In Iowa, bicameral legislative committees help ensure proper checks and balances.

**Representative Tom Demmer**

Since being first elected to the Illinois House in 2012, Representative Tom Demmer has been deputy House minority leader since 2018 and serves as director of innovation and strategy at KSB Hospital.

**Bio-sketch:** 2016 graduate of CSG’s Henry Toll Fellowship Program and current born and raised in north-central Illinois town of Dixon, where he lives.

Representative Demmer was in Michigan; 30 days in Illinois, Indiana, Iowa; 60 days in Wisconsin; and six months in South Dakota.

**First Person: Even Out of Session, Legislators Must Carry Out Oversight of Other Branches**

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### Checks and Balances: Four Examples of Methods to Curb Executive Branch’s Emergency Powers

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| **Rescind governor’s emergency order/declaration via legislative resolution** | • States such as Indiana, Iowa, Kansas, Nebraska, North Dakota and Wisconsin explicitly give their legislatures the power to pass such a resolution to rescind at any time.  
• In Iowa, when the Legislature is not in session, a bicameral, interim legislative steering committee is given the power to rescind a governor’s disaster emergency declaration. |
| **Limit length of emergency order/declaration** | • 28 days in Michigan; 30 days in Illinois, Iowa; 60 days in Wisconsin and six months in South Dakota.  
• In Minnesota, any peace time emergency extending beyond five days must be approved by a five-member Executive Council: the governor, lieutenant governor, secretary of state, state auditor and attorney general. The Executive Council’s declaration is limited to 30 days. |
| **Establish role for legislative branch in extension of emergency order/declaration** | • In Michigan, the House and Senate must approve, by resolution, an extension beyond 28 days.  
• In Minnesota, after 30 days, the Legislature can terminate a peace time emergency if the governor wants to extend the emergency when the Legislature is not in session, he or she must call for the House and Senate to immediately convene. |
| **Provide legislative oversight of spending during emergency** | • This year, several legislatures in the Midwest have either established new bicameral committees or relied on existing ones to approve spending by the governor/state agencies or provide oversight. |

**Recent Change Ensures Role of Legislature in Election Rules**

But the governor isn’t Iowa’s only statewide officer who holds emergency powers. Our secretary of state is the commissioner of our elections, and has significant authority to provide directives during an emergency.

This past spring, when the COVID-19 pandemic was still fresh and Iowa’s primary elections were nearing, the secretary of state utilized these powers to mail absentee-ballot requests to all registered voters and to extend the early-voting window from 29 to 40 days. While the secretary of state’s intention was well-meaning, the majority of legislators disagreed with such significant changes should be made to election law by one individual at a moment’s notice, especially in the middle of election season.

Both parties understood that, under a different secretary, such broad powers could be used to do the opposite of what was done earlier this year — for example, instead of extending the early-voting window, reducing it. Republicans worked with Democrats on a compromise that now requires the secretary of state to bring proposed election changes during an emergency proclamation to the Legislative Council for consideration. The council then has the authority to accept or reject the proposal in full or make changes to it.

The Legislative Council provides a check on the judicial branch as well. The Iowa Supreme Court is required to notify the Legislative Council when it adopts new rules and forms, and the Council has the ability to reject them. While rarely used, this power was exercised in 2019 when the Supreme Court did not follow the intent of the Legislature in policy that had been passed during the previous session.

After rejecting the rules, the court worked with legislators to find agreement and move ahead.

**Committee Can Review, Delay Rules of Executive Branch**

In addition to the Legislative Council, we have an Administrative Rules Review Committee that meets year-round. This bipartisan committee oversees the executive branch’s rule-making process.

As various agencies and departments develop rules and regulations, they must come before this panel of legislators to explain the details, the authority, and the impact of the rule. The public is invited to provide feedback as well.

If the legislative committee disapproves of a rule, it is limited in what it can do to stop implementation. However, the committee does have a few options at its disposal, including delaying the rule from going into effect until the full Legislature has the opportunity to review the issue during the next session.

**Separation of powers is something uniquely important in the American system of government. Each branch has a critical role to play, and each generally carries out its duties properly and within its authority.**

However, when one of those branches oversteps its bounds or exceeds what’s allowed, our system of checks and balances provides an avenue to rectify the situation. This helps ensure that no branch becomes all-powerful over the others.

While right now it may seem that governors hold all the power, particularly in the age of COVID-19, Iowa’s and many other states’ legislatures have the ability to rein in this power.

Rep. Pat Grassley is speaker of the Iowa House. He also is chair of the Iowa Legislative Council.

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**SUBMISSIONS WELCOME**

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