

The Nebraska Legislature: A Brief History

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Early Unicameralism

While Nebraska enjoys the current distinction of having the only one-house legislature among the 50 states, it was not the first state to employ such a legislative system. In fact most of the American colonies were governed by one-house legislatures until a gradual shift toward bicameralism took hold. By 1763 only two colonies (Pennsylvania and Delaware) continued to use the one-house legislative system. After the colonies became independent, all but three states (Pennsylvania, Georgia, and Vermont) adopted a two-house system similar to that of the newly created U.S. Congress.¹

However, the first three “unicameral” states may not have technically embodied the concept of a one-house legislature as we think of it today. Senning² notes that, while each of the three states utilized a one-house chamber, each state also had an additional body to carry out functions similar to those delegated to a legislative body. The Georgia unicameral, for instance, elected a council from its own membership to serve as a “board of censors” over the legislature. The Georgia unicameral was also short-lived and was replaced with a bicameral in 1789.

The Pennsylvania unicameral, similar to Georgia, also had a separately chosen board of censors to “preserve the constitution against infraction.” While this may sound judicial in nature, the Pennsylvania board of censors was also empowered with what might be considered legislative authority to recommend the repeal and passage of laws, order impeachments, and call a constitutional convention. Pennsylvania moved to a bicameral in 1790.³

The Vermont unicameral was based upon that of Pennsylvania but also employed a thirteen-member council of censors elected separately from the legislature. In fact, it was the council of censors that proposed, perhaps self-servingly, to move the state from a one-house legislature to a full-scale bicameral system. The council succeeded after several attempts and, in 1836, delegates at a constitutional convention voted to adopt a two-house system.⁴ Vermont was the last state to utilize a unicameral legislature, or something similar to unicameralism, until the Nebraska “experiment” was initiated one hundred years later.⁵

Bicameralism in Nebraska

Nebraska adhered to the tradition of a two-house legislature throughout its history as a U.S. territory and nearly three-quarters of a century after it became a state. Sittig⁶ writes that the early Nebraska legislative branch was based mostly on the Iowa legislative system since the Nebraska territorial leaders relied heavily on Iowa's constitution in order to draft their own. The first Nebraska territorial assembly convened on January 16, 1855, and was comprised of a 26-member House of Representatives and a 13-member Council. The House members were elected to one-year terms of office while the Council members were elected to two-year terms. The assembly met annually in Omaha, the original capitol city, with sessions lasting between 29 and 43 days.⁷

Nebraska was officially admitted to statehood on March 1, 1867. The first state constitution, which was ratified by voters in 1866, called for a continuation of the bicameral system with an upper chamber, now called the Senate, comprised of 13 members, and a lower chamber, the House of Representatives, comprised of 39 members. The first state legislature met biennially in odd-numbered years; however, the first session after statehood was actually a special session called by then Governor David Butler on May 16, 1867, to establish necessary laws for the operation of the state.⁸

The Nebraska Constitution was revised in 1875 with a provision to limit membership to no more than 100 in the House and no more than 33 in the Senate. By 1881 the Legislature had already reached the maximum membership in both chambers. However, in a special election on September 21, 1920, the voters narrowly approved a constitutional amendment to increase the maximum number of state senators from 33 to 50. The Legislature never exercised its authority to expand the membership of the Senate during the remaining years of the bicameral system and by 1936, the last year of bicameralism, the total number of legislators remained at 133.⁹

The Nebraska Experiment

The move to unicameralism in Nebraska was far from a sudden or spontaneous decision.¹⁰ As early as 1913, the Progressive Movement in Nebraska had begun to lobby for government reform with one of the principle goals of implementing a one-house legislative system.¹¹ In 1917, a

resolution was successfully passed in the Nebraska Legislature to call a constitutional convention in order to consider revisions to the state's charter document, including the potential for a one-house legislature.¹² The voters approved the resolution at the 1918 general election by a vote of 121,830 to 44,491 with the wide margin perhaps indicating a popular belief that changes were indeed necessary.¹³

Among the delegates elected to the Constitutional Convention of 1919 was John Norton, a member of the State House of Representatives from 1911 to 1919. In fact it was Norton who introduced the original legislative resolution to call for the convention in the first place. Norton accepted a leadership role during the convention in promoting unicameralism to the delegates. Norton proposed a one-house legislature consisting of not less than 100 and not more than 133 members (perhaps not by accident the relative total number of members in the existing Legislature). During the convention, the proposal was advanced by committee for consideration and was subsequently modified by the assembly to stand as a separate and distinct amendment to the Constitution. However, the final proposal was defeated in the assembly by virtue of a tie vote (43 to 43) with just one vote lacking to place the measure before the voters.¹⁴

Three additional attempts to achieve a one-house legislature proved unsuccessful, including a 1923 initiative petition campaign that ultimately failed to garner sufficient signatures to place the measure on the ballot.¹⁵ Nevertheless, by the early 1930s, the concept was beginning to attract more attention both nationally and within the state. This was due in large part to the notoriety of its most outspoken advocate, U.S. Senator George W. Norris of Nebraska.¹⁶

Norris served as one of the catalysts for the unicameral movement and criticized the bicameral system at every opportunity. In particular, Norris claimed the conference committee system used by bicameral legislatures was tantamount to a third chamber and held all the real power in the process since disagreements between the two main chambers were resolved, usually in secret, by these committees. Norris believed other "evils" of bicameralism in state government included the election of legislators on a partisan basis and the facilitation of corrupt lobbyists who manipulate the two-house system.¹⁷ Norris also argued that the legislature was supposed to be "close to the people" and if the legislative body were small in size it would be more responsive to the needs of people.¹⁸

Perhaps another important catalyst for the advent of unicameralism in Nebraska was the performance of the Legislature in 1933, which “left a generally bad impression” in light of its handling of such issues as the repeal of Prohibition, tax reform, and appropriations.¹⁹ This poor performance was likely due to a high turnover in membership as a result of the 1932 election, which brought in a high number of inexperienced legislators.²⁰

Finally, in 1933 another initiative petition movement was launched to place the issue of a nonpartisan one-house legislature before the voters in the form of a constitutional amendment. The signature gathering process, which became the downfall of the 1923 effort, proved very successful on this attempt with a final signature tally of one and a half times the needed number.²¹ Senator Norris became the “moving spirit” on behalf of the petition effort and gave all his efforts to the cause in the spring and summer of 1934.²² The result was a resounding victory in favor of the amendment at the general election on November 6, 1934 with 286,086 voting in favor and 193,152 voting against (60% to 40%).²³ Later analysis of the vote revealed across-the-board support for the amendment, which passed in over 90% of the state’s precincts and counties.²⁴

The exact reasons for the passage of the amendment have been debated for decades since the 1934 election. Most recently, Berens²⁵ attempted to sum up the four most likely factors. The first might have related to the economic situation faced by the state and nation as a whole. The Great Depression, which had already begun, was wreaking havoc on the farm economy and therefore increased the desire to see reductions in the overall cost of government. The one-house legislature, it was believed, would reduce the total number of legislators and thereby reduce appropriations for legislative salaries.

A second reason, as mentioned earlier, was the advocacy of U.S. Senator George W. Norris.²⁶ In fact, Norris conditioned his involvement with the 1933 petition movement on the inclusion of the nonpartisan feature.²⁷ Once this aspect of the amendment was settled between Norris and petition organizers, he agreed to head the petition movement and traveled across the state to speak on its behalf. Norris’ acclaim and respect among most Nebraska voters undoubtedly added credibility to the issue of unicameralism.

A third reason might have been the sheer luck of timing for the petition organizers due to the nature of the other two amendments proposed on the 1934 General Election ballot. In addition to the “unicameral” amendment were amendments to repeal Prohibition and authorize pari-mutuel betting. All three amendments were adopted with wide margins of support. Therefore, some have asserted that the concept of a one-house legislature was “swept into law along with the fervor to get rid of Prohibition and make betting legal.”²⁸

The fourth reason, according to Berens, was “perhaps the straw that broke the bicameral back”: the poor performance of the 1933 Legislature. Compounded by bad economic times, it appears that voters expected their state legislature to adapt to the circumstances of the day and meet the needs of the citizenry. As a result, those legislators who opposed unicameralism may have actually contributed, unintentionally, to its rise and implementation.²⁹

Whatever the reasons may have been for its passage, the Nebraska “experiment,” as it came to be called, was set to convene its first session in January 1937.³⁰ The new Unicameral Legislature would be comprised of at least 30 members, serving two-year terms, with constitutional authority to expand to as many as 50 members as the need may arise. A nonpartisan legislature meant that candidates would not be permitted to list their party affiliation on the ballot and the two candidates receiving the most votes in the primary election would in turn face each other in the general election.³¹ The framers of the amendment incorporated various features to ensure proper deliberation and to prevent hasty enactment of legislation. For instance, no legislative bill would be allowed to progress from floor deliberation to final enactment before at least five session days elapsed.³²

The first step toward implementation of the Nebraska Unicameral Legislature was to provide a structure and organization for the new system within the framework of the newly revised Constitution. This process began when the bicameral legislature met in 1935 for its last regular session. It was decided at this time that the body would consist of 43 members. The following year, 1936, marked the first election process to select the charter members of the Nebraska Unicameral Legislature. Interestingly, nearly 75% of the members who had previously served in the bicameral legislature also ran for election in the one-house legislature. Thirty-two of the original unicameral members had served previously in the state’s bicameral legislature.³³ Of further interest was the unexpected balance between the parties when it was discovered that 21

senators, who were known Republicans, and 22 senators, who were known Democrats, were elected to serve in the first session of the Unicameral.³⁴

On January 5, 1937, Senator George W. Norris missed the opening of the U.S. Congress in order to give the first members of the Unicameral an “inspirational address on the opportunity they had to expand the horizons of representative government through the innovative device of unicameralism.”³⁵ A total of 581 bills were introduced during the first session with 214 bills receiving final approval and passage.³⁶ However, it was not a bill but a simple resolution that proved to be one of the most historic in retrospect and one which addressed an issue left silent and remains silent in the State Constitution. On the fifth day of the first session (January 11, 1937), three members jointly offered a resolution for the purpose of giving a name to the new Legislature. The resolution simply stated, “That the name SENATE be and is hereby designated as the legal title of this legislative body.”³⁷ The then unnamed legislature adopted the resolution on the following day and, from that day forward, lawmakers took the title “state senator.”

On February 16, 1984, the Nebraska Legislature officially recognized both Norris’ contributions and the 50th anniversary of the unicameral by naming the legislative chamber, “The George W. Norris Legislative Chamber.”³⁸

The Nebraska Legislature Today

Since the first session in 1937, the Legislature gradually grew, due to population increases and re-districting, to the current 49 senators with each member serving approximately 32,200 citizens. There are three qualifications necessary to hold the office of state senator. The individual must: (1) be a registered voter; (2) have attained the age of 21 years; and (3) have lived within the district in which he or she is running for at least one year prior to being elected.³⁹

The original Unicameral provided for two-year terms, however, this provision of the Constitution was amended in 1962 to provide for staggered four-year terms.⁴⁰ This means that about one-half of the Legislature is “up” for election every two years. The most recent constitutional development involves the limitation on the number of terms a legislator may serve. In 2000 the Nebraska voters approved an amendment to limit lawmakers to two consecutive terms.⁴¹ The term limits provision will be operative beginning in 2006.

Since the instigation of the one-house system, the composition of the Legislature has been biased toward professional, business, or farm interests. Of the 49 members in 2002, nine listed their primary occupation as attorney, thirteen as farmer and/or rancher, and thirteen listed their occupation as a business-related involvement. The remainder of the 2002 roster included retirees, educators, and full-time senators. Many more men than women choose to run and are elected to the Legislature, although women have made gradual strides in recent years. In the 1981 legislative session, there were only six female members. In 2002 the number of female members increased to ten.⁴²

Until 1970 the Nebraska Legislature met once every other year unless a special session was called in extraordinary situations. However, the Nebraska Constitution was amended in 1970 to provide for annual sessions with alternating lengths (90-day sessions in odd-numbered years and 60-day sessions in even-numbered years). Sessions convene on the first Wednesday following the first Monday in January of each year.⁴³

The number of bills introduced each session varies on the length of the session. From 1991 to 2000, for example, an average of 873 bills were introduced in 90-day “long sessions” and an average of 499 bills were introduced in 60-day “short sessions.” The average number of bills passed into law during the same period was 309 in long sessions and 164 in short sessions.

The legislative process employed by the Nebraska Legislature is similar to other states in some respects (use of public hearings, rules of order, stages of debate, etc.) However, the key difference between the Nebraska Legislature and other state legislatures is the method of checks and balances. Since there is not a second house within the legislative process, the Nebraska Legislature emphasizes the role of standing committees. Unlike most states, every legislative bill introduced each session, with the exception of certain technical “revisor” bills, is given a public hearing.⁴⁴ It is then the function of the standing committees to sift through the bills to determine which will move forward in the process and which will not.

The succeeding chapters provide further examination of the Nebraska Legislature, its structure, its process, and its rules of procedure. Sources used to compile this report, included state laws concerning the operation of the Legislature, the official Rules of the Nebraska Legislature, and the Nebraska Constitution.

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- ¹ Alvin W. Johnson, *The Unicameral Legislature* (Minneapolis: The University of Minnesota Press, 1938), 19.
- ² John P. Senning, *The One-House Legislature* (New York: McGraw-Hill Book Co., 1937), 75-76.
- ³ *Id.*
- ⁴ *Id.*
- ⁵ Johnson, *The Unicameral Legislature*, 19.
- ⁶ Robert Sittig, *The Nebraska Unicameral After Fifty Years* (Lincoln, 1996), 2.
- ⁷ Nebraska Blue Book 2000-01, comp. Clerk of the Legislature (Lincoln, 2001), 286.
- ⁸ *Id.*, 287.
- ⁹ *Id.*, 288.
- ¹⁰ Adam C. Breckenridge, "The Origin and Development of the Nonpartisan Unicameral Legislature," in *Nonpartisanship in the Legislative Process: Essays on the Nebraska Legislature*, ed. John C. Comer and James B. Johnson (Washington, D.C.: University Press of America, 1978), 12.
- ¹¹ Nebraska Blue Book, 289.
- ¹² The measure passed the House by a vote of 88-12 and the Senate by a vote of 29-0. Breckenridge, "The Origin and Development of the Nonpartisan Unicameral Legislature," 14.
- ¹³ *Id.* Other major issues of the day included women's suffrage, property tax issues, water rights, and salaries of elected state officials, among others.
- ¹⁴ Nebraska Blue Book, 289.
- ¹⁵ Sittig, *The Nebraska Unicameral After Fifty Years*, 5. The other two attempts included a legislative measure, which was indefinitely postponed, and a 1933 measure that failed to pass in the Senate by a narrow 14-15 vote. Nebraska Blue Book, 289, 368.
- ¹⁶ Adam Carlyle Breckenridge, *One House for Two: Nebraska's Unicameral Legislature* (Washington, D.C.: Public Affairs Press, 1957), 5.
- ¹⁷ George W. Norris, "Advantages of the Unicameral System," in *Unicameral Legislatures* ed. Harrison Boyd Summers, The Reference Shelf, Vol. 11, no. 1 (New York: The H.W. Wilson Co., 1937), 192-197.
- ¹⁸ Breckenridge, "The Origin and Development of the Nonpartisan Unicameral Legislature," 15.
- ¹⁹ *Id.*, 17.
- ²⁰ *Id.*
- ²¹ Sittig, *The Nebraska Unicameral After Fifty Years*, 7.
- ²² Johnson, *The Unicameral Legislature*, 132.
- ²³ Nebraska Blue Book, 260.
- ²⁴ Sittig, *The Nebraska Unicameral After Fifty Years*, 7.
- ²⁵ Charlyne Berens, "Power to the People: Nebraska's Unicameral Legislature and the Populist/Progressive Ideal A Social Choice Approach" (Ph.D. diss., University of Nebraska, 2000), 3-5.
- ²⁶ *Id.*
- ²⁷ Sittig, *The Nebraska Unicameral After Fifty Years*, 6.
- ²⁸ Berens, "Power to the People," 4.
- ²⁹ *Id.*
- ³⁰ Johnson, *The Unicameral Legislature*, 138.
- ³¹ Sittig, *The Nebraska Unicameral After Fifty Years*, 8.
- ³² *Id.*, 8-9.
- ³³ Breckenridge, "The Origin and Development of the Nonpartisan Unicameral Legislature," 19.
- ³⁴ *Id.*

³⁵ Sittig, *The Nebraska Unicameral After Fifty Years*, 9.

³⁶ Nebraska Blue Book, 2000-01, 407.

³⁷ Legislative Journal, Jan. 11, 1937, 70-71.

³⁸ Legislative Resolution 257, Legislative Journal, 25th day, Feb. 16, 1984, 987.

³⁹ NEB. CONST. art. III, § 8.

⁴⁰ Jack Rodgers, Robert Sittig, and Susan Welch, "The Legislature," in *Nebraska Government & Politics*, ed. Robert D. Miewald (Lincoln, Nebr.: University of Nebraska Press, 1984), 65.

⁴¹ Nebraska Blue Book, 2000-01, 273.

⁴² *Id.*, 395-403.

⁴³ *Id.*

⁴⁴ Rodgers, Sittig, and Welch, "The Legislature," 65.