Welcome to America and Arizona Government for Elementary Teachers. This is Presentation 11: Arizona Statehood and Constitution. Up until now, we have focused the presentations in this course on the background and institutions of American government. We now turn our attention to the state of Arizona and the institutional structure that is unique in our state.

**Presentation Objectives**

AEPA Objectives
- 0016 Understand state and local government in the United States
- 0019 Understand state government and government of American Indian nations in Arizona

AZ Social Studies Standard, Strand 3
Concept 2: Structure of Government

This presentation we'll examine AEPA Objective 16, Understand State and Local Government in the United States and, 19, Understand State Government and Government of American Indian Nations in Arizona. We'll also look at some of the objectives under Concept 2, Structure of Government contained within the Arizona Social Studies Standard Strand 3, Civics and Government. You're encouraged to look at the document on Social Studies Standard articulated by grade level and look at some of the objectives listed under Concept 2 to ensure that you understand and are able to competently teach those principles and objectives to your future students.

**Territoriality and the Drive for Statehood**

This is not a course in Arizona history, but we clearly need to look at some of the historical origins of the state in order to understand why the institutions of state government were designed the way that they were. So, this will necessarily be a brief and not a comprehensive treatment of our state's history. I encourage you to either take a course in Arizona state history, which is a rich history, or look at some of the many books that are available that outline the Arizona Territory and its early history with statehood.
Slide 4

Text: Pre-territoriality

[Photo of tribal ruins sheltered in a cave] [Older photo of hogan]

Audio: While humans have lived in the area that we call Arizona now for a long, long time, the harsh environment and lack of resources meant that these earliest inhabitants tended to be small, nomadic groups, with a few exceptions. Some of these groups developed into larger cultures such as the ancestral Pueblans, the Hohokam and Mogollon cultures. These native cultures engaged in trade and commerce from far away and at times, supported tens of thousands of inhabitants in what to the modern eye looks like a barren desert. A good example of such civilization is preserved in the Tonto National Park, which is pictured on the left and can be visited in, it's next to Lake Roosevelt. And I would encourage you to visit that monument to get a good sense for the earliest inhabitants of Arizona.

Slide 5

Text: Spanish Era

[Photo of a Spanish mission]

Audio: The first European presence in Arizona was Spanish. The early Spanish explorers ventured north from Mexico in search of golden cities and new peoples to conquer. They did not get very far north because of the inhospitability of the terrain, as well as the fierce resistance from the native tribes that resided here. They did, however, establish some permanent settlements in order to maintain a presence and their claim to the area that we now consider Southern Arizona, in particular, the communities of Yuma and Tucson, Tubac, were all formed in the 1700s. However, these early Spanish settlements were little more than forts. The Apaches, in particular, effectively prevented colonization. So there were never more than a few hundred Spanish settlers living in what we now consider the Arizona Territory.

Slide 6

Text: Mexican Era

[Black and white photo of tribal warriors]

Audio: The Hispanic population of the area actually decreased when Mexico gained its independence from the Spanish. This is because the Mexican government did not have the resources to maintain the forts and hold the supply lines that the Spanish had, and so they were unable to maintain the presence that the Spanish had. So during the Mexican era, there were only a few hundred non-native residents living in the Arizona Territories.

Slide 7
Text: Mexican American War

- Manifest Destiny
- Mexican War
- Treaty of Guadalupe Hidalgo
- Gadsden Purchase
- Civil War

Audio: The future of this territory underwent a dramatic change with the arrival of the Americans. Now the Mexican-American War is responsible for the transfer of this territory to America. Now, the Mexican-American War was a war that was begun by the Americans. In fact, the Mexicans don't call it the Mexican-American War. It's referred to as the War of American Aggression, to give some sense of how they viewed that war. There was a sense of manifest destiny that the Americans felt. They felt that the United States was destined to be a continental power from the Atlantic to the Pacific; and this territory of Northern Mexico was in the way. And so with the annexation of Texas and the movements towards colonization, it led to a war between the United States and Mexico, as the United States sought to gain control of the southwestern regions of the continental territories. The government accused the Mexican government of attacking American troops. Abraham Lincoln was an early opponent to the Mexican-American War; and he famously challenged the president at the time, Polk, to say where -- to produce some proof that Americans had actually been attacked. No proof was given; but nevertheless, Congress declared war on Mexico; and the United States Army invaded Mexico. The army was able to push down through Mexican territory. Although the Mexican army put up fairly stiff resistance, the United States Army succeeded in taking over Mexico City and the government of Mexico. The war ended with the treaty of Guadalupe Hidalgo, which ceded the territories of New Mexico and Arizona and California to the United States. In exchange, the United States withdrew their troops and paid the Mexican government an agreed-upon sum of money. Now, the border that was ceded was north of essentially the Salt River. And the next move was to take the City of Tucson. And this was accomplished through negotiations where the American representative went to purchase that territory from Mexico. And they originally wanted to have a connection to the Gulf of Mexico, but the Mexican government was not willing to give that territory up because they likely would have lost the Baja, California at the same time. In addition, there was not a lot of domestic support in the United States for purchasing that territory because it was seen as a wasteland. And the Santa Fe-New Mexico railway line, which is the main reason we wanted that territory through Tucson, didn't particularly want a port going from Arizona out to the Pacific Ocean. They wanted all that traffic to go through to the ports in California. So we may not have been able to buy it even if we'd wanted to. But the Gadsden Purchase purchased the territories south of the Salt River in modern-day Tucson and the territories in yellow on this map here. Now, that meant that all of what we now consider Arizona was part under U.S. control. It was part of the territory of New Mexico, and the map that's shown on the slide is what that territory looked like. What few residents there were in Tucson wanted to have their own colony, their own territory. They did not want to be ruled from Santa Fe. So the residents of Tucson formed their own territorial government of Arizona in 1860. And that [inaudible] plea was acknowledged by the federal government who
went ahead and divided the territories into the territory of New Mexico and the territory of Arizona. Now, these leaders of the Arizona Territory sided with the south the Civil War, which resulted in a large contention of troops, federal troops, being sent to Tucson to maintain control of the Arizona Territory and guarantee the passage of rail material from California to the rest of the country. That led to a minor skirmish with confederate forces to the north of Tucson, the one Civil War battle that occurred in Arizona.

Slide 8

Text: Territorial Era

- Organic Act
- Corruption in Territorial Government
- Lawlessness

[Photo of frontier man] [Photo of mining car]

Audio: President Lincoln signed the Organic Act which established the Arizona Territory. This act enabled more developments and set forth criteria for future statehood. In spite of that, Arizona remained a territory for 49 years and remained a territory longer than all of the surrounding states. This is possibly because of its early connection with the Confederacy. But it's also due to the sheer inhospitality of the land and the perception that there wasn't a whole lot of reason to settle in Arizona. So it took a while for there to be a sufficiently large population to make a bid for statehood. The territorial governors were appointed by the president and most of them were carpetbaggers. Now what that term means is that the governors were appointed not from the people who lived here, in the Arizona Territory, but from good friends of the president, who then would travel to Arizona to rule it. The carpet bag refers to the type of suitcase popular at the time. The territorial legislature was often accused of being captured by the railroad and mining interests so the mines and the railroads got whatever they needed from the legislature and so, the other citizens, and in particular, the workers who worked in the mines and the railways were often on the losing end of political battles in the territorial legislature. There was a primitive court system, but like much of the West, that court system was not able to deliver justice quickly or fairly because again, the mining and railroad industries controlled the territorial government. And so that led to a lot of vigilante-ism, people taking the law into their own hands, and there was a considerable amount of violence that occurred on the frontier territory as cattlemen and miners and farmers and early settlers competed with one another for control of the scare resources that were here. Now that Wild West reputation, of the shootout at the OK Corral and sort of elaborate and romantic stories that were told back East about what frontier life in Arizona was like also hurt the territory's chances to become a state because it was perceived back East as this lawless, wild, cowboy territory.

Slide 9
Text: Enabling Act

[Photo the Arizona Constitutional Convention]

Audio: With the passage of the Enabling Act, in 1910 however, the territory was finally able to move towards statehood. Now the Enabling Act required that the territory draft a constitution as well as some other provisions, requirements that were not typical for other states. For example, the Enabling Act required that the proposed constitution from Arizona had to be approved by the President of the United States. Now there is no constitutional provision for such a requirement, but that was Congress required in that 1910 act. It also carved out significant land that would remain under federal control. Those lands remain, for the most part, under federal control even today and it also included fairly strict controls over how Arizona could use the state land it did control. So these were requirements that other states did not have to abide by, but nevertheless, Arizona was required to. This slide shows the Arizona Constitutional Convention which met in 1910 to draft the constitution for Arizona.

Slide 10

Text: Progressive Era Influence

[Photo of early Arizona town]

Audio: To understand the Arizona Constitution and some of its rather unique characteristics, we need to look a little closer at those men who were in the constitutional convention. Most of them were heavily influenced by the Progressive Era thoughts. The Progressive Era is a name given to social and political reforms that swept through the country in the late 18 and early 1900s. Efforts to bring civil service reform, to end child labor, to create a 40-hour work week, to create public education, these were all legacies of the Progressive Era, and an attempt to humanize the capitalism that marked the Gilded Era. So the founders of Arizona's constitution were heavily influenced by that thought. Most of the people at the constitutional convention were democrats who were advocates of the Progressive and labor movements. Now, this led to some unique provisions that other states at the time did not have, things such as a secret ballot, which we take for granted now, was an innovative Progressive Era reform. A direct primary where people would vote on who the nominee would be for their political party. The voter initiative that citizens could use a petition to place a measure on the ballot. The referendum, where the legislature will take an issue and put it on the ballot for the people to have a say on. The recall, the idea that the people can vote to remove an officer from public office. These are all provisions that other states at the time did not have and were new innovative Progressive Era ideas that were enshrined in the Arizona Constitution. It also established a cooperation commission to enable citizens to control the roads and the utilities. That is something that most states do not have. Also the Hispanic influence of the residents here in Arizona can be found in the community property law that is enshrined in the constitution. For example, when a husband or a wife dies, the property automatically is passed to the spouse. That is not the case in most other
states, at least in 1910, where a wife would have to fight for her share of an inheritance when her husband died. Well, good. Common property law means that she would get all of the property, and it would only be on her death that children or heirs would get some of the property. So these are some of the influences of Arizona's history that impacted the Arizona Constitution and made it a unique document that looked quite different from those of earlier states in the union or even the surrounding states.

Slide 11

Text: Constitution Enacted

- President Taft’s veto of 1st draft
  - Objected to judicial recall
- Constitution signed by Taft Feb. 14, 1912
- Judicial recall put back in
- Women’s suffrage

[Photo of President Taft signing the Arizona constitution]

Audio: The draft of the constitution was sent to President Taft, as required by the Enabling Act; and President Taft vetoed that draft. He did not like the provision of recall for judges. Remember, the recall was an innovation that did not exist in most states in the union. And President Taft felt that it was dangerous to the independence of the judicial branch to have judges be able to be removed from office by the voters. And so the constitution was sent back to Arizona. They then took that provision out of the constitution to keep President Taft happy, and sent it back to Taft. Taft then signed the constitution on February 14, 1912, which then created the state of Arizona. Now, shortly thereafter, in the next election cycle, President Taft was replaced by President Woodrow Wilson; and the people of Arizona put the judicial recall provision back into the constitution. They were now a state and there was a different president, and they wanted that recall there all along. So that's how Arizona became a state in spite of President Taft's opposition. Now, about that same time the voters granted women suffrage; and this also was an innovation and something that most states in the union did not grant at that time.

Slide 12

Text: Arizona Statement of Rights

Preamble-We the people of the State of Arizona, grateful to Almighty God for our liberties, do ordain this Constitution.

- Constitution is long, easily amended
- Article 2 is Statement of Rights
- 35 sections
Audio: If you look at the constitution itself, we see that the Arizona Constitution is actually quite long compared to the federal constitution. But it's about the same size as other state constitutions. Now, because it is so easily amended, it is important when you're looking at a copy of the Arizona Constitution, that you make sure you're looking at a current copy, because the constitutions change almost every election. I would recommend that you look at a copy of the constitution online, particularly the Arizona Legislature maintains a copy, an electronic copy of the constitution. Now we'll talk about the amendment process later, but for now, just realize it's really easy to amend the constitution. The first article merely establishes the boundaries for the state. Article 2 though, is the Arizona Statement of Rights. This is the state's equivalent to the Bill of Rights. It includes such items as a particular, well the same Bill of Rights that the US Constitution has, the right to bear arms, the right to conscience. It has the right to privacy. It guarantees several rights. And there are 35 sections to the constitution, in all, the last of which is actually a recent addition that prohibits illegal aliens from suing for punitive damages. So that gives a sense of the level of detail in the constitution and reminder that it changes about every single election and so it contains items that were of concern in 1912 and also contains items that are under debate and concern 100 years later.

Slide 13

Text: AZ Constitution

- Similar in structure to other states
- More detailed than Federal Constitution

[Photo of Arizona capital building]

Audio: In its overall structure, the Arizona Constitution is like most state constitutions. It creates a bicameral legislature. It provides that power be divided among the three branches of government. And in most issues it looks quite similar to the US Federal Constitution. It's much more detailed though. It includes, for example, information on the usage of state school plans. It provides rules that counties and other local governments have to operate by. It sets forth a system of water rights and mining inspections and other issues that are specific to Arizona. There's a provision that higher education be as free as possible. It establishes a Corporation commission to regulate corporations and utilities. There's a requirement that all spending increases have to be put to the voters before they can take effect. There's an establishment of English as the official language. Now that provision actually was later ruled unconstitutional by the Arizona Supreme Court. The most recent addition to the Constitution is Article 30, which restricts marriage to that, between a man and a woman. Now in the next few presentations we'll examine that the branches of government and the criminal structures that the Constitution sets forth with the judiciary and executive and the local governments. But I encourage you to look through the Constitution so that you are familiar with its structure and with the basic understanding of the scope of things that are in the Constitution.
Slide 14

Text: Amending the Constitution

- Initiative
- Referendum

[Photo of woman collecting signatures for an initiative] [Logo for “Yes on 100”]

Audio: Before we look at those other branches of government and other constitutional structures, let's first talk about the amendment process. Now, as I said before, the Arizona constitution is very easily amended; and so there's a couple of different ways of doing that. The first is through an initiative; and in an initiative, it is a citizen-generated change. The citizens will write up a constitutional amendment, submit that with the secretary of the state to certify it. They then go around collecting petitions, as we have pictured here; and if they can gather enough signatures from registered voters to pass a certain threshold, then that ballot measure, that proposed constitutional amendment, will be added to the ballot as an initiative, as a proposition on the ballot. And if the voters -- if the majority of the voters vote for that ballot proposition, then it passes and the constitution is changed. Another way to amend the constitution is through referendum. Referendum is where the legislature will pass a bill, but then give it to the voters to vote up or down on before it takes effect; and so that's one way for the legislature to amend the constitution is to have the voters do it, even though the legislature is the one who wrote the proposed amendment.

Slide 15

Text: Amending the Constitution

- Convention
- Citizen Approval

[Photo of person in a voting booth]

Audio: The third method of proposing an amendment is by a constitutional convention. Now in this case the legislature would convene a convention. This convention would be attended by citizens who are appointed to go there and they would then draw up probably a number of amendments. Now a constitutional convention has never been called before but that provision is in place for them to do that. Now any amendments that result from a convention would also then be put on the ballot for the citizens to approve. So one interesting part about amending the state constitution is that however the amendment is proposed whether it be a convention, a referendum or an initiative all constitutional amendments go to the voting booth for citizen to approve. Now this is fairly unusual. As most state constitutions allow the state legislature and the governor to make amendments. The number of things that require voter approval in Arizona is more than
usual and it's a result of that progressive influence again on the politicians who wrote the constitution. Now this does mean though that our constitution, the Arizona constitution, is amended in some way in almost every statewide election.

**Slide 16**

**Text:** Hierarchy of Laws

- US Supremacy clause
  - US Constitution
  - Federal Law
  - State Constitution
- State Statutes
- Ordinance or agency rule

[Photo of entrance to Yavapai County Court House]

**Audio:** The last point to discuss about the state constitution is the hierarchy of laws. The constitution, the Arizona Constitution, leaves key details to other sources of law. These other sources of law would include, state statutes, administrative rules by state agencies, and local ordinances and codes, and judicial precedent and opinions. To understand the status of law then in any given policy area to know what the law is for something, you would need to know what each of those sources say about that particular policy area. Now usually rules and laws are made up by this many agencies and ordinances end up contradicting one another. So the constitution sets forth a hierarchy for which laws predominate when there is a conflict. Now in this hierarchy we start at the bottom with administrative rules by state agencies and ordinances and codes by local governments. So that's where most rules are made and that is at the bottom of this hierarchy. So these administrative rules or local ordinances can be superseded by state statute. These statues are laws that are devised at passed by the state legislature. So the state legislature then trumps local rules and ordinances. Now the state statutes can be superseded by the Arizona Constitution. So the legislature can't pass laws that violate the constitution. And any new additions to the constitution will then overturn existing state and local laws. Now it's important to note here that all changes to the state constitution are ratified by the voters, not the legislature. So that means the constitution is seen as being the perfect voice of the people. And that is why constitutional changes then override whatever the legislature or city buildings have done. Now, the Arizona Constitution can itself be superseded by the U.S. Constitution as well as federal statutes or international treaties that have been signed by the president and ratified by congress. And this is because the supremacy clause in the U.S. Constitution makes it clear what the relationship is between state and federal law. And I would remind you of the discussion on the supremacy clause and federalism in a previous presentation. But in addition to the U.S. Constitution supremacy clause the Arizona Constitution itself recognizes the supremacy of the U.S. Constitution.

**Slide 17**
Text: hierarchy of laws – 1070 Case

- SB1070 illustrates hierarchy
- Overturned city statutes and agency practices
- Challenged by Federal government for overturning federal statutes and practices

[Photo of man in handcuffs with being escorted by two law enforcement agents away from a border station] [Photo of an anti-SB1070 sign being held up at a protest]

Audio: This presentation is being recorded in the summer of 2010. And so the controversy surrounding the senate bill 1070 seems like an apt illustration of how this hierarchy works. Many in the state legislature were upset with the City of Phoenix ordinance that limited cooperation with the city police and federal immigration agency, the ICE, Immigration of Customs Enforcement. Typically when the municipality would arrest someone who they deemed to be here illegally they had an arrangement with ICE to turn those individuals over to ICE for deportation once they had finished going through the judicial process at the state and local level. But the City of Phoenix was not following that policy, they were not cooperating with ICE. Now the city was doing this to enable the police to have a closer relationship with the immigrant communities in an effort to root out violate crime and kidnappings. The argument was that if immigrants were not afraid that the police would turn them over to ICE then they would be willing to come forward to testify against the really bad guys, which the city wanted to be able to take off the street. Now this policy upset many in the state legislature who felt that that city policy was tantamount to providing a sanctuary in Phoenix for illegal immigrants. So senate bill 1070 explicitly prohibited the cities from creating such policies. Now because of the hierarchy of laws the state statute now supersedes any preexisting city policy on immigration. So the legislature was able to get their way on that. However, as B1070 also explicitly declares that its intent is to shift the law enforcement priorities from focusing on violent crime to deporting all immigrants. Now this led the federal government to file suit in federal court against the state arguing that because the federal law and the federal agencies emphasize focusing their immigration law enforcement on violent criminals, that the state law then unlawfully encroached on federal law and federal practice. The argument was also made by the federal government that the U.S. Constitution explicitly grants that congress will have the power to deal with immigration issues not state legislatures. So the federal government then sued to put a stay on the enforcement of 1070 and get the courts to actually overturn 1070 on those grounds. Now if that suit is upheld in court, it would illustrate again the hierarchy of laws set forth in the Arizona Constitution. With federal law and the U.S. Constitution superseding state statute and when that state statute is in contradiction with federal law and the U.S. Constitution it is the state statute which will be overturned not the federal law. So the 1070 controversy is a good illustration of how that hierarchy of laws operates in both directions from the state legislature.

Slide 18
Text: Conclusion

[Photo of the desert with mountains in the background]

Audio: In this presentation, we have looked at what really amounts to just a thumbnail history of the state. There is a deep and rich history of the territorial era and also the pre-European era with the Native tribes that lived here. And I encourage you to take a course or read a book that delves deeper into that history. For our purposes, focusing on the Constitution and Arizona government, we've only taken the briefest look at the historical background in which that occurred. We've now examined though the formation of Arizona Statehood and the structure of the Constitution so we can now look at the institutions of state government with the Legislature, the Judicial Branch, the Executive Branch and the Independent Commissions. And we will turn to those issues in the next presentation.

Slide 19

Text: This presentation is courtesy of Brian Dille, Professor of Political Science at Mesa Community College.

[Photo of Brian Dille]

Audio: This presentation is courtesy of Brian Dille. I am a speaker and I am Professor of Political Science at Mesa Community College, a college of the American Community College District in Mesa, Arizona. I hope you've enjoyed this presentation.