Objectives about Powers of Congress

The student will demonstrate knowledge of the organization and powers of the national government by
a) examining the legislative branch

Essential Understandings about Powers of Congress

1. The legislative branch is a bicameral body with committees playing a major role in the legislative process.
2. The Constitution of the United States of America grants both expressed and implied powers to the legislative branch.

Essential Questions about Powers of Congress

1. What are the expressed and implied powers?
### Section 1: The Scope of Congressional Powers

#### Types of Congressional Powers

1. **expressed** powers – powers explicitly written out; also known as the **enumerated** powers
   a. most are listed in 18 clauses in **Article I, Section 8** of the Constitution
2. **implied** powers – powers that are “necessary and proper” to carry out the expressed powers; expressed power #18 is the **elastic clause**
3. **inherent** powers – powers thought essential to the existence, dignity, and functions of Congress
   a. EX – controlling behavior in Congress, powers to investigate a government agency

#### Denied Powers

1. listed in **Article I, Section 9**
2. cannot suspend the **writ of habeas corpus** – court order to release a person to determine whether or not they’re illegally detained
3. **bills of attainder** – laws that establish guilt and can jail people without a trial
4. **ex post facto laws** – cannot make a crime out of an act that was once legal
5. cannot interfere with the **Bill of Rights**

### Section 2: The Expressed Powers of Money and Commerce

#### Taxing Power Purpose of Taxes

1. tax – a charge levied by government on persons or property **to meet public needs**
2. can be issued to **protect domestic business**
3. protect the **public health and safety**

#### Taxing Power Limits on Taxing Power

1. can only tax for **public purposes, not private benefit**
2. may not tax **exports**
3. no **poll tax** (would violate the 24th Amendment)
4. no tax on **church services**
5. **direct tax** – a tax you pay directly
6. **indirect tax** – a tax put on producers that they pass on to you
### DIRTy Definitions

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<thead>
<tr>
<th>1) Term</th>
<th>2) Def</th>
<th>4) Illustration</th>
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<td><strong>expressed powers</strong></td>
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<td><strong>tax</strong></td>
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### Notes

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### Section 2: The Expressed Powers of Money and Commerce

#### The Borrowing Power

1. **deficit financing** – spending more than you make, then borrowing the rest to make up the difference
2. **public debt** – money borrowed by the government over the years and has not been repaid
3. **Balanced Budget Act of 1997**
   a. **President Clinton and Congress** did away with deficit financing; surpluses from 1998-2002
   b. current public debt (as of 2/13/09) is **$12,512 trillion**
   c. The estimated population of the United States is **307,937,679**
   d. so each citizen's share of this debt is **$40,633.19**

#### The Commerce Power

1. power of Congress to regulate **interstate and foreign trade**
2. **more responsible for uniting the states than any other clause in the Constitution**
3. the Supreme Court case **Gibbons v. Ogden** helped expand Congress's commerce powers
4. the Civil Rights Act expanded Congress' power of Commerce to ban discrimination
   a. the Act prohibits discrimination in **hotels, theaters, restaurants or any other public accommodations**

#### The Currency Power

1. **power to coin money**
2. was granted in 1791, but **paper money** was not **legal tender** – money that a creditor must accept as payment for debts
3. **Legal Tender Cases** and **Juliard v. Greenmen** finally made paper money legal tender

#### Foreign Relation Powers

1. Congress shares these powers with **the President**
2. **States** are not allowed to take part in foreign relations
3. Congress acts on matters affecting the **security of the nation**
   EX – regulation of immigration
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<td>Necessary and Proper Clause</td>
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<td>impeach</td>
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3) Reminding Word(s)

Notes
## Section 3: Other Expressed Powers

### War Powers

1. **8** of the 18 powers in Article I, Section 8 deal with **war and national defense**
   - a. share powers with the President
2. **Specific Powers**
   - a. **can declare war**
   - b. **raise and support and army**
   - c. **provide and maintain a Navy**
   - d. make rules concerning **captures on land and water**

### Copyrights and Patents

1. **copyright** – exclusive right of an author to reproduce, publish and sell his or her creative work; good for **70 years**
   - a. it’s up to the **artist/author** to sue for damages, not the **government**
2. **patent** – the right to manufacture, use sell “any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof”
   - a. good for **20 years**

## Section 4: The Implied Powers

### Necessary and Proper Clause

1. gives Congress the ability to **stretch** its powers
2. also known as the **elastic** clause

### McCulloch v. Maryland

1. 1818, Maryland placed a tax on all notes issued by any bank in the State that wasn’t chartered by Maryland
2. James McCulloch, cashier for the Second Bank of the United States in Baltimore, purposefully did not pay the tax
3. Maryland sued and won in its own courts
4. the United States, acting on behalf of McCulloch appealed to the Supreme Court
5. the Supreme Court ruled against Maryland
   - a. no State has the power to **tax any agency of the Federal Government**
   - b. Congress was using the Necessary and Proper clause to stretch four expressed powers – **the taxing, borrowing, currency and commerce powers**
The Implied Powers of Congress

The *expressed power* to lay and collect taxes

Implies the power

The *expressed power* to establish naturalization law

Implies the power

The *expressed power* to raise armies and a navy

Implies the power

The *expressed power* to borrow money

Implies the power

The *expressed power* to regulate commerce

Implies the power

The *expressed power* to establish post offices

Implies the power
### Section 5: The Nonlegislative Powers

#### Electoral Duties

<table>
<thead>
<tr>
<th>A. <strong>House of Representatives</strong></th>
<th>56. if no candidate for President receives a majority of the electoral votes, the <strong>House</strong> chooses from the top three candidates</th>
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<td>2. each state only gets one vote</td>
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<td>3. a majority of the state is necessary for election</td>
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<td>4. happened <strong>twice</strong> – Thomas Jefferson (1801) and John Quincy Adams (1825)</td>
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<td>B. <strong>Senate</strong></td>
<td>59. chooses the <strong>Vice President</strong> if no candidate receives a majority of the electoral votes</td>
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<td>2. votes are counted by individual Senators, not States</td>
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<td>3. happened <strong>once</strong> – Richard M. Johnson (1837)</td>
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<tr>
<td>C. Both Houses</td>
<td>62. if a vacancy occurs in the <strong>Vice President’s</strong> position, the President may appoint a successor (25th Amendment)</td>
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<td>2. has to be approved by a majority vote in <strong>both houses</strong></td>
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<tr>
<td>3. used <strong>twice</strong> – Gerald Ford (1973) and Nelson Rockefeller (1974)</td>
<td></td>
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#### Executive Powers

<table>
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<th>A. Appointments</th>
<th>65. all major appointments must be confirmed by the <strong>Senate</strong> by a majority vote</th>
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<tr>
<td>2. rarely do not confirm the President’s appointees (12 times out of 600)</td>
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<td>B. Treaties</td>
<td>66. the President makes treaties, but they have to be confirmed by <strong>2/3 of the Senate</strong></td>
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#### Impeach

| 1. meaning – **to accuse/bring charges** |
| 2. “Treason, Bribery, or other high Crimes and Misdemeanors” |
| 3. the **House** can impeach a President with a **majority vote** |
| 4. the **Senate** holds the trial to convict – need **2/3 of the Senate** |
| 5. the Chief Justice of the Supreme Court presides over the hearings |
Analyzing Political Cartoons

In almost every newspaper around the world, a political cartoon is published that highlights a particular viewpoint or idea through the use of illustration. Often, the image is exaggerated and intended to be humorous as well as informative. Using your prior knowledge and the information from your notes, analyze the following political cartoon.

1. What scandal does the tidal wave represent? ____________________________

2. How did the economy do while Bill Clinton was president? ____________________________

3. What does the cartoonist suggest about Bill Clinton's legacy as president? ____________________________

______________________________
______________________________
______________________________
## Section 5: The Nonlegislative Powers

| Richard Nixon | 1. June 1972 – Republican operatives were caught breaking into the Democratic Party’s national headquarters in the *Watergate* office complex in Washington D.C.  
2. there was an investigation that led to allegations of bribery, perjury, income tax fraud, and illegal campaign contributions  
3. the House 74) *subpoenaed* President Nixon for his secret recordings of Watergate-related conversations in the Oval Office  
   a. 75) *subpoena* – legal order directing someone to appear in court or turn over certain evidence  
   b. 76) Nixon refused  
4. August 9, 1974 – Nixon 77) resigned before the House could impeach him |
| Andrew Johnson | 1. impeached in 1867 over the Tenure of Office Act  
2. Senate 72) *acquitted* him by one vote |
| Bill Clinton | 1. impeached in 1998 on charges of 78) *perjury and obstruction of justice*  
   a. both articles were related to “inappropriate relationship” with 79) *Monica Lewinsky*  
2. many members of Congress thought the President should be censured, not impeached  
   a. censure – 80) *formal condemnation of behavior*  
3. Feb 12, 1999  
   a. Senate votes to 81) *acquit* on obstruction of justice 50/50  
   b. Senate votes to 82) *acquit* on perjury 55/45 |
Summary

**DIRECTIONS:** Choose only one of the following:

a) write a summary (25-75 words) of what you believe was the most important aspect of the notes/lecture
b) write what you believe to be the most interesting or memorable part of the notes/lecture (25-75 words)
c) draw something that symbolizes the notes/lecture to you (has to be different than your title page)