may send troops in response to a serious crisis.
- *Inherent* powers are the kinds of powers a government has simply because it is a government. Buying land from another country is an example.

**Reserved powers** are given only to states. Reserved powers come from the Tenth Amendment. It says that all powers not given to the federal government are reserved for the states.

Some powers are held by both the national and state governments. These shared powers are called **concurrent powers**. The Constitution does not mention concurrent powers. Yet, both levels of government need such powers in order to **function**. Examples of powers that both the state and federal governments hold include the powers to tax, set up courts, and enforce and create laws. Which kind of power is building highways? If you said “concurrent power,” you are right.

## Limits on State Power

The Constitution does put some limits on the powers of the states. For example, states cannot declare war, issue their own money, or impose taxes on imports from other countries or states. Nor can states make treaties with another country. In addition, according to the Fourteenth Amendment, states cannot take away the rights of their citizens “without due process of law.” Also, states are required to give every citizen “equal protection of the laws.”

Courts have used this amendment to make the Bill of Rights apply to the states. When written, the Bill of Rights was aimed at the federal government. For instance, the First Amendment says that Congress—not the states—cannot limit freedom of religion or speech. The Framers worried that a central government that was too strong could take away people’s freedoms. They did not fear the state governments.

Yet, states did take away people’s rights. For example, states in the South passed laws to limit the rights of African Americans. The Fourteenth Amendment gives courts a tool to stop states from making such laws.

Another limit to state power comes from the **supremacy clause**. Article VI says that the Constitution, and all federal laws, “shall be the supreme Law of the Land.” If a state law conflicts with the words of the Constitution or a federal law, the state law is thrown out.





## Working Together

The federal and state governments also work together. Each year the federal government gives billions of dollars to the states in **grants-in-aid**. This money is used to meet goals set by Congress. Grants might be for education, health care, or other purposes. Some grants give specific instructions to states. Others set goals but do not detail how to reach those goals.

In recent years, states have been unhappy about certain federal decisions. At times, Congress tells states to take certain actions without giving money to pay for those actions. State officials call these laws unfunded mandates. Critics say these laws are unfair and **violate** the rights of states.

Sometimes states do not want to follow laws Congress passes. For example, many states have resisted the Real ID Act, passed in 2005. The law set tough new ID standards for granting or renewing driver's licenses. Congress said these were needed for national security reasons. Within a few years, though, the legislatures of half the states formally protested the law.

State governments work with one another, too. Some neighboring states, such as New Jersey and Pennsylvania, have agreed not to charge income tax to people who work in their state but live in the other. Some states in the West have formed a group to design a common energy policy. Many states also help one another through a legal process called extradition. In this process, a person charged with a crime who has fled to another state is returned to the state where the crime was committed.

### **PROGRESS CHECK**

**Identifying** What are two limits that the Constitution puts on the powers of state governments?

## The State Constitutions

**GUIDING QUESTION** *What characteristics do all state governments share?*

Have you visited other states besides the one in which you live? If so, you may have noticed some ways that other states' climate or geography compare to your own. But you probably did not think about how state governments compare and contrast.

## U.S. Constitution

## Florida's Constitution

1st constitution of nation

6th constitution in state's history

7 articles

12 articles

Bill of rights added as first 10 amendments

Begins with a declaration of rights

Establishes executive, legislative, and judiciary at the national level

Establishes executive, legislative, and judiciary at the state level

Is a broad framework of government

Contains many specific provisions, such as provisions regarding a state lottery, conservation, transportation, and smoking in the workplace

Establishes state government

Establishes local government

Does not establish public education

Establishes public education

Allows for amendments but does not require regular reviews

Requires a commission to review the constitution every 20 years for proposing changes

## Similarities in State Constitutions

Each state has its own constitution. It sets forth the structure of the state's government. As the U.S. Constitution does for the federal government, all state constitutions, including Florida's, split the state government into three branches—the executive, the legislative, and the judicial. They also describe the powers of each branch. State constitutions also list the specific rights guaranteed to state citizens. Florida's list, called the Declaration of Rights, is nearly three times longer than the Bill of Rights.

## Differences Among State Constitutions

Massachusetts has the oldest constitution still in use. Its framework was written in 1780. Florida has had six constitutions. The one in force now was approved in 1969.

State constitutions also vary in length. New Hampshire's is the shortest state constitution at about 9,000 words. Florida's is about 57,000 words. One reason some state constitutions are long is that they are often more specific than the more general U.S. Constitution, which is only about 7,000 words in length. Florida's constitution, for instance, has a long passage that defines the state's boundaries.

Alabama has the longest constitution and has added the most amendments—more than 800. Florida has more than 100 amendments, which is many more than the 27 amendments of the U.S. Constitution.

# The Constitution of Florida

**GUIDING QUESTION** *How does the Florida constitution compare to the U.S. Constitution?*

Florida was settled by Native Americans about 12,000 years ago. Europeans arrived in the 1500s. By the 1700s, war and disease had killed most of the native population. In 1821 the United States bought Florida from Spain, which controlled it. It became a state on March 3, 1845. In preparation, representatives had met years earlier to draft Florida's first constitution.

## Early Constitutions

Florida's first constitution was drafted in 1838. It began with a declaration of rights, including voting. But many rights applied only to free white men. The constitution made it clear that Florida was a slave territory. It banned lawmakers from passing "laws for the emancipation of slaves." It allowed them to pass laws to stop free African Americans from entering the state.

## STEPS TO AMEND FLORIDA'S CONSTITUTION

### Step 1: Get Approval to Try

A group wanting to suggest an amendment must:

- Register with a state office as a political group
- Get state approval of the form used to get signatures

### Step 2: Get Voters to Sign Papers

To get the suggested amendment on the ballot, the group needs:

- Signatures from voters equal to 8 percent of the number of people who voted in the last state general election
- Signatures from voters in half of the state's congressional districts
- Give the signed papers to the state by February 1 of the election year

### Step 3: Get the Papers Approved

Local election officials must approve the signatures as coming from real voters.

### Step 4: Get the Top Court's Approval

The state supreme court must approve the suggested amendment.

### Step 5: Be Evaluated for Cost

The legislature must give an estimate of its financial impact to the state.

### Step 6: Be Published

The suggested amendment must be published twice before the election in at least one newspaper in every county that has a newspaper.

### Step 7: Be Approved by Voters

The suggested amendment is approved *if* 60 percent of voters approve it. If it creates a new tax or fee, 67 percent of voters must approve it.

In 1861 Florida seceded from the Union and joined the Confederacy. After the Civil War, in 1868, Florida adopted a new constitution reflecting changes that had occurred. It outlawed slavery and gave voting rights to all male citizens 21 and over. But in 1885, a new constitution let the state limit voting rights by putting a tax on voting, or poll tax. Poll taxes kept many African Americans and poor whites from voting. The 1885 constitution lasted more than 80 years. But as Florida grew and changed, it was amended 149 times. In 1968 a new constitution was ratified. It reorganized the governor's cabinet, created a new state board of education, and set clear rules for elections and voting. These and other changes reflect modern Florida.

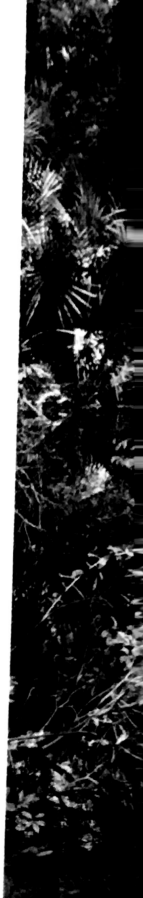
## Florida's Constitution Today

Florida's current constitution has been in effect for more than 40 years. Unlike the U.S. Constitution, it lists the rights guaranteed to citizens in the first article. Article I says all people are equal before the law, regardless of sex, race, religion, or any other factor. This article guarantees many of the same rights as the U.S. Bill of Rights, such as the rights to free speech, free press, and freedom of assembly. Other provisions include the rights of crime victims, a taxpayer bill of rights, and a definition of marriage.

Article II, General Provisions, defines state boundaries and the location of the state government. It says English is Florida's official language. It sets rules for public officials. It also protects Florida's natural resources and scenic beauty.

Articles III, IV, and V establish the three branches of state government. Article VI describes voting and election rules. Unlike the U.S. Constitution, Florida's constitution addresses campaign funding and spending limits. Article VII gives tax rules for the state and local governments.

Article VIII describes the organization and powers of county and municipal governments in the state. It states that each county is to be governed by a board of county commissioners. The commissioners are to be elected by the people and serve four-year terms. It also says that counties may draft their own charters, or type of constitution, if they don't conflict with the state constitution. Article IX creates Florida's public schools and a state university system. It stresses that the state must provide a good education to "all children residing within its borders."





Article X is titled Miscellaneous. Its 27 sections cover a range of topics, such as lotteries, the minimum wage, and animal cruelty. Another topic in Article X deals with the conservation of Florida's natural resources. For example, the Everglades Trust Fund is a source of revenue to maintain and conserve the Florida Everglades. Article X also establishes the need for a high-speed ground transportation system called a monorail.

Article XI explains that Florida's constitution requires a review every 20 years to see if it still meets the state's needs. The review commission has 37 members, including the state attorney general plus 15 members selected by the governor, 9 members selected by the speaker of the house, 9 members selected by the senate president, and 3 members selected by the chief justice of the state supreme court. The commission can propose an amendment or revision. The article further states that the state legislature and the people can also propose an amendment. Any proposed amendment must be approved by 60 percent of the state's voters before it can take effect.

Since the constitution was enacted, it has gone through two comprehensive reviews. The most recent review was in 1997–1998. The commission and the legislature suggested 13 amendments. Voters approved all but one of them.

The final article is Article XII, Schedule. It lays out the complex process for moving from the 1885 to the 1968 constitution. Issues include preserving laws, transferring jobs, and dealing with money issues such as taxes and investments.

## **PROGRESS CHECK**

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**Analyzing** Why do you think Florida has a constitutional review in its state constitution?