

# "The Three Branches of Government and How They Work in Iowa"

## THE THREE BRANCHES OF GOVERNMENT: HOW THEY WORK IN IOWA

*In Iowa government, as at the national level of government, power is distributed among three branches: legislative, executive, and judicial. The legislative branch creates laws that establish policies and programs; the executive branch carries out the policies and programs contained in the laws; and the judicial branch resolves any conflicts arising from the interpretation or application of the laws. While each branch of government has its own separate responsibilities, one branch cannot function without the other two branches.*

### LEGISLATIVE BRANCH

The Iowa Constitution establishes the state's lawmaking authority in a general assembly consisting of a Senate and a House of Representatives. The Iowa General Assembly is often referred to as the "Iowa Legislature" or simply the "Legislature."

#### Legislative Districts

The Iowa Senate consists of 50 members. Each Senator represents a separate geographic area of the state. This area is called a district. There are 50 Senate districts in Iowa. Currently, each Senate district contains approximately 58,500 people.

The Iowa House of Representatives consists of 100 members. As with the Senate, each Representative serves a separate district. There are 100 House districts in Iowa (two within each Senate district). Currently, each House district contains approximately 29,300 people.

Every Iowan is represented by one Senator and one Representative in the General Assembly. Since the districts are all of nearly equal population, all Iowans are represented equally in the General Assembly. Senate and House district boundaries are redrawn every 10 years to reflect changes in Iowa's population as determined by the U.S. Census Bureau. This process is known as redistricting. The new district lines were drawn in 2011, based upon the 2010 census. The new district lines became effective with the November 2012 general election.

#### Legislator Terms, Elections, Qualifications

All Senators and Representatives are elected by registered voters within the district. Senators are elected to four-year terms. Representatives are elected to two-year terms. Every two years, elections take place for all House districts and half of the Senate districts. Elections for even-numbered Senate districts are held in presidential election years, and elections for odd-numbered Senate districts are held in midterm election years.

Legislator qualifications include the following: A person must be a U.S. citizen, a resident of Iowa for at least one year, and a resident of that person's district for at least 60 days prior to election. A Senator must be at least 25 years of age by the date of office placement, and a Representative must be at least 21 years of age by the date of office placement.

## **Legislative Sessions**

Each General Assembly lasts two years. The Iowa Constitution requires the legislative sessions of each General Assembly to convene yearly on the second Monday in January. Legislators' per diem expenses extend up to 110 calendar days during the first year of the General Assembly (odd-numbered years) and up to 100 calendar days during second year of the General Assembly (even-numbered years), but the session may be adjourned earlier or later.

## **Leadership**

To maintain organization, the Senate and House each adopt a set of rules every general assembly for their respective members and a set of joint rules for certain actions between the two chambers. Additionally, the Senate and House each elect leaders to make decisions on day-to-day business. This leadership consists of presiding officers and the majority and minority floor leaders.

## **Presiding Officers**

In the Senate, the presiding officer is the President of the Senate. The President of the Senate's powers include referring bills to committee, recognizing members during debate, and making procedural rulings. In the House, the presiding officer is the Speaker of the House. The Speaker's powers include appointing members to committees, naming committee chairpersons, referring bills to committee, and making procedural rulings.

The President of the Senate and the Speaker of the House each serve a two-year term (the full length of the General Assembly) and are chosen by members of their respective majority parties prior to the start of the legislative session. They are elected formally by the entire membership at the start of the session.

## **Party (Caucus) Leaders**

A member of the Legislature may belong to the Democratic party or Republican party, be an independent, or belong to a third party. The party with the greater number of members in a chamber is the majority party, while the party with the second-highest number of members in a chamber is the minority party.

The majority and minority caucuses in each chamber select caucus leaders. There are four caucus leaders—the Senate Majority Leader, House Majority Leader, Senate Minority Leader, and House Minority Leader.

The caucus leader plays a major role in determining the priorities of the caucus. The caucus leader serves as spokesperson for the caucus and presides at meetings of the caucus. Unlike in the House, the Senate Majority Leader appoints committee chairpersons and committee members in the Senate. However, the Senate Majority Leader, like the House Majority Leader, has the power to decide which bills will be called up for debate.

## **Committee Process**

Every General Assembly considers hundreds of proposed new laws, as well as changes to existing laws. These proposals, called bills, may originate in either the Senate or House.

In each chamber, a bill must be reviewed and approved by a committee before it is considered by the chamber as a whole. The committee chairperson presides over the committee's meetings and decides which bills will be debated and voted on. After debating a bill, if a majority of committee members vote to move the bill forward, the bill then goes to the floor for consideration.

## **Passage of Bills**

A bill that passes out of the committee process in its chamber of origin is eligible to be voted on by the entire chamber. If the bill is approved by a majority of the members in that chamber, it is sent to the other chamber, where it follows the same path.

If a bill is approved in the same form by a majority of the members in both the Senate and House, it is sent to the Governor. If the Governor signs the bill, it becomes law.

## **EXECUTIVE BRANCH**

While the legislative branch makes the laws in Iowa, the executive branch carries out the laws. The executive branch is headed by the Governor.

### **Governor's Term, Qualifications**

The Governor is elected to a four-year term. To be Governor, a person must be at least 30 years old by the time of election, and must have been a U.S. citizen and a resident of Iowa for at least two years before the election.

### **Duties of the Governor**

As chief administrator of Iowa's government, the Governor is responsible for the various state departments and agencies. The Governor appoints department and agency heads and other state officials not elected by the people. The Governor's appointments are generally subject to approval by the Senate.

The Governor takes final action on all bills passed by the Iowa General Assembly. The Governor has three options: sign the bill, veto the bill (or item veto an appropriations bill), or take no action. In the case of a veto, the Legislature may override the veto with two-thirds of the members of each chamber voting to reconsider and pass the bill a second time. If, during session, the Governor does not sign or veto a bill, it becomes law after three calendar days (except Sundays). Bills received by the Governor during or after the last three calendar days of session shall be signed or vetoed within 30 calendar days.

The Governor has the option to use three types of vetoes: the veto, item veto, and pocket veto. The veto indicates the Governor's disapproval of an entire bill. The item veto may be used only for bills which appropriate funds. It strikes a specific item of an appropriations bill. A pocket veto occurs when the Governor fails to take action within 30 calendar days on a bill received within or after the last three calendar days of session. In the case of a pocket veto, the entire bill fails to become law. When the Governor vetoes or item vetoes a bill, a veto message explaining why the veto was made is delivered to the chamber of origin with the bill and is then filed with the Secretary of State. The Governor's veto messages can be accessed on the Iowa General Assembly website, [www.legis.iowa.gov](http://www.legis.iowa.gov), in the "Enrolled Bills" section.

Each year, the Governor reports to the General Assembly on the financial condition of the state and makes recommendations on how the state's money should be spent. After a session ends, if a matter arises in which legislators need to reconvene, the Governor has the power to call a special session of the General Assembly.

### **Other Executive Branch Leader**

In addition to the Governor, other elected leaders of the executive branch are the Lieutenant Governor, Secretary of State, Auditor of State, Treasurer of State, and Secretary of Agriculture. All are elected to four-year terms.

- **Lieutenant Governor** The Lieutenant Governor succeeds the Governor in case of death, impeachment, resignation, removal from office, or other disability. The Governor and Lieutenant Governor are elected as a team. The Lieutenant Governor's duties are assigned by the Governor.
- **Secretary of State** The Secretary of State serves as the state commissioner of elections, maintains corporations' records, registers trademarks, commissions public notaries, and preserves original documents such as the Iowa Constitution and Iowa land patents and deeds. The Secretary of State Business Services Division is responsible for filing a wide variety of documents including Uniform Commercial Code financing statements, trademarks, business entity documents, and other

statutorily required special filings. The office also supervises Iowa's 99 county auditors in the administration of Iowa's election laws and prescribes uniform election practices and procedures.

- **Auditor of State** The Auditor of State is required by law to annually examine the books, accounts, and records of every state department and agency and conduct or arrange financial audits of every local governmental body receiving state funds, including counties, cities, and school districts. The Auditor ensures that government is open and accountable to its citizens by providing independent, accurate, and timely audits of the financial operations of Iowa's state and local governments. The office also conducts reviews of government activities to help ensure they are conducted in an effective, efficient, and legal manner. In addition, the office works with government officials, certified public accounting firms conducting government audits, and individual citizens.
- **Treasurer of State** The Treasurer of State is the keeper of the state's treasury—the depository for funds that have been collected. The Treasurer receives all revenues from state departments, agencies, and the federal government and is responsible for all consequent bank relations. The office is the investor and custodian of the state's general fund, the reserve funds, and the road use tax fund. The Treasurer accounts for funds on a cash basis and balances regularly with the Iowa Department of Revenue. Also, the Treasurer redeems all proper warrants of the state and coordinates state bonding activity regarding the payment for state projects such as prisons and the Iowa Communications Network. The Treasurer meets each month with the banking superintendent and the Auditor of State to set interest rates to be paid on public funds held in depositories. The office also sets guidelines and rates for the debt obligation of public bodies in Iowa. The office prepares an annual report of bonded indebtedness of state and local governments in Iowa and provides below-market financing for alternative crops and nontraditional livestock, for targeted small businesses, for the transfer of rural small businesses, for traditional livestock farmers, and for value-added agriculture projects.
- **Secretary of Agriculture** The Secretary of Agriculture heads the Department of Agriculture and Land Stewardship, which the Iowa Legislature established in 1923 to encourage, promote, and advance the interests of agriculture and related businesses. The department monitors the changing global conditions in agriculture. The department also promotes Iowa's interests in the global market economy by increasing Iowa's agricultural market share, both domestic and foreign, and removing unnecessary barriers to agricultural trade. The department develops and encourages agricultural education and new avenues for Iowa producers to market their products, increasing independent farmers' impact on the market. The department strives to add value to Iowa agriculture by developing new products, which create a link for Iowa farmers with consumer-ready markets. The department also works to preserve Iowa's soil and improve water quality and protects consumers and producers by assuring the quality of Iowa agricultural products and animal health.

### **Executive Branch Organization**

The agencies which make up the executive branch of state government are organized into a number of departments, each with a department head. Department heads are appointed by the Governor, subject to confirmation by the Senate. Exceptions include the Secretary of Agriculture, Attorney General, Auditor of State, Secretary of State, and the Treasurer of State who are elected statewide.

The department head coordinates, directs, and executes the department's functions, compiles a comprehensive budget, and submits an annual report to the Governor and the Legislature on the operation of the department. Executive branch departments: Administrative Services, Agriculture and Land Stewardship, Aging, (Department for the) Blind, Commerce, Corrections, Cultural Affairs, Economic Development, Education, Homeland Security and Emergency Management, Human Rights, Human Services, Inspections and Appeals, Management, Natural Resources, Public Defense, Public Health, Public Safety, (Board of) Regents, Revenue, Transportation, Veterans Affairs, and Workforce Development.

Attorney General As head of the Department of Justice and chief legal officer of the state, the Attorney General represents the state and its agencies in court cases, gives legal advice to state agencies, and issues written opinions on questions of law submitted by state officials.

The Attorney General's Consumer Protection Division protects consumers from fraud and ensures fair competition in the marketplace. The division enforces laws that protect the buying public from false or misleading advertisements or sales practices. It also enforces laws that make sure consumers can access information to help them make important decisions, like credit disclosure laws that help consumers compare loan offers.

The Attorney General's Office also assists in fighting crime, alongside Iowa law enforcement officers and county attorneys. The Area Prosecutions Division prosecutes major criminal cases that county attorneys refer to the Attorney General. The Criminal Appeals Division strives to keep in place the criminal convictions and sentences obtained by county attorneys and state prosecutors. The Office of Prosecuting Attorneys Training Coordinator provides in-depth training programs for county attorneys in civil and criminal law. The Crime Victim Assistance Division provides services and assistance to victims of violent crimes. The office also monitors the criminal justice system and recommends changes in state law or policy as needed.

The Administrative Law Division provides legal services to all levels of state government, including agencies and boards. Separate divisions represent the Iowa departments of Human Services, Revenue, and Transportation. The Special Litigation Division defends tort claims and lawsuits brought against state agencies, officials, and employees.

The Farm Division serves as the primary legal counsel for nearly all bureaus of the Iowa Department of Agriculture and Land Stewardship, including all 15 administrative bureaus, five regulatory bureaus, and five laboratory bureaus. Also, the division represents the interests of Iowa farmers in litigation in state and federal courts and works with other state attorneys general in multistate investigations and litigation. The Office of Consumer Advocate investigates the legality of rates and practices of all utility companies subject to the jurisdiction of the Iowa Utilities Board, and represents consumers and the public generally before state and federal agencies concerning those matters.

## **JUDICIAL BRANCH**

While the legislative branch of government makes the laws and the executive branch carries out the laws, it is the judicial branch (court system) that interprets and applies the laws to settle disputes in civil cases and determine guilt or innocence in criminal cases. Federal courts handle cases that involve a violation or application of the U.S. Constitution or federal laws passed by the U.S. Congress. State courts handle cases that involve a violation or application of the state's constitution or laws passed by the state's legislature. As in the federal courts and other state court systems, Iowa's court system includes two general types of courts: trial courts (called District Courts in Iowa) and appellate courts (the Supreme Court and Court of Appeals). In the Iowa judicial branch, all judicial officers and court staff are state employees.

### **District (Trial) Courts**

Civil and criminal cases begin in trial courts. The Iowa District Courts have jurisdiction (authority) over all civil, domestic, criminal, juvenile, and probate cases that involve an interpretation or application of state law. The Iowa District Courts have dispense of more than 750,000 cases per year. There is a District Court in each of the 99 counties in Iowa, which are organized into eight judicial districts for administrative purposes and 14 judicial election districts for selecting judges. Each judicial district has a Chief Judge and judicial officers with varying degrees or types of authority: Judicial Magistrates, Associate Juvenile Judges, Associate Probate Judges, District Associate Judges, and District Court Judges.

## **Judicial Magistrates**

Judicial Magistrates are part-time judicial officers who have limited legal authority and normally hear cases only within their county of residence. Magistrates can issue search warrants, conduct the initial appearance in all criminal cases, conduct trials in small claims civil cases (involving amounts up to \$6,500), and hear certain involuntary hospitalization (mental health and substance abuse) matters. Each county is assigned at least one Magistrate. Magistrates are appointed by a County Magistrate Appointing Commission and serve four-year terms. Each county has a County Magistrate Appointing Commission that is comprised of the following members: a district judge designated by the Chief Judge of the judicial district to serve until a successor is designated, three members appointed by the county board of supervisors, and two attorneys elected by the attorneys in the county.

## **Associate Juvenile Judges**

Associate Juvenile Judges are full-time judges whose authority is limited to juvenile court matters. There are five Associate Juvenile Judges. They have authority to issue orders, findings, and decisions in cases that involve juvenile delinquency, adoption, children in need of assistance (due to neglect or abuse), termination of parental rights, and involuntary mental health hospitalization matters involving juveniles. Each Associate Juvenile Judge is appointed by the District Judges of the judicial district from a list of three nominees screened and selected by the County Magistrate Appointing Commission. Associate Juvenile Judges serve six-year terms and face a retention election within their judicial election district at the end of each term.

## **Associate Probate Judges**

Associate Probate Judges are full-time judges whose jurisdiction is limited to probate cases (estate issues, conservatorships, and trusteeships). They have authority to audit accounts and perform judicial duties in probate as prescribed by the Chief Judge. Associate Probate Judges serve six-year terms and face a retention election within their judicial election district at the end of each term. Each Associate Probate Judge is appointed by the District Judges of the judicial district from a list of three nominees screened and selected by the County Magistrate Appointing Commission. Iowa has one Associate Probate Judge.

## **District Associate Judges**

District Associate Judges are full-time judges who have authority to handle all matters within a Magistrate's jurisdiction, serious and aggravated misdemeanor and class "D" felony cases, civil suits involving claims up to \$10,000, and most juvenile matters. There are 69 District Associate Judges. Each District Associate Judge is appointed by the District Judges of the judicial district from a list of three nominees submitted by a County Magistrate Appointing Commission. District Associate Judges serve six-year terms and face a retention election within their judicial election district at the end of each term.

## **District Court Judges**

District Court Judges are full-time judges who have authority to handle any case filed in the District Court. However, they typically handle the most serious criminal cases (felonies), civil cases involving claims of more than \$10,000, and all domestic relations cases (divorce, modifications of divorce decrees, and child custody, visitation, and support issues). District Judges serve six-year terms and face retention elections within their judicial election district at the end of each term. Iowa has 116 District Court Judges. There is a District Nominating Commission for each of Iowa's 14 judicial election subdistricts. Each District Nominating Commission has 11 members; a chair, who is the most senior district court judge in the district; five members elected by lawyers; and five members appointed by the Governor.

## **Appellate Courts**

Appellate courts review cases appealed from the district courts. They also rule on the constitutionality of laws passed by the legislature and actions taken by the executive branch. There are two appellate courts in Iowa: the Supreme Court and the Court of Appeals. The Supreme Court usually retains the appeals that involve substantial constitutional issues, are the most complex, involve issues of significant interest to the public or judicial system, or challenge a state law for the first time. The State Judicial Nominating

Commission is composed of eight commissioners elected by lawyers (two from each congressional district), and nine commissioners appointed by the Governor and confirmed by the Iowa Senate (at least two from each congressional district). The chairperson is elected by commission members. The commission handles the nomination of new Supreme Court and Court of Appeals judges. Each justice of the Iowa Supreme Court is appointed by the Governor from a list of three nominees submitted by the State Judicial Nominating Commission. Supreme Court Justices serve eight-year terms and face a statewide retention election at the end of each term.

### **Court of Appeals**

The Iowa Court of Appeals consists of nine judges. They work in panels of three judges to decide all appeals assigned by the Iowa Supreme Court, which constitute a substantial majority of all appeals filed in the state. Each Court of Appeals judge is appointed by the Governor from a list of three nominees selected by the State Judicial Nominating Commission. Court of Appeals judges serve six-year terms and face a statewide retention election at the end of each term.

### **Supreme Court**

The Iowa Supreme Court, comprised of seven justices, is the highest court of the state. All appeals from decisions in Iowa's District Courts are filed with the Iowa Supreme Court, where the appeals are screened to determine which appellate court should decide the cases. The Supreme Court usually retains the appeals that are the most complex, involve issues of significant interest to the public or justice system, or challenge a state law for the first time. Most other appeals are transferred to the Iowa Court of Appeals for consideration. The Supreme Court also may review decisions made by the Court of Appeals. All seven Supreme Court justices participate in all the decisions made in cases concluded by a formal written opinion by the court.

In addition to deciding cases, the Iowa Supreme Court is responsible for licensing and disciplining attorneys, adopting rules of procedure and practice used throughout the state courts, and overseeing the operation of the entire state court system.

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