

## CONCURRENT POWERS

Concurrent powers are powers that are shared by the states and federal governments. This means that the states and federal governments can both pass laws that serve their purposes.

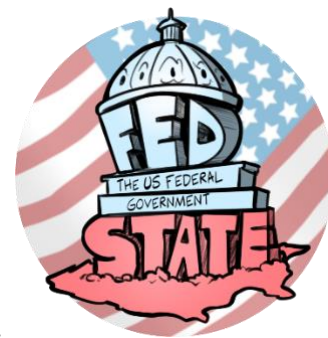
For example, the power to make laws is a concurrent power. The federal government and the states both pass laws to keep people safe and maintain order. Any law a state passes, however, cannot contradict a federal law. This is because the Supremacy Clause of the Constitution says that the Constitution is the supreme law of the United States.

Concurrent powers enable states and local governments to make laws that serve the needs of citizens. For example, both levels of government pass laws to keep people safe. When people break the law and are tried in court, they could be tried in a federal, state, or city court as each level has the power to create courts and to try people accused of a crime.

Another example is taxes. Both the state and federal governments can impose taxes such as income taxes, property taxes, and sales taxes. State and local governments use these taxes for schools and fire departments, while the federal government uses taxes to help fund the military.

*The roles of state and Federal Governments. Education. (n.d.). Retrieved March 9, 2023, from <https://education.nationalgeographic.org/resource/roles-state-and-federal-governments/>*

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## RESERVED POWERS

Reserved powers include everything not listed in the US Constitution. The 10th Amendment says that any power not given to the federal government is given to the states. The purpose of this amendment is to limit the power of the federal government and to ensure that states are able to make decisions that best fit their needs. This keeps a balance of power between the states and federal government.

For example, each state sets up its own rules for licenses, such as drivers, marriage, and work-related ones such as teaching certificates. States have the responsibility of setting up and running all elections. Education is also left to the states, so school requirements are different from state to state.

The states enjoy having the power to make decisions that fit them best, as the needs for Alaska might look different from the needs of Missouri. Often the states and federal governments will conflict with one another over who has the power to make a law. When that happens, the Supreme Court hears the issue and decides who should have the power.

*Encyclopedia Britannica, inc. (2023, February 25). Tenth amendment. Encyclopedia Britannica. Retrieved March 9, 2023, from <https://www.britannica.com/topic/Tenth-Amendment>*



## IMPLIED POWERS

Implied powers are the powers necessary to carry out and enforce enumerated powers, which are often called expressed powers. Many laws that Congress passes are not directly listed in the Constitution, but they are assumed to be lawful due to the Necessary and Proper Clause, also called the Elastic Clause. This says that Congress can pass any laws that help carry out their expressed powers.



The Supreme Court has ruled that the Necessary and Proper clause is an extension to the Congress' power. For example, an expressed power of Congress is to create a military. An implied power is that Congress can implement a draft at times of war to add soldiers to the military.

Another example is the minimum wage. The ability to create a federal minimum wage is implied from the expressed power of Congress to regulate trade between states.

*Artl.S8.C18.1 overview of necessary and proper clause. (n.d.). Retrieved March 9, 2023, from [https://constitution.congress.gov/browse/essay/artl-S8-C18-1/ALDE\\_00001242/\['constitution'\]](https://constitution.congress.gov/browse/essay/artl-S8-C18-1/ALDE_00001242/['constitution'])*

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## DENIED POWERS

There are a few items in Section 1 of the Constitution that list what the government cannot do. The writers of the Constitution did not want the government to have too much power so they made sure to include powers that they believed no government should have.



For example, the government cannot imprison someone without their knowing the charges against them. This is known as a *writ of habeas corpus*. *Habeas corpus* is Latin for “show me the body.” An exception can only be allowed if there is a chance of rebellion or a threat of a major terrorist attack. Lincoln suspended the *writ of habeas corpus* during the Civil War, and George Bush did as well after the September 11th terrorist attack.

Congress cannot pass a bill of attainder against anyone, which means finding someone guilty of a crime without having a trial. They also cannot pass *ex post facto* laws, which means to make something illegal after the act was committed.

The government also cannot grant a title of nobility to anyone. This was added because the writers of the Constitution had just left a monarchy when they won the American Revolution.

*Article I Section 9 | Constitution Annotated - Congress. (n.d.). Retrieved March 9, 2023, from <https://constitution.congress.gov/browse/article-1/section-9/>*

## ENUMERATED POWERS

Enumerated powers, called expressed powers, are given specifically to the federal government, mostly Congress, through Section 8 of the United States Constitution. The purpose of these powers is to limit what the federal government can do.

For example, through enumerated powers only the federal government can coin money and borrow money for the United States. The federal government is also responsible for conducting foreign affairs and creating treaties with other nations. The power to determine the process for immigrants to become citizens is also an enumerated power.

The federal government must create and maintain the armed forces. The federal government provides and maintains the Army and the Navy. Through this power, only Congress can declare war against another country or make treaties. Other enumerated powers given to the federal government include maintaining a post office and giving copyrights and patents to inventors.

An important part of enumerated powers is the Necessary and Proper Clause. This means that Congress can create laws to help carry out enumerated powers. This clause is often used by the federal government to expand their powers. If there is a question about the federal government's ability to pass a law, the courts hear the case and decide whether the law is constitutional.

*Article I Section 8 | Constitution Annotated - Congress. (n.d.). Retrieved March 9, 2023, from <https://constitution.congress.gov/browse/article-1/section-8/>*

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