

Civics & Social Studies

Packet 2

The Legislative Branch

By Lance Waring (updated April 2022)

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1. THE BRANCHES OF GOVERNMENT

An important feature of the U.S. system of government is the separation of government powers. Specifically, the Constitution divides the federal government into three branches to ensure no individual or

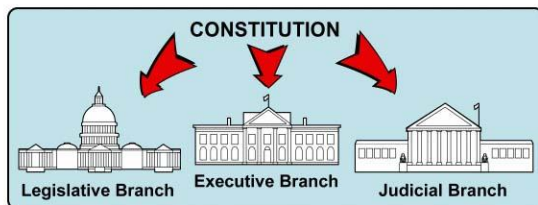


Figure 1. The U.S. Constitution divides federal government power among three separate branches.

group gains too much control over any part of it. The idea is that each of the three branches of government will limit the powers of the other two through a system of checks and balances.

The term “checks and balances” means that each branch checks on the other two to make sure they are doing their job correctly; therefore, there is a balance of power between all three branches. Put another way, each branch has power over the other two, yet each is also answerable to the other two. This is the essence of the American system of government.

Abraham Lincoln¹ (1863) called the American system “government of the people, by the people, [and] for the people.” Our system of checks and balances between the three branches is an important element in making sure the government never strays too far from the will of the American people.

¹ Abraham Lincoln served as the 16th President of the United States from 1861 until his assassination in 1865. He is one of the best-known of all the American Presidents.

Another element of our system is the fact that we do not have a distinct governing class². Our members of Congress, judges, and even the President all come from the general population of our citizens. Moreover, our leaders are selected through a voting process in which all adult citizens are called to participate. This is why ***voting and running for office are two of the most important ways that Americans can participate in their democracy.***

> REVIEW QUESTIONS

1. What stops any one branch of government from becoming too powerful?
2. What does “checks and balances” mean?
3. What are a couple of ways that Americans can participate in their democracy?

2. THE TWO CHAMBERS OF THE UNITED STATES CONGRESS

The first governmental branch described in the Constitution is the legislative³ branch. The Constitution states: “All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives” (U.S. Constitution, Art. 1, Sect. 1). This means the U.S. Congress is the only institution that can make new federal laws.



Figure 2. The Capitol Building was specifically designed for the two chambers of Congress.

² In many places, certain people are born with noble titles such as Baron, Earl, Duke, or Prince. The few who hold these titles rule over the many who are not born as “nobles.” The United States has always rejected this system.

³The word “**legislate**” means to make laws, so “legislative” describes a process or organization that makes laws. A “legislator” is a person who writes laws.

The two houses⁴ of the U.S. Congress (the Senate and the House of Representatives) are deliberately very different from one another. The first reason for this is historical. When the founding fathers created the Congress in the late 1700s, states with large populations wanted to get more votes than states with smaller populations. However, smaller states wanted every state to get an equal vote regardless of population. The U.S. Congress is a compromise since states with larger populations get more votes than smaller states in the House of Representatives, but every state gets an equal vote in the Senate.

The second reason is these two very different chambers serve as an internal check and balance on Congress's power. A proposed new law must be accepted by both the House of Representatives and the Senate. If the proposal fails to pass in either chamber, it will not become law. In this way, each Congressional chamber is kept in check by the other.

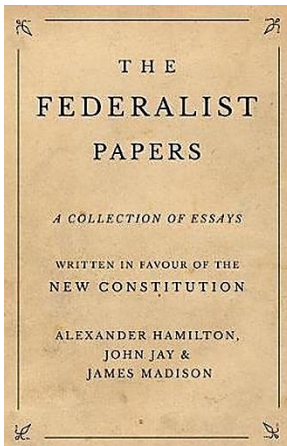


Figure 3. The Federalist Papers are a collection of essays indicating the original intentions of the authors of the Constitution.

In fact, Federalist Paper #51 specifically argues the two legislative houses should be as different and unconnected with one another as possible. The reason for this principle is because “the legislative authority necessarily predominates” (Madison, 1788). In other words, Madison, along with many of the founding fathers, thought Congress would be the most powerful branch of government, so they thought it needed even more checks on its power than the other two branches.

> REVIEW QUESTIONS

4. What is the only branch of the U.S. government that can make new laws?
5. What are the two parts or houses of Congress?
6. In what way are the two houses of Congress a compromise?
7. Which government branch was originally expected to be the most powerful?

⁴ Even though the House of Representatives has the word “house” in its name and the Senate does not, they are both considered “houses” of Congress.

3. CHECKS ON CONGRESSIONAL POWER

Although the Constitution gives Congress the sole authority to write new laws, it also puts some very specific checks on this authority from the other two branches. For example, the Constitution gives the President the power to approve or reject any law passed by Congress. ***If the President accepts the proposal, he or she signs the bill, and it becomes a new federal law. On the other hand, if the President rejects the proposed law, he does not sign it but instead issues a veto to prevent it from being enacted.***



Figure 4. In 2016, President Barack Obama vetoed the **Justice Against Sponsors of Terrorism Act** because he thought it “would be detrimental to U.S. national interests.” However, Congress was able to override the veto. This was the first successful Congressional override of a Presidential veto during the Obama administration (Ballotpedia, 2021).

It is possible, but extremely difficult, for Congress to override a veto once it has been issued. In fact, there have been well over 2,500 Presidential vetoes in the history of our country. Of these, barely more than a hundred were successfully overridden by Congress. In other words, once the President vetoes a bill from Congress, it almost always kills that proposed law indefinitely.

Even if the President signs a bill into law, it is not completely out of danger. Once a law is passed, it can still be challenged in the federal court system. If the Supreme Court declares a particular law to be unconstitutional, then that law cannot be enforced. In this way, the courts can effectively eliminate a law. Thus, both the President and the court system act as checks and balances to prevent the legislative branch from becoming too powerful.

> REVIEW QUESTIONS

8. Who signs bills to become laws?
9. Who vetoes bills?
10. How can the Supreme Court eliminate a law that was passed by Congress?

4. THE UNITED STATES HOUSE OF REPRESENTATIVES

The Constitution establishes the U.S. House of Representatives and specifies that ***members are to be “chosen every second year” by the***



Figure 5. This symbol is the unofficial, but widely used, seal of the U.S. House of Representatives

people of the state they represent (U.S. Constitution, Art. 1, Sect. 2). An article posted in Synonym.com suggests, “The framers of the Constitution felt that frequent elections would cause House members to have more interaction with and be more responsive to their constituents by having them return home to run for election every other year.” (J. Peterson, 2016).

The Constitution sets limits on who may serve as a representative. It requires members to have been a U.S. citizen for at least seven years, be at least 25 years old, and live as residents of the state they intend to represent (U.S. Constitution, Article 1, Section 2).

The House of Representatives is widely considered the “lower house” of Congress. This is never stated in the Constitution⁵. Nonetheless, the term “lower house” typically describes the legislative chamber with more members who serve shorter terms of office (Ballotpedia, 2022), and that certainly describes the U.S. House.

Members of the House are called “representatives” or “congressmen.” The latter term is sometimes used regardless of the gender of the individual, but it has become more common in recent years to refer only to male representatives as “congressmen” while using the word “congresswomen” when speaking of female representatives. The genderless title “congressperson” is also acceptable, especially if the identity of the representative in question is uncertain.

⁵ Although not stated in the Constitution, Alexander Hamilton (1788) compares the proposed U.S. House of Representatives to the House of Commons in the British Parliament in Federalist Paper #52. This indicates the Founding Fathers designed and intended for the House of Representatives to serve as the “lower house” of Congress.

For over a century, *the number of voting congressmen in the House of Representatives has been fixed at 435*. Therefore, the population of the United States⁶ is divided by this number to determine how many constituents⁷ each representative represents. In the 2020s, this means each congressperson represents a little over three-quarters of a million citizens from his or her state. Under this system, there are currently seven states that each get only one congressperson.⁸

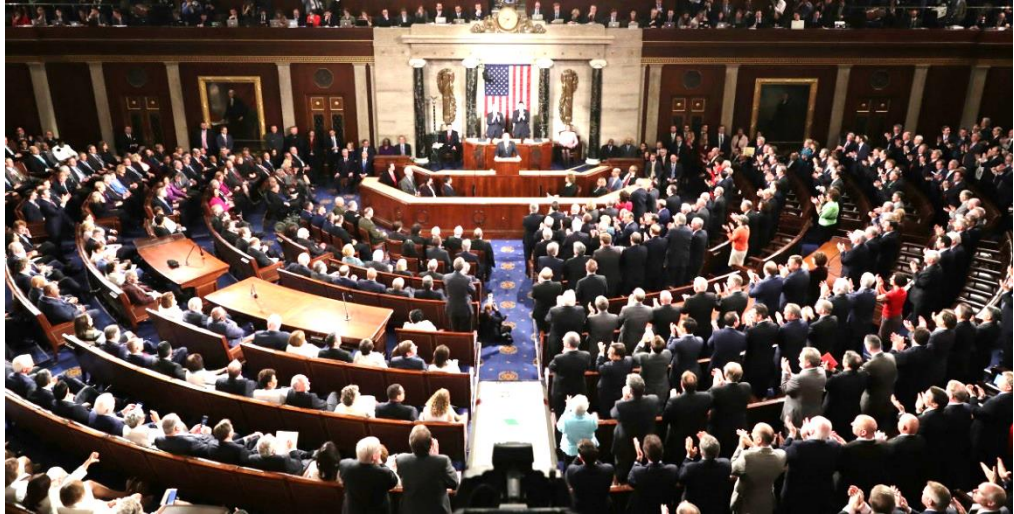


Figure 6. The House of Representatives is a crowded room when all 435 of its members are present.

Each of the states with two or more representatives in the U.S. House is divided into geographic areas called “congressional districts.” Each congressperson in such a state is responsible to express and support the interests only of those people who reside in his or her own particular district.

Arizona currently has a population of just over seven million people, so it is divided into nine congressional districts. While each district has roughly 750,000 residents, they are wildly unequal in land area. For example, the 9th District only extends from Chandler to Scottsdale, while Arizona’s 1st District extends from Oro Valley, just north of Tucson, all the way up to the Utah state line.

⁶ The U.S. population is 331,002,651 according to the 2020 census.

⁷ A “*constituent*” is a citizen represented by a particular congressperson.

⁸ Every state will always have at least one representative in the U.S. House regardless of how small its population may be.

These differences in the physical size of the districts are a function of the uneven distribution of people across the state. Some parts of Arizona, like the areas in and around Phoenix, are densely populated. Other parts, like the northeastern portion of the state, are sparsely populated. So, once again, in spite of the differences in area, the districts are equal in the number of people who live within each of them.

The following is the complete list of Arizona's nine congressional districts along with the names of the men and women who represent each of them.



Figure 7. Tom O'Halleran

1st District includes Marana and Oro Valley along with all of eastern Arizona north of Cochise County up to the Utah border. **Tom O'Halleran** (D) has represented the 1st District since 2017.



Figure 8. Ann Kirkpatrick

2nd District includes most of the Tucson metropolitan area east of the I-10 highway and extends east through Cochise County to the New Mexico border. **Ann Kirkpatrick** (D) has represented the 2nd District since 2019.



Figure 9. Raul Grijalva

3rd District includes most of the Tucson metropolitan area west of I-10 and extends to Yuma and the southern tip of Arizona's border with California. Congressman **Raul Grijalva** (D) has represented the 3rd District since 2003.



Figure 10. Paul Gosar

4th District stretches from the outskirts of the Phoenix metropolitan area to cover almost the entirety of western Arizona out to its borders with California and Nevada. **Paul Gosar** (R) has represented the 4th District since 2011.

5th District is located in Maricopa County and includes the municipalities of Gilbert, Queen Creek, portions of Chandler, and eastern Mesa. **Andy Biggs** (R) has represented the 5th District since 2017.



Figure 11. Andy Biggs

6th District is also in Maricopa County and consists mostly of several Phoenix-area suburbs including Scottsdale, Paradise Valley, Cave Creek, and Fountain Hills. **David Schweikert** (R) has represented the 6th District since 2011.



Figure 12. David Schweikert

7th District includes much of inner Phoenix as well as the eastern portion of Glendale. It is currently the most favorable district toward the Democratic Party in the State of Arizona. **Ruben Gallego** (D) has represented the 7th District since 2015.



Figure 13. Ruben Gallego

8th District is also within Maricopa County. It includes many of the suburbs north and west of Phoenix. **Debbie Lesko** (R) has represented the 8th District since winning a special election for the seat in 2018.



Figure 14. Debbie Lesko

9th District is located entirely within Maricopa County and is centered around Tempe. It also includes southern Scottsdale, western Mesa, northwestern Chandler, and southern Phoenix. **Greg Stanton** (D) has represented the 9th District since 2019.



Figure 15. Greg Stanton

That is a long list, so you may wonder whether you really need to know the names of all nine representatives from Arizona. For testing purposes, yes, it is a good idea to be able to recognize them. However, as a citizen, you really only need to know the Congressperson who represents your district in Congress. You can easily determine this simply by entering your home address in a website such as www.govtrack.us.

The House of Representatives has a single leader who is selected by his or her fellow congresspersons. This leader is called the “Speaker of the House.” Because most representatives would prefer to have a Speaker from their own party, it is routine for Congress to elect a leader from whichever party holds a majority within the House. However, even though it has always turned out this way, it is not actually a rule—Congress is free to elect any of its members to the position.



Figure 16. Congresswoman Nancy Pelosi of California is the current Speaker of the House of Representatives.

The current Speaker of the House is Nancy Pelosi (D). She was elected to this position by her fellow congressmen and congresswomen in 2019. She had also served in this position once before, from 2007 to 2011⁹. Congresswoman Pelosi is the first and, so far, only woman to ever serve as the Speaker of the House. When she accepted the post, it was the highest position any woman had ever achieved in the federal government¹⁰.

The House of Representatives has a few special powers that it alone exercises. One of these is the power to impeach high officials such as Supreme Court Justices, Cabinet Secretaries, the President, and even other members of Congress. Impeachments are formal accusations of wrongdoing that lead to a mandatory trial in the U.S. Senate. The process does not automatically remove the impeached individual, but it does put that person in danger of dismissal depending on the outcome of the Senate trial.

Perhaps an even greater power is the House’s ability to drive the financial and budgetary policy of the United States. As the Constitution states: “All bills for raising revenue shall originate in the House of

⁹ It is unusual for a Speaker of the House to serve two or more nonconsecutive terms.

¹⁰ The distinction of being the all-time highest-ranking woman in the federal government now goes to Kamala Harris since she assumed her current post as Vice President of the United States in 2021.

Representatives¹¹.” In other words, any legislation that would result in collecting taxes must be introduced in the House (rather than in the Senate). This is sometimes called “the power of the purse.”

> REVIEW QUESTIONS

11. How many years are there in one term of office for a U.S. Representative?
12. How many voting members are there in the U.S. House of Representatives?
13. How is the number of U.S. Representatives chosen for each state?
14. How many U.S. Congresspersons currently represent the state of Arizona?
15. Name one U.S. Congressperson representing a district in Tucson.
16. Name one U.S. Congresspersons representing a district in Maricopa County.
17. What is the title of the leader of the U.S. House of Representatives?
18. Who is the current Speaker of the House?
19. What are some of the special powers entrusted solely to the House?

5. THE UNITED STATES SENATE

The Constitution tells us, “The Senate of the United States shall be composed of two senators from each state” who will serve in this position “for six years” (U.S. Constitution, Art. 1, Sct. 3). Since there are currently fifty states in the Union, there are one hundred Senators in the U.S. Senate. (If a 51st state is someday admitted to the Union, the Senate membership will have to be increased to 102 senators.)

Originally, senators were chosen by state legislatures. So, for example, the senators from Arizona would have been selected by the Arizona Legislature in Phoenix (and not by a vote of the ordinary people of Arizona). This was intended to be one of the many ways in which the



Figure 17. This symbol serves as the seal of the United States Senate.

¹¹ Once the House introduces such a bill, the Senate may propose Amendments to it as they would on any other bill originating in the House of Representatives.

U.S. Senate would be fundamentally different from the House of Representatives.

For better or worse, this policy was changed in 1913 when the 17th Amendment to the Constitution was ratified. This Amendment now requires senators to be elected by the people of the state they represent. This means senators are now selected in exactly the same way as congresspersons are selected to serve in the House of Representatives.

Although the method for selecting U.S. senators has been modified, the limitations on who can serve in the Senate have remained the same. The Constitution requires senators to have been a U.S. citizen for at least nine years, be at least 30 years old, and live as residents of the state they intend to represent (U.S. Constitution, Article 1, Section 3).

The Senate is considered the “upper house” of Congress. The slightly more demanding requirements for serving in the Senate described above are just one indication of this. Another sign of the Senate’s higher status is distinguishing its members (regardless of gender) with the title of “senator.” Members of the Senate are *never* referred to or addressed as “congressman” or “congresswoman.” Perhaps the most important basis for the Senate’s prestige is that every senator represents the entirety of his or her state (rather than representing just a portion of the state, as nearly all congresspersons do).

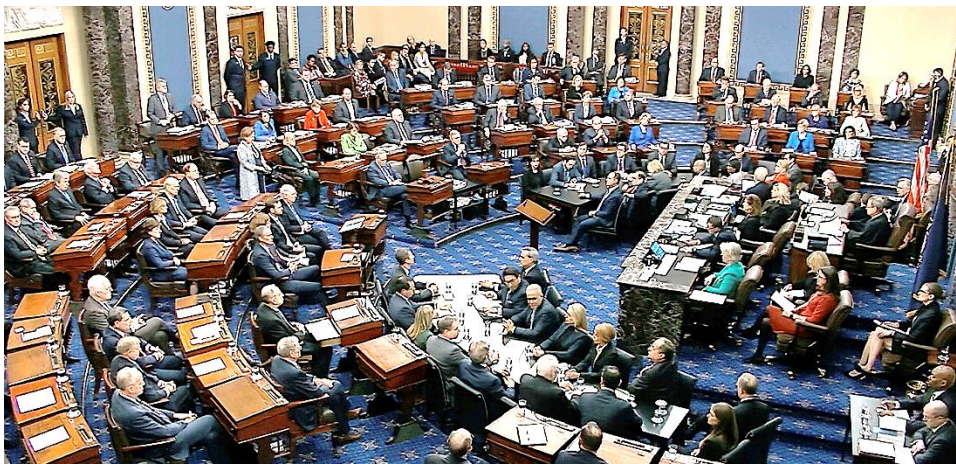


Figure 18. Senators at work in the Senate Chamber of the U.S. Capitol Building.

Following the retirement of Sen. Jeff Flake, Congresswoman Kyrsten Sinema (D) beat fellow Congresswoman Martha McSally (R) in the 2018 Senatorial election. Ms. Sinema assumed office in early 2019 and now sits as the senior U.S. Senator from Arizona.

Mark Kelly (D) won a special election following the death of Sen. John McCain and assumed office later that year. Mr. Kelly is the husband of former Congresswoman Gabby Giffords and a former astronaut. His 2020 political victory meant that both Senators from Arizona would be Democrats. This is the first time this has happened since 1953 (Washington Post, 2020).



Figure 20. Sen Kyrsten Sinema



Figure 19. Sen Mark Kelly

The leadership of the U.S. Senate is more complicated than that of the House. Technically, the Vice President of the United States is also the President of the Senate. This means Vice President Kamala Harris is in charge of this body. However, the office of Vice President of the United States has its own demands, so, like all her predecessors, Ms. Harris only serves as the President of the Senate on rare occasions.

Since the Vice President is not typically available to oversee the Senate, a President Pro Tempore (President for a Time) is selected by the Senators to preside over the Senate whenever the Vice President is not available to do so (which is usually the case). Since 2021, Sen. Patrick Leahy (D) has served in this role¹².

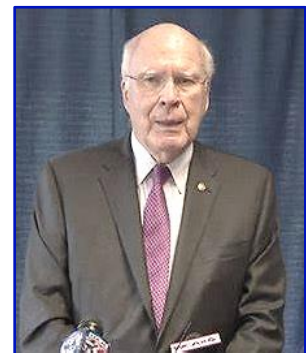


Figure 21. Sen. Leahy is the current President Pro Tempore of the U.S. Senate.

¹² Sen. Leahy has announced that he will retire from the Senate at the end of 2022, so a new President Pro Tempore will need to be found in early 2023.

Two positions in the Senate that are not established in the Constitution are those of the Majority Leader and Minority Leader, yet these individuals are often more influential and better-known than the President Pro Tempore. This is because they have so much influence over the Senators of their party to pass or defeat whatever laws are being considered.



Figure 22. Democratic Sen. Schumer is the current Senate Majority Leader.

The Majority Leader is a Senator from whichever political party has the largest share of members in the U.S. Senate. The Democrats currently have 50 members in their caucus, but since the Vice President is also a Democrat, this means they are in the majority. In early 2021, ***Senator Chuck Schumer was selected by his fellow Democrats in the Senate to serve as the Majority Leader.*** Prior to this, Sen. Schumer had served as Senate Minority Leader since 2016.



Figure 23. Republican Sen. McConnell is the current Senate Minority Leader.

The year 2021 was also when ***Senator Mitch McConnell (R) was selected by his fellow Republicans in the Senate to serve as the Minority leader.*** As such, he has enormous influence over the 50 Republicans who currently serve in the Senate. Prior to this, Sen. McConnell had served as the Senate Majority Leader since 2015.

In addition to passing (or rejecting) new laws, the Senate has a few special powers that it alone exercises. One of these is the power to ratify treaties with other nations negotiated by the executive branch. The Senate also has the sole duty to confirm or reject officials nominated to their positions by the President. This process applies to federal judges as well as executive branch officials such as the Secretary of State and Attorney General.

> REVIEW QUESTIONS

20. How many Senators are there in the entire U.S. Senate?
21. How many years are there in one term of office for a U.S. Senator?
22. Who does a U.S. Senator represent?
23. Name the two current U.S. Senators for the state of Arizona.
24. Who is ultimately in charge of the U.S. Senate?
25. What is the President Pro Tempore of the Senate?
26. Who are the current Majority and Minority Leaders in the U.S. Senate?
27. What are some of the special powers entrusted solely to the Senate?

6. DECLARATIONS OF WAR

As they were composing the Constitution, the founding fathers realized they had to plan for the unpleasant possibility of war. They ultimately decided that ***Congress would have the sole authority to declare war*** on behalf of the United States¹³. The President can request such a declaration, but he or she cannot override or ignore Congress's decision in this matter once it is reached.

Surprisingly, ***the United States has only entered armed conflict through formal Congressional declarations of war five times*** throughout its history. First, in 1812, Congress declared war against the United Kingdom. This brought us into the War of 1812. Second, in 1846, it passed "An Act Providing for the Prosecution of the Existing War Between the U.S. and Mexico." This officially launched the Mexican American War. Third, in 1898, Congress declared war against Spain bringing us into the short-lived Spanish American War. Fourth, in 1917, Congress issued two declarations of war—one against Germany and the other against Austria-Hungary. These declarations brought the United States into World War I. Finally, in 1941 Congress issued a series of declarations of war against Japan, Germany, and Italy. These congressional acts committed our nation to fight the Axis Powers in World War II.

¹³ See Article 1, Section 8, Clause 11 of the U.S. Constitution. A declaration of war requires the consent of both the House of Representatives and the Senate.

> REVIEW QUESTIONS

28. Who has the authority to declare war on behalf of the United States?
29. What wars has the U.S. entered through Congressional declarations of war?

7. U.S. TERRITORIES & DISTRICTS

You may be surprised to learn that not all U.S. citizens come from any of the fifty states. There are also Americans who live in the District of Columbia (which is not part of any state) or one of America's territories.



Figure 24. License Plates from the District of Columbia openly complain about being taxed without being represented in the U.S. Congress.

The U.S. territories are administrative units directly overseen by the federal government. The people in these territories are American citizens. They have local voting rights and protections under U.S. law, and their property and interests are protected by the Armed Forces of the United States.

Unlike the fifty states, none of the territories are represented in the U.S. Senate. However, ***the people of the U.S. territories do get non-voting delegates assigned to the House of Representatives.*** These delegates can observe, offer arguments on the floor of the House, and even serve on Congressional committees; but they cannot vote.

Currently, the United States manages over a dozen territories, but only five of these are permanently inhabited. The most populous territory, by far, is ***Puerto Rico***. In fact, with well over three million inhabitants, Puerto Rico has a population greater than 22 of the fifty states.

The other inhabited territories are ***Guam, the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa***. Unlike Puerto Rico, each of these territories has a modest population of less than 200,000 people.

> REVIEW QUESTIONS

30. Who represents the citizens who live in U.S. territories in Congress?
31. Name one of the permanently inhabited U.S. territories.

8. THE STATE LEGISLATIVE BRANCH

Arizona, like all the states of this nation, has a system of government very similar to the federal model. Part of this system is the Arizona Legislature. Like the U.S. Congress, the Arizona Legislature consists of a State House of Representatives and



Figure 25. Interior of the Arizona State Senate in Phoenix, Arizona.

a State Senate¹⁴. ***The Arizona State Legislature has the exclusive authority to write new state laws and to change or repeal existing state laws.*** Once the State Legislature passes a law, it is sent to the Governor of Arizona, who can either sign the law or veto it (much like the President can sign or veto federal legislation).

> REVIEW QUESTIONS

32. Who writes, changes, or repeals Arizona state laws?
33. What are the two parts of the Arizona State Legislature?
34. Who can either sign or veto a law once it is passed by the Arizona State Legislature?

¹⁴ The Arizona Legislature has 60 Representatives in its House of Representatives and 30 Senators in its state Senate.