CHAPTER 13
State Government

Both state and federal governments provide services to people.

Federal and State Powers

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.

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.

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.

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

---

**21st Century SKILLS**

**Identifying Points of View**

When you identify points of view, you think about how an issue affects different people.

Write a short dialogue between an anti-Federalist, who was against giving more power to the central government, and to someone who believed that a strong central government was more important than strong state governments.

---

**The State Constitutions**

**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.

**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.

**Comparing** Why is Florida’s constitution longer than the U.S. Constitution?
The Constitution of Florida

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.

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 stipulates 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 one comprehensive review. A second review is scheduled for 2017–2018. 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.

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

Why it MATTERS

School Rules

The Florida constitution lists rules and rights so that the state can run smoothly and its citizens can live without fear for their safety. Schools also have a set of rules and rights. List some of the rules in your school, and explain how the rules help ensure that your school runs smoothly and promotes a positive learning environment.
LESSON 1 REVIEW

Review Vocabulary

1. What is the difference between reserved powers and concurrent powers?

LAFS.68.RH.2.4

2. Why is some kind of supremacy clause needed in a federal system?

LAFS.68.RH.2.4

Answer the Guiding Questions

3. Identifying What are two powers that the U.S. and Florida governments share?

SS.7.C.3.4

4. Comparing How are the structures of state and federal governments similar?

SS.7.C.3.4

5. Making Inferences Do you think it is important that Florida, like each state, has an executive, a legislative, and a judicial branch? Explain.

SS.7.C.3.14

Writing

6. Persuasive Writing In 2010 the National Governors' Association and the Council of Chief State School Officers presented national standards for math and English-language arts for students in kindergarten through high school. The federal government hopes states will use these standards instead of the varied state guidelines. But education is usually left to the states. Do you think a national approach is good or bad? Write a letter to your representative in Congress giving your view.

SS.7.C.3.14
State legislatures make laws that affect many aspects of your life such as the quality of schools, roads, and parks.

How Legislatures Function

What are the functions of state legislatures?

Did you know that in most states, the legislative branch is much like that of the federal government? Forty-nine states have a bicameral legislature, with two houses, like Congress. Each state calls its upper house the senate. The lower house is usually called the house of representatives. Nebraska is the only state with a unicameral (yoo-nih-KAM-ruhl), or one-house, legislature.

Legislators and Leaders

Nebraska has the smallest legislature, with only 49 senators. The largest chamber belongs to New Hampshire, with 424 members.

State senators serve four-year terms in two-thirds of the states. House members generally serve for two years. In most states, a person must be either 18 or 21 to serve in the lower house. Minimum ages for state senators range from 18 to 25 years old.

All states pay their legislators. Most states pay a salary, but a few pay lawmakers a daily rate while the legislature meets. Salaries range from New Hampshire’s low of $200 per year to California’s high of $95,000 per year.

As in the United States Congress, each house in a state legislature has a presiding officer. In the lower chamber, that person is chosen by members of the body. He or she is typically called the speaker. In some states, the lieutenant governor heads the senate. Members of each party in each house choose someone to serve as their party’s leader in that house. These members become the majority leader and minority leader. They play roles in setting the schedule for legislation and for planning when bills will be discussed.

Representation

The districts that members represent need to be roughly equal in population. Every 10 years, the federal government carries out a census to count all Americans. Census results are the basis for drawing district boundaries that will be used for the next 10 years. The task of working out the boundaries of legislative districts is called redistricting (ree-DIHS-trikt-ing).

In the past, many states often made little effort to draw new boundaries to reflect changes in population. As a result, rural districts often included far fewer people than those in cities. In Alabama, for instance, one state senator from a rural district represented fewer than 16,000 people. Another senator, from a city, represented more than 600,000. This huge difference made city dwellers less powerful than those people who lived in the country. Having unfair district sizes like these is called malapportionment (ma-luh-PAWR-shuhn-muhnt).

The United States Supreme Court put an end to this practice. In the 1962 case Baker v. Carr, citizens in Tennessee’s large cities asked that the state’s legislative boundaries be redrawn to better reflect population shifts from rural areas to the cities. The Court ruled that state legislative districts had to be roughly equal in terms of population. That ruling affected all states, not only Tennessee. It resulted in the redrawing of legislative boundaries throughout the country. The goal was to try to ensure that each citizen in a state has an equal voice in government.

Legislatures at Work

Lawmakers meet during a legislative session. A session lasts a few months, though the members can agree to extend it. Sometimes legislatures call a special session. This is a meeting held for a specific purpose, such as addressing a crisis. In most states, either the governor or the legislature can call these sessions. In some states, only the governor can.

State legislators do several jobs. They approve the people named by the governor to fill some state offices. They also work for the people of their district. For instance, they may help citizens by directing them to the correct state agency to solve a problem or by making an inquiry on their behalf.

The legislators’ chief job though is to make laws. The steps in this process are similar to those in the process followed by Congress. Ideas for new laws may come from individual citizens, the governor, or the legislators. But a lawmaker must introduce the bill. Then it goes to a committee that reviews the bill and may revise it. If the committee members approve the bill, it goes to the full chamber for discussion and a vote. If a majority votes to pass the bill, it goes to the other house. The same process—committee and then full vote—is repeated. Once both houses approve a final version of the bill, it goes to the governor to be signed.

Citizen Power

A legislative referendum takes place when the legislature asks voters to approve a law it has passed. In some states the people must approve actions such as borrowing money or raising taxes. In 49 states, voters must approve changes to the state constitution.

In about half the states, citizens can petition for a popular referendum if they dislike a law. This tool allows voters to decide if they want to repeal the law that some people object to.

Analyzing In which state would bills not be passed by two houses before going to the governor? Why?
21st Century SKILLS
Interpreting Points of View

When you interpret points of view, you think about how different people might view the same issue or idea. Before the 1962 Supreme Court ruling on Baker v. Carr, some states did not redraw districts, even when population had shifted dramatically. Write a few sentences in which you explain why some legislators might not want to change district boundaries. What reasons might they give?

Why It MATTERS
Citizen Power

The right of referendum gives citizens a direct voice in the laws or constitution of their state. Another type of citizen action is the power of initiative. With this power, citizens have the right to place a proposed law on a ballot, to be approved or voted down by all the state’s voters.

State Economic Issues

What economic challenges do state legislatures face?

States always face tough choices about what services to fund. Should they repair roads or improve schools? Should they hire more state police officers or do more to maintain state parks? In all but one state, the law demands that the budget be balanced. This means that, unlike the federal government, states cannot spend more money than they collect. Nor can most states borrow money to meet regular expenses, as Congress does.

Therefore, if a state’s income is less than expected, that state’s government must take quick action. In many states, the governor or the legislature has the power to cut spending in order to balance the budget.

State Revenues and Spending

States rely on taxes as their major source of income. The main types of taxes are income taxes and sales taxes. People pay sales taxes when they purchase goods. Nearly all states have a sales tax, ranging from about 3 percent to 8 percent. Most states also tax the income that people earn from working or from other sources. Together, these taxes supply about two out of every three dollars that all states receive.

States also get income from other sources. They charge fees for such things as licenses to marry, drive, and fish. They may also charge use fees. For instance, the toll that a driver pays to travel on certain roads is a use fee.

Most state spending goes to pay for services. These services include aid to local governments, benefits to the poor and disabled, health care, education, and payroll for state workers. States have other expenses as well, such as providing police protection, maintaining roads, and keeping up state parks.

Budget Crunch

Balancing the budget becomes challenging for states when they have less income. For several years starting in 2007, the U.S. economy had problems. Many businesses had to lay off workers. The national unemployment rate reached 10 percent. With so many people out of work, state income tax revenues fell. People without jobs had less money to buy products, so sales tax revenues also fell. States could not collect enough taxes to meet expenses. Many had to make deep budget cuts. Some states increased taxes to gain more revenue. But this meant that people had less money to spend to stimulate the economy.

At the same time, states faced growing demands. More people were relying on unemployment payments. Many also required help with health care and other needs. The federal government stepped in to give states extra money. But this aid could not continue indefinitely.

Some states faced huge budget shortfalls. Illinois, for example, had a budget of about $34 billion in 2011. But it was projected that Illinois would have only half of that amount in revenue in 2012. Other states were also hit hard. Some 40 states had too little revenue to meet their spending needs.

Summarizing What are the main sources of income for state governments?

Florida CONNECTION

Like many other states, Florida faced a severe budget crisis in 2010 and 2011. Analysts predicted that Florida would face a budget shortfall of nearly $3 billion. This amounted to about 20 percent of its total budget. The reasons for the shortfall mirrored those for most of the country: a sharp decline in housing prices, high unemployment rates, and rising costs of health care. Lawmakers worked to make spending cuts in other areas in order to try to balance Florida's budget.

**LESSON 2 REVIEW**

**Review Vocabulary**

1. In a sentence, explain how *redistricting* can affect *malapportionment*.

LAFS.68.RH.2.4

2. Explain the difference between a *legislative referendum* and a *popular referendum*.

LAFS.68.RH.2.4

**Answer the Guiding Questions**

3. **Explaining** What jobs do state legislators carry out?

SS.7.C.3.9

4. **Comparing and Contrasting** Why do states face more difficult budget problems than the federal government?

SS.7.C.3.9

5. **INFORMATIVE/EXPLANATORY** Write an essay explaining how state legislatures are similar to and different from Congress.

SS.7.C.3.9
The executive branch carries out the laws of the state.

The Governor

What are the powers and duties of a governor?

Have you ever thought that you might like to be the governor of your state? In seven states, you can run for this office as soon as you become 18 years old. In most states, however, you will have to wait a few more years—until you are 30. Other requirements also vary widely among the states.

The Office of Governor

Most states require that a person who serves as governor be a resident of the state. Surprisingly, a handful of states do not have that requirement. Among the many states that have the requirement, the specifics vary greatly. While a candidate for governor in Missouri and Oklahoma must have lived there for at least 10 years, someone who has lived in Rhode Island for just 30 days can run for governor of that state.

Most states limit a person to no more than two terms as governor. But nearly a dozen states have no such limit. Some states, such as Virginia, allow more than one term but do not allow the terms to be consecutive. Someone who is governor for a term must sit out at least one term before being able to hold the office again. Most governors’ terms are four years.

The Chief Executive

Like the president, a governor has many roles. Each role comes with some powers. Two of these roles have developed through tradition rather than by law. For instance, a governor’s ceremonial role and position as party leader are based on tradition, not on the state constitution.

A governor’s main job, like that of the president, is to head the executive branch of government. In this role, he or she is responsible for making sure that the laws of the state are carried out. Also, just as the president commands the nation’s armed forces, the governor is the head of the state’s National Guard.

Governors often name people to fill state offices. Typically these choices are not final until the state senate has confirmed, or approved, the person. Governors also choose a person to fill a seat in the U.S. Senate if a seat should become vacant. That power comes to them from the U.S. Constitution. However, governors do not have as much control over the people in their cabinets as presidents do.

In most states, the governor also writes the state’s annual budget. Typically the legislature must approve it before it goes into effect.

Other Roles of the Governor

Governors have certain legislative duties, too. Early each year, they deliver a “state of the state” message to the legislature and the state’s citizens. In it, governors outline their goals. Then they send bills to the legislature that will help the state reach those goals.

Governors can also call a special session of the legislature to respond to a crisis.

Like presidents, governors have the power to veto bills. For all but six governors, this power goes further. They can use a line-item veto. This means they can veto specific parts of a bill rather than the whole law. Lawmakers can override either of these kinds of vetoes by voting to pass the bill again.

Governors have some judicial powers as well. They can appoint judges. They can change criminal sentences. A governor may grant pardons to criminals. A pardon removes a criminal’s punishment. A governor can also choose to commute, or reduce, someone’s sentence. These rulings can be made before any punishment has been served. Governors can also grant prisoners an early release from prison. That early release is called parole (puh-ROHL).

Next in Line

What happens if the governor dies or for some reason leaves office before the end of a term? In 43 states, the next person in line is the lieutenant governor. In some states, candidates for governor and lieutenant governor run as a team, or on the same ticket. In other states, they run separately. They may even belong to different political parties. The next person in line steps into the governor’s position with surprising frequency. Between 2000 and 2010, governors were replaced 20 times.

Evaluating What kind of check is there on the governor’s power to appoint people to fill vacant offices?

Florida CONNECTION

Florida’s Governor’s Term Limits

State Executive Departments

What is the role of the executives who head a state’s administrative departments?

In the federal government, the executive branch has many departments and agencies. They serve a number of needs at the national level.

State governments also have a number of executive departments, agencies, and boards. Some are similar to those at the federal level, such as departments of labor, justice, and agriculture. Others are specific to state needs, including departments of health and public works and highways. Many states also have boards of welfare to help those in need.

The federal departments, agencies, and boards are headed by officials whom the president chooses and the Senate approves. At the state level, on the other hand, elected officials run many departments. These officials get their jobs without the governor playing a role. They are independent, so they might not be willing to take direction from the governor.

Major Executive Officials

Most states have five major executive officials. Each carries out important activities in the state. The titles of these officials differ from state to state.

- The secretary of state oversees elections in the state and the recording and publishing of all laws. The office headed by this person also keeps other kinds of official records.
- The attorney general is the state’s chief lawyer. He or she is the leader of the lawyers who represent the state in legal matters. These include disputes with the federal government.
- The state treasurer’s main duty is to handle and keep track of the flow of money into and out of the state government.
- The state auditor’s job is to review the conduct of state departments and offices. This official makes sure that work is being done honestly and efficiently. Auditors ensure that tax dollars are not misused.
- The commissioner or superintendent of education oversees the state’s public school system. This person is concerned with the content that should be studied in each subject in each grade and other school-related issues.

In most states, the first three offices are filled through elections. About half the states also elect the auditor. In others, the auditor is chosen by one or both houses of the legislature or named by the governor. The head of education is elected in only about a third of the states. In the rest, the official is named by the governor or by a special group of officials.

State Cabinets

In most states, the executive department officials make up a cabinet. The cabinet meets regularly with the governor to give advice and share information. These officials from the different departments each bring special knowledge when discussing issues. The size of cabinets varies widely, from fewer than 10 members in some states to as many as 75 in New York. Some cabinets meet every week. Others meet only every one or two months.

Explaining What is the role of the cabinet?

LESSON 3 REVIEW

Review Vocabulary

1. Explain the difference between a veto and a line-item veto.

LAFS.68.RH.2.4

2. Describe the difference between a governor’s judicial powers to commute and to parole.

LAFS.68.RH.2.4
Answer the Guiding Questions

3. **Identifying** What is the chief duty of a governor?

SS.7.C.3.9

4. **Analyzing** Many executive department heads are elected in their own right, not appointed by the governor. How can that affect the governor's ability to direct them? Why?

SS.7.C.3.9

5. **NARRATIVE** Write a journal entry describing a day in the life of a governor. Be sure to include examples of the many different roles a governor plays.

SS.7.C.3.9
State courts decide many issues affecting people's lives.

The Structure of State Courts

How is the state's judicial system organized?

Have you ever watched a scene in a television show where a lawyer questions a tense witness and introduces dramatic evidence? Such courtroom dramas occur in state courts across the country.

Although each state has its own court system, all state court systems are organized in a similar fashion. Every state has two sets of courts, known as lower courts and higher courts. At each level, the courts hear cases that differ in how serious and complex they are.

Lower Courts

The lower courts are trial courts. In a trial court, a judge or a jury listens to the evidence that is presented and reaches a verdict, or decision, in favor of one party in the case or the other. Lower trial courts go by different names depending on their location. In rural areas, for example, they may be called justice courts. When they cover an entire county, they are often referred to as district courts. In cities, lower-level trial courts are often called municipal courts.

Lower-level courts may handle criminal cases and civil cases. In a criminal case, a person is accused of committing a crime. A trial is held to determine whether the person is guilty or innocent. If the accused person is found guilty, he or she is punished.

Crimes handled in the lowest level of courts are simple ones. For example, they may be traffic violations or misdemeanors. Misdemeanors (mihd-uh-nee-uh-rz) are the least serious crimes, such as theft of a small sum of money or trespassing. Usually, misdemeanors are punished by a fine or a short stay in a local jail rather than in a prison. These cases are often decided by a judge instead of a jury.

Lower-level courts also hear civil cases. In civil cases, two parties are involved in a dispute in which one claims to have been harmed in some way by the other. The person who claims to have been harmed is the plaintiff. The person said to have caused the harm is the defendant.

An example of a civil suit is an argument between two neighborhoods over the line that divides their property. Many civil cases have to do with contracts, or business agreements. Often in these cases, one party says that another party did not carry out the actions promised in the contract. The civil cases that are heard in lower-level courts involve small sums of money.

Higher Courts

The higher courts are the second level of state courts. They can be either trial courts or appellate courts. In an appellate (uh-Peh-luht) court, the party who has lost the case in a lower court appeals the decision. To appeal means to ask a judge to review and reverse the earlier case. The party who appeals might think that legal errors were made during the trial and that these errors had an effect on the outcome of the court's decision. The appellate court decides whether errors in applying the law were made.

Higher-level trial courts handle more serious crimes called a felony (FEH-nee). Some examples of felonies include assault, robbery, kidnapping, and murder. Trials in these courts do not always involve juries. The accused person can choose to have the judge, and not a jury, determine guilt or innocence.

Higher trial courts also handle civil cases that are more serious than the civil cases handled in lower courts. They may involve huge sums of money. Civil cases may also be decided either by a judge or by a jury.

Forty-one states have two levels of appellate courts. The exceptions are generally states with small populations, such as Delaware and Montana. The first line of appeal is in an intermediate appellate court. This court is often called the court of appeals. Usually a group of judges hears a case. They study the information given by both sides and compare the case to past cases that were similar. Then they agree on a decision. They may decide to let the earlier court ruling stand, or they may choose to overturn it.

Courts in one state are not bound by the rulings of another state's courts. However, a court may consult the ruling of another state's courts if it feels the decision relates to the case it is hearing.

State Supreme Court

Each state also has a supreme court at the top level of its court system. The state supreme court hears appeals from the intermediate appellate courts. State supreme courts generally issue, or give out, written explanations of their rulings. These decisions guide judges as they try cases in the future. In most states, these courts take both civil and criminal cases. Oklahoma and Texas, however, have separate courts for civil appeals and criminal appeals.

State supreme courts are called "courts of last resort," but that is not entirely true. In state law, they are the final word. However, someone who loses an appeal in the state supreme court may believe that the ruling violated his or her rights under the U.S. Constitution. If so, that person can appeal the case to the U.S. Supreme Court. The Court may or may not choose to hear the case.
Explaning What is the role of state supreme courts?

Staffing the Courts

What are the usual methods for selecting judges?

If you were to appear in a court, what qualities would you want the judge to have? To be effective, judges must know the law. They should be free of bias so they can judge fairly. They are also expected to be independent—to avoid being swayed by political pressure.

Yet judges in the United States serve in a representative democracy. In such a system, the people generally vote to select those who hold government office. Can the general public be counted on to choose judges wisely? Will they have enough information about the experience, knowledge, and character of judges to make good decisions?

Choosing Judges for Trial Courts

With the various levels of trial courts, it is not surprising that judges for these courts are chosen in many different ways. Some judges are selected by governors, state legislators, the state supreme court, or city officials. Other judges are elected by voters. Some states use a combination of processes depending on whether it is a judge’s first term or a later term. In this mixed approach, an elected official chooses a judge for his or her first term on the bench. When that term ends, if the judge seeks a new term, he or she has to stand for election by the people.

Even election systems differ. Some elections are nonpartisan, which means that candidates are not linked to any political party. Other election systems allow judges to have a party identity.

The terms of office for judges also vary. Among the high-level trial judges, the term is usually from six to eight years. But a term can be as few as four years or as many as ten.

Choosing Judges for Appellate Courts

In the appellate courts, states are almost evenly split in how they select judges. About half of the states elect judges. In the other half, the governor chooses judges. In some of those states, the appointments must be confirmed by the state legislature or another governmental body.

In 41 states, the judges for the state supreme courts serve for terms of six, eight, or ten years. The rest have terms that are longer or shorter. Some states give longer terms to the chief justice. In other states, the position of chief justice rotates among all the justices on the court. In this case, each justice serves as chief for only two or three years.

Once their term is done, judges have to be approved again to continue to serve on the bench. Forty-one states require that judges be approved by popular vote. In the other states, either the governor or the legislature makes the decision. About half of the states require that judges retire after they have reached a certain age. In most of these states, the retirement age ranges from 70 to 75. Other states have no set age at which judges must retire.

Although judges can be removed from office by impeachment, this process can take a long time. Most states also have boards to look into complaints about judges. If the board finds that a judge has acted improperly, it can make a recommendation to the state supreme court. The court has the power to suspend or remove the judge.

Summarizing What are the most common ways to select appellate judges?

LESSON 4 REVIEW

Review Vocabulary

1. What roles do the plaintiff and the defendant play in a civil case?

LAFS.68.RH.2.4

2. What is the difference between a misdemeanor and a felony?

LAFS.68.RH.2.4

Answer the Guiding Questions

3. Summarizing What happens in a lower or trial court?
SS.7.C.3.11

4. **Comparing and Contrasting** Describe how states choose judges for trial courts and for appellate courts.

SS.7.C.3.11

5. **ARGUMENT** Identify the method for choosing appellate court judges that you think is best. Write down reasons for your choice. Then take the role of a state senator and write a speech proposing that your state adopt that method. Support your stand with reasons.