

THE LEGISLATIVE BRANCH

SS.912.CG.3.3 Analyze the structures, functions and processes of the legislative branch as described in Article I of the U.S. Constitution.

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2023 BENCHMARK UPDATES

- Updated from SS.912.C.3.3
 - Changed from “Analyze the structures, functions, and processes of the legislative branch as described in Article I of the Constitution.” to “Analyze the structures, functions and processes of the legislative branch as described in Article I of the U.S. Constitution.”
- Depth of Knowledge Changes within Benchmark
 - No changes
- Addition of Benchmark Clarifications
 - Benchmark clarifications are an addition to the 2023-2024 high school civics and government benchmarks. Benchmark clarifications are listed in the lesson summary below.

Essential Teacher Content Background Information

[Teacher Content Notes Not Appropriate For Student Use]

This section addresses the following topics:

1. Making the Laws: The Legislature
2. The Enumerated Powers of Congress
3. Checks and Balances: Relationships With Other Branches
4. Amendments That Have Impacted Congress Directly

1. Making the Laws: The Legislature

Lawmaking is central to the U.S. Government. The separation of powers and checks and balances system gives priority to the lawmaking process; legislators are elected at every level of government, which gives direct power to citizens in deciding who makes the laws.

A. The United States Congress

Congress today consists of a 435-member House of Representatives and a 100-member Senate. The Constitution guarantees each state two Senators and at least one member of the U.S. House of Representatives. Legislation must be passed by at least one-half of the membership of each chamber voting to approve (218 in the House; 51 in the Senate). Proposed laws, or bills, are then considered by the president. Bills that are approved by the president become laws, which are called acts.

B. How Congress Works: The Committee System

Committees in Congress allow for deliberation and debate with a reduced number of members than the entire body. Trying to get 435 people to deliberate on a decision of national importance, or even 100, would be nearly impossible. The committee system also reflects the notion that members need to spend time on issues important to their district in order to serve their constituents well. Committees allow representatives to specialize on issues within a specific policy area. In their deliberations, committees hold hearings, conduct research, and write policy. Special interest groups often testify during these hearings in their efforts to shape legislation as it is being written. Some bills are not forwarded to the full house for a vote as the committee may recommend that a bill not receive further consideration. In other cases, the committee votes favorably on the bill, and it is forwarded to the full house for a vote.

There are five different committee types in Congress. Members serve each committee type from one or both houses and/or one or both parties. Information on parties in Congress is found below as follows:

Committee Type	Committee Purpose	Committee Membership
Standing	Permanent legislative panels that consider bills and issues	Members of one house, and both parties
Select	Temporary committee that addresses a specific issue; once that committee's business is complete, the committee dissolves	Members of one house, and both parties

Special	Performs a special function beyond the authority or capacity of a standing committee	Members of one house, and one party
Joint	Policy exploration with a narrow jurisdiction	Members of the House of Representatives and the Senate
Conference	Temporary committee formed to reconcile differences in legislation passed by both chambers.	Members of the House of Representatives and the Senate

C. How Congress Works: The Party Leadership System

Political parties are mentioned nowhere in the Constitution. Still, political parties play key roles in the organization of Congress, particularly committees.

The Democratic and Republican parties are the only parties recognized in Congress. Members of Congress may be elected from minor parties, or be elected as independents (both situations are rare) although they are not granted leadership opportunities.

There is a majority and a minority party in Congress. The majority party is determined based on which political party has the most members based on the most recent election. The minority party is the party with the lesser membership, also based on the most recent election.

Majority parties in Congress enjoy unique leadership opportunities. For example, the majority party selects the Speaker of the House of Representatives, which is the only office chosen by Representatives named in the U.S. Constitution. The Senate majority party elects the “President pro tempore”, or “pro tem,” who serves in the absence of the Vice-President as president of the Senate. Majority party members also chair all standing and select committees, while the larger share of seats on each of these committees also comes from the majority party. Together, the majority party can guide the policy process because it holds leadership positions in each house, chairs all policy committees, and holds the majority on each of these committees. The Vice-President breaks ties in the Senate.

Party membership also relates to the purpose of the committee. Special committees are limited to members of one house and one party because special committees work toward a particular party’s goal, such as shaping a party’s position on a proposed policy or getting members of that party re-elected to that house of Congress in the next election cycle. Similarly, when the committee’s purpose is to address matters of importance to all Congress members, both parties are represented from both houses. Conference committees have members from both houses and both parties because these committees negotiate agreements on bill differences between the two chambers. As both chambers must agree on the same version of all bills passed by Congress, members of both parties and houses should participate in the discussion over any revisions so that, once a compromise is reached, each of the conference committee members will recommend to their respective houses and parties that they support the agreed-upon version.

2. The Enumerated Powers of Congress

Article I, Section 8 of the U.S. Constitution outlines the powers of Congress. These powers of Congress list the national government’s obligations to the people. The opening phrase of Article I, Section 8 demonstrates the obligations and services that the national government is obligated to provide:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

Article I, Section 8 enumerates (lists) the powers of Congress. The final clause of this section extends to Congress whatever powers it needs to carry out the enumerated powers listed up to that point in the section. The “elastic clause” is shown here:

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

The final clause of Article I, Section 8 is called either the “Elastic Clause” or the “Necessary and Proper Clause”, both of which indicate that Congress may do whatever it needs to in order to fulfill its obligations and services to the people. Powers that are given to the national government are also called “delegated” powers.

Together, the terms that are used to describe national powers are delegated, enumerated, and expressed. All of these terms suggest that powers used to fulfill national obligations are limited. Still, that Congress may do what it believes it needs to in order to fulfill its obligations suggests that Congress’s powers are not as limited as Article I, Section 8 would suggest.

3. Checks and Balances: Relationships With Other Branches

The Founders were deeply concerned about government abusing its power. It was reasoned that when a government abused its power, it deprived the citizens of their liberty. As liberty was a fundamental God-given right, assurances had to be put in place to protect the people from government abusing its power.

The U.S. Constitution is organized around a separation of powers system that utilizes checks and balances. The power to legislate, enforce, and adjudicate is separated into three different branches of government. These branches may not function with complete independence. The Founders feared that branches functioning independently might still abuse their power. Thus, while there are separate branches of government, each vested with specific powers, this does not mean that each branch operates without some level of oversight from one or both other branches.

Here are some examples of the relationships between the branches:

- A. The legislative branch makes laws, but the president in the executive branch can veto those laws. Congress can override the veto.
- B. The legislative branch makes laws, but the judicial branch can declare those laws unconstitutional.
- C. The executive branch, through administrative agencies, has responsibility for day-to-day enforcement and administration of national laws.
- D. The legislative branch has the power to approve presidential nominations, control the budget, and impeach the president and remove them from office.
- E. The executive branch can issue executive orders, which are like proclamations that carry the force of law, but the judicial branch can declare those acts unconstitutional.
- F. The judicial branch interprets laws, but the president nominates Supreme Court justices, court of appeals judges, and district court judges who make the evaluations.
- G. The judicial branch interprets laws, but the Senate in the legislative branch confirms the president’s nominations for judicial positions, and Congress can impeach any of those judges and remove them from office.

4. Amendments That Have Impacted Congress Directly

Although the Framers were very deliberate in their efforts to define the structures, functions, and processes of the legislative branch, over time, the role of Congress has changed through various constitutional amendments. Some, like the 10th Amendment, provided clarification of Article I by explaining that powers not enumerated to the national government by the Constitution (or prohibited by it) are reserved for the states. With the abolishment of slavery, the $\frac{3}{5}$ clause was no longer a valid method for counting census population for the purpose of determining a state's representation in the House of Representatives. This was addressed by the 14th Amendment and therefore altered the state power balance in the House. The 16th Amendment allowed Congress to establish an income tax, again clarifying an already enumerated power in Article I. The 17th Amendment changed the process of selecting Senators to a popular vote. Prior to this amendment, Senators were chosen by state legislatures. Most recently, the 27th Amendment established that if Congress votes to approve a pay raise for themselves, it will not take effect until after the next Congressional election.

Lesson Summary

BENCHMARK

SS.912.CG.3.3 Analyze the structures, functions and processes of the legislative branch as described in Article I of the U.S. Constitution.

BENCHMARK CLARIFICATIONS

- Students will explain why Article I of the U.S. Constitution established a bicameral legislative body and how the House of Representatives functions differently from the Senate.
- Students will identify the methods for determining the number of members in the House of Representatives and the Senate.
- Students will identify and describe the “enumerated powers” delegated to Congress (e.g., assess taxes, borrow money, declare war, make laws).
- Students will analyze the role of the legislative branch in terms of its relationship with the judicial and executive branch of the government.
- Students will describe constitutional amendments that changed the role of Congress from its original description in Article I of the U.S. Constitution (i.e., 10th, 14th, 16th, 17th and 27th Amendments).

FLORIDA CIVIC LITERACY EXAM COMPETENCY CONNECTION

Competency 2: Understanding of the United States Constitution and its application

OVERVIEW

In this lesson, students will analyze the structures, functions, and processes of the legislative branch.

ESSENTIAL QUESTION

What role does the legislative branch play in the U.S. government?

GOVERNMENT CONTENT VOCABULARY

- 10th Amendment, 14th Amendment, 16th Amendment, 17th Amendment, 27th Amendment, act Article I, bicameral, bill, capitol, checks and balances, Congress, constituents, enumerated powers, House of Representatives, law, legislature, Necessary and Proper Clause, Senate, separation of powers

INSTRUCTIONAL STRATEGIES

Close reading

Research

Analyzing political cartoons

MATERIALS

- Student digital device (optional)
- Copies of the U.S. Constitution (digital/print)
- Structures of Congress slides
- Structures of Congress Packet
- 4th March 1789: US Congress meets for the first time video (external link)
- Constitutional Amendments and Congress Graphic Organizer

- Functions and Powers of Congress slide
- Article I, Section 8 reading
- The Legislative Process Chart
- I'm Just a Bill video (external link)
- The Legislative Process Cards
- Highlighters, Scissors, Glue (optional)
- Why Congress Matters Game Pieces
- Congress Primary Source Set
- Why Congress Matters slides
- What Congress Does and Why It Matters diagram
- Congress Primary Source Set-Full Size (optional)
- Three Branches: Checks & Balances Webquest (optional; external link)

B.E.S.T. STANDARDS

The grade in which this lesson is taught will determine the specific B.E.S.T. standards correlation.
Thematically, this lesson aligns to:

- ELA.R.2.2 Central Idea
- ELA.R.3.2 Paraphrase and Summarize
- ELA.V.1.2 Morphology

Suggested Student Activity Sequence & Pace

DAY	ACTIVITY SEQUENCE
DAY 1	<ol style="list-style-type: none"> 1. Begin class by projecting the “Structures of Congress” slides. Explain to students that today, they are going to begin diving into our three branches of government. 2. Show students the image on slide 2. Ask students: What goes on in this building? Who works here? Have them record their responses. 3. Ask for responses. Answers may vary, but use slide 3 to lead students to the understanding that this is the U.S. Capitol Building, which houses the legislative branch of government, collectively known as the U.S. Congress. Ensure they understand we have a bicameral legislature (U.S. House of Representatives and U.S. Senate). Teacher Note: This information should all be a review from prior grades and courses. Students may find the meaning of the word ‘bicameral’ interesting. Latin roots—bi- means ‘two,’ camera means ‘chamber’ (in Latin), and the suffix -al turns nouns into adjectives. Literally, then, ‘bicameral’ means ‘having two chambers.’ 4. Ask students: Why a bicameral legislature? Why not just one legislative body? 5. Project slide 4 for students with a quote from future Supreme Court Justice James Iredell. Ask them to analyze the explanation for the bicameral legislature by summarizing the quote in their own words on their paper. 6. Ask for responses. Responses may vary, but use slide 5 to help lead students to the understanding that a bicameral legislature was just another way for the Framers to implement the foundational principles of separation of powers and checks and balances. 7. Project slide 6 and explain to students that the Framers established the structure, functions, and processes for our bicameral legislature in Article I of the U.S. Constitution. 8. Place students into pairs. 9. Pass out a “Structures of Congress Packet” to each student. 10. In their pairs, have one student commit to reading and answering the questions for the House of Representatives while the other student commits to reading and answering the questions on the Senate. 11. Once the pairs have decided, instruct students to read their assigned section of Article I and answer the corresponding questions. Teacher Note: Some spellings are no longer used (e.g., chuse instead of choose), and the ellipsis marks signify that some original text has been omitted from this excerpt. The text in brackets was changed in later amendments to the Constitution, and these excerpts include the amended text (e.g., the removal of the three-fifths clause in Section 2 and the switch to popular election of Senators). 12. As students work, walk around the room to monitor for engagement and assist struggling students. Teacher Note: You may want to set a timer for this portion of the lesson. 13. Once each person in the pair has completed their portion, have them share information with each other, adding answers to the packet where appropriate. 14. Lastly, instruct pairs to work together to put their new knowledge of both the House and the Senate into the graphic organizer on the last page in order to see some of the differences in structure and function. 15. Once all pairs have completed the task, review together as a whole group. Teacher Note: Use the answer key provided to help guide the discussion.

	16. Have students return to their individual seats and answer the last question in the packet on their own.
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DAY 2	<ol style="list-style-type: none"> 1. Begin class today by having students watch a short video clip, "4th March 1789: US Congress meets for the first time". 2. Ask students: What do you think would have been the most difficult part about being part of the 1st Congress? (Answers will vary) 3. Lead students to an understanding that the 1st Congress, and every Congress thereafter, have had the task of building, maintaining, and perfecting our society and system of government. Explain to students that along the way, a few changes have been made regarding Congress itself. 4. Ask students: Since the structure and function of Congress are outlined in the U.S. Constitution Article I, what would have been required to make changes to elements of Congress? (Amendments) 5. Place students into pairs. 6. Distribute a "Constitutional Amendments and Congress Graphic Organizer" to each student either as a digital or paper copy. 7. Ensure students have access to either a student digital device to access the U.S. Constitution or a paper copy of the U.S. Constitution. Teacher Note: Since the U.S. Constitution is a continuously used and referenced document throughout this course, many teachers will acquire a class set of pocket constitutions. 8. Explain to students that today, they are going to explore five amendments that changed the role of Congress from its original description in Article I, which they examined yesterday. 9. Review the directions at the top of the graphic organizer with all students, ensuring students understand the task. 10. Provide time for student pairs to investigate, research, and describe their findings on their graphic organizers. Teacher Note: You may want to set a timer for this portion of the lesson. 11. While students work, walk around the room to monitor for engagement and assist when necessary. 12. Towards the end of the class period, or when all students have finished analyzing the five amendments, review answers as a whole class. Teacher Note: Use the answer key provided to help guide discussion. 13. Work together as a class to craft a summary statement to record at the end of the graphic organizer handout.
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DAY 3	<ol style="list-style-type: none"> 1. Explain to students that now that they have a firm understanding of how the legislative branch is structured, including some changes over time, they are going to learn more about what Congress has the power to do. 2. Project the "Functions and Powers of Congress" slide. 3. Explain to students that these three political cartoons show three of the powers Congress has. Ask them to evaluate and analyze the cartoons and see if they can name any of the powers depicted. (Coin money, declare war, make laws) 4. Provide each student a copy of the "Article I, Section 8" reading.
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	<ol style="list-style-type: none"> 5. Inform students that Article I, Section 8 of the U.S. Constitution is where the enumerated powers delegated to Congress are listed. 6. Provide students a set amount of time to read through Article I, Section 8, and highlight, underline, or circle the enumerated powers they can identify. When they are finished, count the ones they were able to identify and write their total at the top of the page. 7. Once a predetermined amount of time has passed, have students share and describe some of the powers they identified. Ask students to share their total count and reveal the correct answer (18-although can vary based on how items are categorized). Teacher Note: This lesson is just an introduction to the enumerated powers of Congress. Students will have an opportunity to further explore these powers in SS.912.CG.3.6. 8. Ask a student to read the last paragraph of Article I, Section 8 out loud. Call on a few other students to summarize this text. 9. Lead students to an understanding that this last paragraph, known as the “necessary and proper clause,” summarizes the main function and process of the legislative branch: making laws. 10. Place students in small groups. 11. Provide either each student or each group a copy of “The Legislative Process Chart” from the National Archives. 12. Review the law-making process by having students watch “I’m Just a Bill” from SchoolHouse Rock. Encourage note-taking during the video. 13. Provide each group a set of “The Legislative Process Cards”. Teacher Note: You could have these pre-made, cut, and sorted into groups ahead of time, have students cut them out as part of the activity, or provide groups as a single sheet and have them record the letter answer on the chart instead of placing the cards themselves. 14. Have the groups work together to use their knowledge of the law-making process to match each process card to the appropriate step on the chart. 15. As students work, walk around the room, checking in with each group to ensure accuracy once they think they have finished. 16. Finish the lesson today with some whole-class discussion questions: <ol style="list-style-type: none"> ■ 3-6% of bills introduced in Congress become law. Is this passage rate good or bad? Why? ■ Members of Congress know that a bill they introduce has a very small chance of passing. Why do they do it anyway? What purpose is served by introducing a bill? ■ How does the process by which legislation is made affect its outcome? ■ What do you think the public does not know but should learn about how Congress works? ■ What features of the legislative process do you think should be preserved? What features should be changed?
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DAY 4	<p>Planning Note: Prior to today’s lesson, you will need to prep materials if not used digitally. You will need to print and cut out enough sets of the “Why Congress Matters Game Pieces” and the “Congress Primary Sources Set”</p> <ol style="list-style-type: none"> 1. Project the “Why Congress Matters” slides and have students examine the quadrants on slide 2. In their notebooks or on separate paper, have them answer the following questions about the quadrant diagram:
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- What is the overall topic of this graphic?
 - Can you list any examples of how Congress does any of the four major actions shown in the diagram?
 - In which of the four major action areas does Congress interact the most with other branches of government?
 - How do the actions demonstrate the principles of separation of powers and checks and balances when Congress engages in them?
3. Place students into small groups.
 4. Explain to students that today, they are going to put everything they have learned about the legislative branch together to truly analyze its role in our government.
 5. Distribute a copy of the “What Congress Does and Why It Matters” diagram from the National Archives to each group.
 6. Provide each group a set of the “Why Congress Matters Game Pieces”.
 7. Instruct the groups to work together to best match each of the game pieces to a location on the perimeter of the diagram.
Teacher Note: The letters printed on each game piece will spell out a three-word phrase when all the game pieces have been correctly placed.
 8. Review some of the specific functions and processes of Congress now placed on the diagram.
 9. Next, distribute a “Congress Primary Source Set” to each group.
 10. Project slide 2 of the “Why Congress Matters” slides.
 11. Explain to students that in their groups, their task is to analyze the primary source using the guiding questions projected on the slide. Then, they need to try and match the source to the action of Congress on the diagram that it best represents.
Teacher Note: This activity can be done in numerous ways. You could provide all groups with all of the documents at once, make smaller primary source sets, give them one document at a time, and after they analyze, provide them another, or divide the sources between the groups. If you do not want to use the smaller versions of the primary sources, or they are too difficult for students to examine, you may also provide them the “Congress Primary Source Set-Full Size” either paper copy or digitally.
 12. Provide a set amount of time for students to complete the primary source analysis activity, walking around from group to group to monitor for engagement and ensure understanding.
 13. When all groups have finished, choose a few of the documents to review and have groups share which action of Congress they matched it with.
Teacher Note: Use the answer key provided to help guide the discussion and check for answers throughout the activity.
 14. Conclude the lesson by having students write a short response to the following prompt: What elements of Congress (structures, functions, processes) make it appropriate to call Congress ‘the people’s branch of government’?

Extension Suggestion: Benchmarks SS.912.CG.3.3, SS.912.CG.3.4, and SS.912.CG.3.7 cover all three branches of government. Each has a clarification that requires students to examine the relationship between all three branches. While this is worked into all three lessons, if you feel students need an activity to explicitly examine this relationship, you could use the “[Three Branches: Checks & Balances Webquest](#)” from iCivics.

Government Content Vocabulary

Word/Term	Definition
10th Amendment	any powers not given to the national government in the U.S. Constitution are reserved for the states (1791)
14th Amendment	states that every person born in the United States is a citizen and should be counted as such in the Census (1868)
16th Amendment	an amendment allowing Congress to establish an income tax (1913)
17th Amendment	requires U.S. Senators to be elected by popular vote (1913)
27th Amendment	congressional salary increases cannot take effect until after the next election cycle (1992)
act	legislation that has passed both houses of Congress, has been signed into law by the president, or passed despite his veto, and therefore becomes law
Article I	article of the U.S. Constitution that outlines the structures, functions, and processes of the legislative branch of government
bicameral	having two chambers
bill	a proposal for a law
capitol	building in Washington D.C. where the legislative branch meets
checks and balances	a principle of the federal government, according to the U.S. Constitution, that allows each branch of government to limit the power of the other branches
Congress	the legislative branch of the United States government, consisting of the House of Representatives and Senate
constituents	the people that elected representatives represent
enumerated powers	the specific powers (mostly listed in Article VIII) assigned to the national government by the Constitution
House of Representatives	one of the two houses within the legislative body of the U.S. government, consisting of 435 elected officials, proportionally representing the 50 states
law	a rule established by government or other source of authority to regulate people's conduct or activities
legislature	a group of organized people that have the authority to make laws for a political unit
Necessary and Proper Clause	provides Congress the power to take any actions necessary to carry out their other enumerated powers; sometimes called the Elastic Clause

Senate	one of the two houses within the legislative body of the U.S. government, consisting of 100 elected senators (two from each state)
separation of powers	the structure of the federal government, according to the U.S. Constitution, that sets up three branches with their own distinct powers and responsibilities

ADDITIONAL RESOURCES

[Florida Department of Education: Florida Civic Literacy Exam Homepage](#)

Florida Department of Education's Civic Literacy Reading List

- N/A

ANSWER KEYS

Sample Answers: Structures of Congress Packet

Sample Answers: Constitutional Amendments and Congress Graphic Organizer

Sample Answers: Article I, Section 8 reading

Sample Answers: The Legislative Process Chart

Sample Answers: What Congress Does and Why It Matters diagram

Written Response: Sample Scoring Rubric

SOURCES

Constitution Annotated: Analysis and Interpretation of the U.S Constitution:

<https://constitution.congress.gov/constitution/>

The Interactive Constitution at The National Constitution Center:

<https://constitutioncenter.org/the-constitution>

U.S. Constitution text from the National Archives:

<https://www.archives.gov/founding-docs/constitution-transcript>

What Congress Does and Why It Matters Lesson Materials from the National Archives:

<https://www.archives.gov/legislative/resources/education/what-congress-does>

The Legislative Process Lesson Materials from the National Archives:

<https://www.archives.gov/legislative/resources/education/process>

Three Branches: Checks & Balances Webquest from iCivics: <https://www.icivics.org/node/2438770/resource>

Justice James Iredell Quote: https://constitution.congress.gov/browse/essay/artI-S1-3-4/ALDE_00013293/

I'm Just a Bill video from SchoolHouse Rock: <https://www.youtube.com/watch?v=SZ8psP4S6BQ>

4th March 1789: U.S. Congress meets for the first time, and the U.S. Constitution goes into effect video from HistoryPod: <https://www.youtube.com/watch?v=Sj6upahfRZk>

Images on slides sourced within presentations