

## 6.5

# 10th Amendment to the Constitution

### Standard 6.5: 10th Amendment to the Constitution

*Explain why the 10th Amendment to the United States Constitution is important to state government and identify the powers granted to the states by the Tenth Amendment and the limits to state government outlined in it. (Massachusetts Curriculum Framework for History and Social Studies) [8.T6.5]*

The **10th Amendment** to the Constitution states that **any powers not granted to the federal government “are reserved to the states, or to the people.”** It was ratified along with the rest of the Bill of Rights on December 15, 1791. The 10th Amendment allows the powers not specifically given to the federal government to be given to the states and people of the states. It allows for states to create specific guidelines and regulations separate from the federal government.

Historians credit [Anti-Federalists](#) with the inclusion of the 10th amendment in the Constitution. Anti-Federalists were worried about a

concentration of power in the national government and the 10th Amendment states that federal power is limited. In theory, the 10th Amendment prevents the federal government from having total authority over policies. In reality, the 14th Amendment's mandate that states must provide "any person within its jurisdiction the equal protection of the laws" provides for an active federal role in state policies.

But exactly what are those limits has been, and still is, today a matter of intense political debate, especially given the Constitution's **necessary and proper clause** that states Congress can make the laws needed to perform its constitutional functions. Learn more about [The 10th Amendment](#) from National Constitution Center. You can learn more about the [necessary and proper clause in Topic 5.1](#) of this book.

## **Modules for this Standard Include:**

1. [INVESTIGATE: State Government Pandemic Policies](#)  
[MEDIA LITERACY CONNECTIONS: Informing the Public about Pandemic Policies](#)
2. [UNCOVER: The Regulation of Sports Betting](#)

## **1. INVESTIGATE: State Government Pandemic Policies**

Throughout the COVID-19 pandemic, states have used their 10th Amendment powers to implement emergency public health and education policies, generating strong public debate and, in some cases, intense opposition.

At different times as the pandemic has evolved, state coronavirus-related restrictions have included regional and statewide stay-at-home orders; non-essential business closings; occupancy restrictions in

stores, bars, restaurants, houses of worship, and other establishments; curfews; limits on the size of public and private gatherings; school closings; self-quarantine restrictions for out of state travelers; and vaccine distribution priorities and procedures. In other instances, state governments have insisted on opening businesses and facilities despite urging from the federal government and the Centers for Disease Control and Prevention not to do so.

You can learn more than [Federal, State and Local Government Responses to COVID-19](#) from the Library of Congress.

## **Media Literacy Connections: Evaluating State Government Use of Media**

How have you learned about your state's government policies during the COVID-19 Pandemic? Does your state government use the media to inform, persuade, and educate citizens about their pandemic policies?

In this activity, you will examine how state governments have used the media to communicate their COVID-19 pandemic policies.

- **Activity:** [Evaluate State Government's Media Use](#)

## **2. UNCOVER: The Regulation of Sports Betting**

Sports betting is a huge industry in the United States. The American Gaming Association has estimated during the past decade some \$150 billion dollars a year was gambled on sports, 97% of which was bet illegally (Perez, 2018). Based on a federal law, the 1992 Professional and Amateur Sports Protection Act (PASPA), sports betting was illegal in all but the state of Nevada and three other states that allowed more

limited gambling.

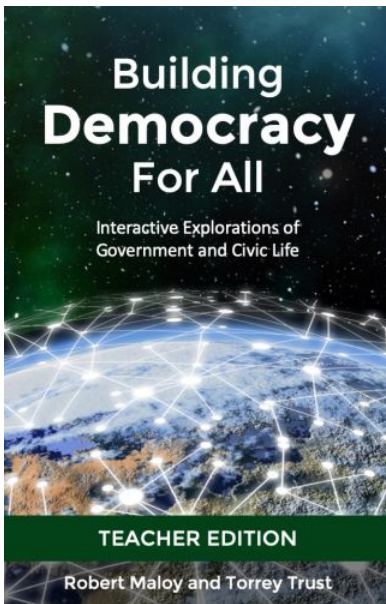
In 2018, however, the Supreme Court declared the PASPA unconstitutional under the 10th Amendment. The federal government had overstepped its powers, the Court said. **A federal law cannot “commandeer the legislative process of the states by compelling to enact or enforce a regulatory program”** (as cited in ["There's Gambling Going on Here? Shocking!" "Your Winnings, Sir"](#) by Greenfogel, 2018). It is up to each state to decide whether or not to authorize or operate sports betting systems, just as states do with lotteries, sweepstakes, or other forms of wagering.

The Court’s decision dramatically changed the practice of sports gambling, making betting on NFL football, NCAA March Madness games, and many other sports legal instead of illegal activities. States across the country are passing sports betting legislation led by New Jersey that is seeking to reestablish Atlantic City as an entertainment center and revenue-generating tourist destination.

It is projected that by 2024, half of all Americans will live in a state with legal sports betting. But many politicians believe that the federal government should re-introduce laws to regulate gambling on sports, a move that will again raise 10th Amendment issues of state versus federal authority.

## Suggested Learning Activities

- **Discuss**
  - [To What Extent Does the 10th Amendment Limit the Power of the Federal Government?](#)
- **Debate** (in class or on [Flipgrid](#))
  - Should sports gambling be regulated by the federal or state government? (see [New Jersey bets on 10th Amendment in Supreme Court case](#)).
- **Debate** (in class or on [Flipgrid](#))
  - Do you believe COVID-19 guidelines should be federally mandated or that states should continue to implement guidelines individually without the federal government?



Maloy, R. W.&Trust, T.(2020).*Building Democracy for All*. EdTech Books.<https://edtechbooks.org/democracy>