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Nebraska's Unicameral Legislature

This publication describes the distinctive organization and lawmaking procedures of the Nebraska Legislature, the only single-house state legislature in the nation. (The District of Columbia, Guam, and the U.S. Virgin Islands also have unicameral legislative assemblies.) The "Unicameral," as it is popularly known in Nebraska, is 60 years old this year, having first convened in 1937, as a consequence of an amendment to the state constitution adopted in 1934.

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The treatment of these topics is not exhaustive but focuses rather on the distinctive features of Nebraska's unicameral legislature, in comparison with Minnesota's bicameral legislature. Particular attention is given to features that may be attributed at least partly to the unicameral structure (together with an array of other shaping forces—among them the small size of the Nebraska legislature, the absence of political caucuses, and legislative customs and traditions).

The descriptions of legislative practices in Nebraska are based on state laws, legislative rules, the published literature about the Unicameral, and extended discussions with the long-time Clerk of the Unicameral, Patrick J. O'Donnell. Any errors that remain are mine.

Membership

Summary: *Nebraska's 49 senators (a title assumed by members of the first Unicameral) are elected on a nonpartisan ballot to overlapping four-year terms with no limit on the number of terms.*

The original Unicameral, which convened in 1937, was about one-third the size of the bicameral legislature it replaced. Currently, the 49 members of the Unicameral have legislative districts with about the same population as a Minnesota House district.

The 1934 unicameral amendment to the Nebraska Constitution required the legislature to set the number of its members, by law, at no fewer than 30 and no greater than 50. Implementing legislation enacted in 1935 put the number of members initially at 43. This reduced by two-thirds the size of the existing bicameral legislature, which had 133 members. A comparable reduction in the size of the Minnesota Legislature would result in a legislature about the size of the Minnesota Senate—67 members.

The Unicameral remained at its initial size of 43 senators until 1971, when membership was increased to 49. Currently, each of Nebraska's 49 senators represents about 32,000 persons, almost exactly the number of persons represented by each of the 134 members of the Minnesota House of Representatives.

By direction of Nebraska voters in 1934, Nebraska legislators are elected on a nonpartisan ballot. The Unicameral actually does conduct its affairs as a nonpartisan body.

Nebraska is currently the only nonpartisan state legislature in the nation.¹ Nebraska's partisan and nonpartisan primaries are held at the same time. Candidates for the Unicameral are listed in the nonpartisan section of the primary ballot. The top two vote-getters in the primary contend for the seat in the general election. Very rarely, a petition or write-in candidate wins a seat.

Nonpartisanship is not confined to the election of members. By all accounts, the Unicameral actually conducts its legislative affairs on a nonpartisan basis. Partisan political caucuses do not exist, and partisan alignments do not control legislative organization or action. Coalitions on legislation tend to be fluid, based on issue alignments and personal and geographic relationships among members.

¹ The legislature of American Samoa also is elected on a nonpartisan ballot. The Minnesota Legislature was elected on a nonpartisan ballot under a 60 year-old law repealed in 1973.

Nebraska legislators serve overlapping four-year terms, with no limit on the number of consecutive terms of service.

Under the 1934 constitutional amendment, Nebraska senators initially served two-year terms. A constitutional amendment in the mid-1960s established the current system of overlapping four-year terms, with one-half of the membership standing for election every two years. In Minnesota, in contrast, the terms of legislators do not overlap. Minnesota representatives serve two-year terms, so the whole House stands for election every two years. Minnesota senators serve four-year terms, but Senate terms do not overlap: the entire Senate stands for election at four-year intervals and also after each decennial legislative apportionment.

In three separate elections, Nebraska voters have approved a constitutional amendment limiting the terms of Nebraska legislators; but each time the courts rejected the change on constitutional grounds. Qualifications for the legislative office are identical to those in Minnesota, except that Nebraska requires a much longer period of district residency than does Minnesota.²

Operating Cost

Summary: *The Unicameral costs less to operate than the Minnesota Legislature, and its members are paid less than their counterparts in Minnesota. The Unicameral employs fewer total staff than the Minnesota Legislature, but it has more staff per member, and a greater portion of the staff serve as personal staff to individual members rather than staff to the institution.*

The annual operating cost of the Unicameral is about \$15 million—lower than the Minnesota Legislature in total and on a per capita basis, but higher per legislator.

The \$15 million annual operating cost translates into an annual cost of about \$9.15 per capita and about \$312,000 per legislator. In comparison, the annual operating cost of the Minnesota Legislature is about \$50 million per year, which translates into an annual cost of about \$10.85 per capita and \$274,000 per legislator.

² The Nebraska Constitution requires each senator to be a qualified voter, 21 years of age, and a one-year resident of the district. In Minnesota, each member of the legislature must be 21 years of age, a one-year resident of the state, and a 60-day resident of the district.

The annual compensation of Nebraska legislators is currently \$12,000, about 40 percent of the salary paid to Minnesota legislators.

The compensation of senators is set in the Nebraska Constitution. Under a constitutional amendment approved in 1988, the salary of members is currently \$1,000 per month, or \$12,000 annually. For many years before 1988, the salary was \$400 per month, or \$4,800 annually. The leadership of the Unicameral does not receive additional compensation. The annual salary of Minnesota legislators is set by law, rather than by the constitution. Currently, the salary is \$29,657; in 1999, it is set to increase by five percent, to \$31,140. The three top leaders in each house in Minnesota receive 140 percent of the compensation of the ordinary legislator.

The maximum per diem expense reimbursement in Nebraska is about one-third greater than in Minnesota, but it is paid only on session days.

Under statutory authority, members of the Unicameral began receiving per diem and expense reimbursements in the mid-1980s.³ Per diem is paid only on session days (typically four days a week), not on every calendar day during sessions. During interims, members do not receive any per diem. Currently, the per diem limit is \$83 per session day, but members residing within 50 miles of the capitol receive much less. The effect of these arrangements is that a senator residing far from the capitol may receive about \$13,000 in per diem during a typical biennial period, while one living close to the capitol may receive about one-third of that amount. Other than per diem, members do not receive an allowance to pay for lodging near the capitol during sessions, but they are reimbursed for actual expenses of transportation, lodging, and meals when traveling on official business.

The per diem limit in Minnesota is only \$56, but this amount is available to all members equally, is available on a calendar-day basis during sessions, and is available also for official business between sessions. Minnesota legislators residing too far from the capitol to commute daily receive, in addition to per diem, a housing allowance for temporary lodging near the capitol during sessions. Members are reimbursed for actual expenses when traveling on official business, including lodging and travel, but not meals.

The Unicameral employs fewer total staff than the Minnesota Legislature, but has more staff per member. A larger portion of the Nebraska staff serve as personal staff to individual members, rather than staff to the institution.

The Unicameral employs about 250 permanent staff—about five staff per member—augmented during session by about 40 temporary staff. Each member of the Unicameral is allowed to hire at least two personal staff, so close to one-half of the permanent staff are personal staff to individual

³ After a proposed constitutional amendment allowing reimbursement of member expenses failed in 1982, the Unicameral enacted a law providing per diem reimbursement for expenses during legislative sessions. The Nebraska Supreme Court upheld this law in 1984.

members rather than staff to the institution. The central, institutional staff offices are the Clerk, Revisor, Fiscal Analyst, and Research. There is, of course, no partisan staff.

The Minnesota Legislature employs about 650 permanent staff—about three staff per member—augmented by about 190 temporary session staff. In addition to central institutional staff offices, political caucuses in both houses have staff. Minnesota legislators have fewer personal staff than their Nebraska counterparts: a Minnesota senator who is not a leader or a committee chair, has one staff assistant, while most representatives who are not leaders or chairs share one assistant.

Organization

Summary: *Organizational power in the Nebraska Legislature is dispersed among several leaders and leadership committees, all elected by the body. Committee chairs are elected and committee appointments are approved by the body. Regional geographic caucuses wield considerable authority.*

The administrative affairs of the Unicameral are controlled by a statutorily established committee whose chair and eight other members are elected by the body.

Internal management and administration is the responsibility of an elected nine-member Executive Board, whose existence, membership, and authority are established by law.⁴ The Speaker is an ex officio voting member of the Executive Board but does not chair it, control it, or appoint any of its members. All other members of the Board—the chair, vice-chair, and six senators—are directly elected by the full Unicameral. In addition, when the Board is considering fiscal matters, the chair of the Appropriations Committee (also elected by the Unicameral) sits as an ex officio, nonvoting member.

The Board has statutorily prescribed administrative responsibilities, generally combining the management powers exercised in Minnesota by the House Speaker, Senate President, caucus leaders, rules committees, and the joint Legislative Coordinating Commission. The Board recommends staff officers (clerk, assistant clerk, sergeant-at-arms, and chaplain coordinator) for election by the full body; administers the personnel system and appoints the directors of the

⁴ Legally, this is the Executive Board of the Legislative Council. The Council originally was an elected 16-member group responsible for meeting during interims to maintain staff and administrative capability and to prepare a legislative program for the next session. Legislation in 1949 expanded the Council to include all members of the Unicameral and created an Executive Board to avert frequent interim meetings of the whole body. Today—when the members of the Unicameral have full-time staff, meet in session annually, and serve staggered four-year terms—standing committees have taken over the substantive legislative work of the Executive Board, leaving the Board responsible for administration and staff.

central staff offices (fiscal analyst, director of research, revisor of statutes); contracts for legal, audit, actuarial, and other professional services; and oversees administrative services and committee activity during interims. The Board does not have much of a role in legislative activity, although it does act as the Reference Committee, responsible for referring bills to committees.

The entire leadership of the Unicameral is elected by secret ballot on the Floor.

At the beginning of each two-year legislative session, the Unicameral elects members to the following positions by secret ballot: (a) the Speaker, (b) the chair of the Committee on Committees, (c) the chair of the Executive Board, (d) the vice-chair of the Executive Board, (e) the other six members of the Executive Board, and (f) the other twelve members of the Committee on Committees. The nominations and votes for these positions are taken separately, in series, not together in a "slate" (although, of course, considerable informal discussion precedes the voting to effect various distributional objectives).

The chairs of all committees are elected by secret ballot on the Floor.

After electing the leadership, the Unicameral proceeds to elect the chair of each standing and select committee.⁵ Each chair is elected, by secret ballot, separately rather than together in a "slate." Typically, more than half of these elections are uncontested, and the outcome of contested elections only occasionally surprises the membership.

The Unicameral approves member assignments to all standing and select committees, with one exception.

After the election of the leaders and committee chairs, the Committee on Committees meets to propose a slate of member assignments to all standing committees and the one select committee

⁵ "Standing committees" are the 14 substantive committees established by rule: Agriculture; Appropriations; Banking, Commerce, and Insurance; Business and Labor; Education; General Affairs; Government, Military, and Veterans Affairs; Health and Human Services; Judiciary; Natural Resources; Retirement Systems; Revenue; Transportation; and Urban Affairs. "Select committees" are the four legislative management committees, all established by rule: Rules, the Committee on Committees, Reference (which is the Executive Board), and Enrollment and Review (which consists of one member, the chair). "Special committees" are established for a particular purpose by law and are not normally involved in handling bills (e.g., the Executive Board, Program Evaluation, etc.). The chairs of these special committees are selected in the manner provided in the act creating the committee or, failing that, by the Executive Board.

not already elected (Rules).⁶ The committee submits this slate to the body, in preliminary form on one day and in final form the next. By rule, the Unicameral must vote the slate up or down, without amendment. If the slate fails, the report is returned to the committee for further action. This process used to occasion Floor fights, but nowadays the slate is never rejected except to accommodate minor shifts agreed to by the leaders. The Committee on Committees does not normally meet again.⁷

The Appropriations Committee is the single deviation from the pattern of electing members to standing and select committees. The chair of this committee is elected, but the other eight members are appointed by the Executive Board. At the beginning of each biennial session, after the election of the Executive Board and committee chairs by the full Unicameral, but before the Committee on Committees presents its committee slate, the Executive Board meets to select the eight members of the Appropriations Committee. Senators appointed to the Appropriations Committee may not serve on any other standing committee.

Geographic caucuses play an important role in organizing the Unicameral, by effecting a regional distribution of seats on all committees.

All legislative districts in Nebraska are assigned, by legislative rule, to geographic regions within the state. The seats on all committees are allocated as equally as possible among these regions. The Unicameral uses three regions (corresponding to the state's three current congressional districts) to allocate seats on the Executive Board (six seats, two per region) and on the Appropriations Committee (nine seats, three per region). The Unicameral uses four regions (corresponding to the state's four former congressional districts) to allocate seats on the Committee on Committees (12 seats, three per region) and on all other standing committees (generally two per region).

The filling of these regional seats on committees is the task of regional caucuses. The regional caucuses are particularly important in the Floor elections of members to the Executive Board and the Committee on Committees. By tradition, the senior member of each regional caucus nominates the regional members to these two committees, and the body ratifies these nominations

⁶ See note 5 for the other three select committees.

Most committees have 7, 8, or 9 members. Senators—except the Speaker and members of the Appropriations Committee—generally serve on two or three standing committees. All members, including the Speaker and members of the Appropriations Committee, may serve on any number of select or special committees.

⁷ The power of the Committee on Committees has diminished in recent decades. In the past, the chair of the committee was an ex-officio member of the Executive Board. And at one time, the committee proposed the chairs, not just the membership, of committees, an authority that is now exercised by the full Unicameral. At one time also, the committee recommended action on the confirmation of gubernatorial appointments, but this authority lies now with the various standing committees.

without debate. Similarly, the slate of membership on the other committees, prepared and presented to the body by the Committee on Committees, is largely the work of the leaders of the regional caucuses who sit on the Committee on Committees.

The Speaker of the Unicameral has gained authority in recent decades, but still has less than is typical for the top post in other state legislatures.

Once mainly a ceremonial officer, the Nebraska Speaker now normally presides on the Floor and has acquired considerable authority to control legislative Floor action. The constitution designates the Lieutenant Governor—an executive branch official—as the presiding officer of the Unicameral.⁸ But in contemporary practice, the Speaker normally presides, with the Lieutenant Governor appearing only when the Speaker chooses not to preside (perhaps one-quarter of the time). The Nebraska courts have ruled that the Lieutenant Governor does not have the authority to vote to break ties on final passage, and no Lieutenant Governor has attempted to vote for many years.

In addition to presiding, the Speaker also now prepares the agenda for each daily floor session—a response to complaints in the past that sessions of the Unicameral lacked discipline and focus. By rule, the Speaker's agenda is subject to the approval of the Executive Board, but in practice this is not required except for major proposals. By a three-fifths vote (30), the body may overrule the Speaker's agenda, but this also does not occur in practice. The Speaker must “make every effort possible” to deliver the agenda to each member one day in advance of the session.

As the office of Speaker has become less ceremonial, the Unicameral has broken a long tradition of limiting Speakers to one term of office. During the last two decades, Speakers typically have been re-elected to the position for a second two-year term. The current Speaker has been elected to the post three times (first to fill a vacancy and twice since). The lengthened service of recent Speakers naturally has increased the authority of the office.

Still, the Speaker of the Unicameral lacks powers commonly wielded by Speakers in other state legislatures. For example, the Speaker of the Unicameral does not appoint committees, does not refer bills to committee, and is forbidden by rule from being a regular member of any standing committee (serving only on some select committees, like the Rules Committee, and some special committees like the Executive Board).

⁸ The Minnesota Lieutenant Governor once presided over the Minnesota Senate until relieved of legislative duties by a constitutional amendment adopted in 1972.

Legislative Sessions

Summary: *Sessions of the Unicameral last longer than those of Minnesota's bicameral legislature, mainly because of differences in bill handling procedures and related legislative customs and values.⁹*

During the regular biennial session, the Unicameral routinely uses 150 legislative days, whereas the Minnesota Legislature uses fewer than 120 legislative days.

In the early 1970s, Nebraska and Minnesota both adopted constitutional amendments allowing annual legislative sessions but restricting session length. Minnesota permits its legislature to meet in regular session for 120 legislative days¹⁰ over the two-year period between elections, whereas Nebraska allows 30 more legislative days—90 days in the odd-numbered year, 60 in the even-numbered year.

The Unicameral routinely meets for its maximum of 150 legislative days. Only once in the last 25 years, when the 1979 session adjourned one day early, has the Nebraska Legislature met for less than the maximum of 150 days allowed by law. During this same span of years, the Minnesota Legislature has never met in regular session more than 116 legislative days in a biennium, and seven biennial sessions in Minnesota consumed less than 100 legislative days.

Unlike the Minnesota Legislature, the Unicameral may exceed its allotment of legislative days by a four-fifths vote (40)—thus indefinitely extending the length of any annual session and effectively nullifying the constitutional limit on legislative days. The Unicameral has taken this action only once, when it extended the 1976 regular session by two days to correct a significant clerical mistake in a bill.

Regular sessions in Nebraska also last longer on the calendar than they do in Minnesota.

The Minnesota Constitution prescribes a calendar date (in early January) for beginning the regular session in the odd-numbered year and a calendar date (in late May) for ending the regular session in both years. The Nebraska Constitution requires the Unicameral to convene in early January in both years and prescribes no calendar deadline for adjournment.

In practice, sessions in both states extend over roughly the same span of the calendar, but Minnesota sessions are generally shorter, particularly in the even-numbered years. Sessions in odd-numbered years last about five months in Nebraska, ending in late May usually, in early June

⁹ See the subsequent section on Floor procedures for details.

¹⁰ In both states, the term legislative day means a day when there is a Floor session. In Minnesota, the term is defined by law; in Nebraska, by legislative rule.

about one-fourth of the time. In Minnesota, these sessions tend to be a little shorter, beginning also in early January but ending always by the constitutional deadline in late May. In even-numbered years, sessions in Nebraska again begin in early January and last about three and one-half to four months, usually until mid- to late-April. In Minnesota, sessions in the even-numbered years last an average of only ten weeks, about four to six weeks less than in Nebraska. The typical second-year session in Minnesota begins later in the year, sometime between mid-January and mid-February, and ends earlier, usually in late March or April. Only one second-year session in Minnesota in the last 20 years has lasted longer than three months, whereas in Nebraska three and one-half to four month sessions are routine.

Sessions in Nebraska—measured in both legislative and calendar days—are longer than in Minnesota largely because of the Unicameral's exacting Floor procedures and related legislative customs and values.

Nebraska legislators spend more time in Floor debate than do Minnesota legislators. Right from session's start, the Unicameral meets most of the morning four days of each week. Although the first part of each session is devoted to organizing, introducing bills, and the like, the Unicameral begins its lengthy Floor consideration of bills early—within a few weeks in the odd-numbered year, a few days in the even-numbered year. The Minnesota Legislature, in contrast, typically meets on the Floor only two days a week, occasionally three, until well into the session; and the duration of many of the early Floor sessions is better measured in minutes than hours. Not until the closing weeks of session are Minnesota legislators occupied with extended Floor sessions four days a week.

Special sessions in Nebraska occur roughly as often as in Minnesota but tend to last longer, again largely because of the Unicameral's exacting Floor procedures.

The provisions in the Nebraska Constitution on special sessions antedate the unicameral amendment of 1934. Special sessions of the Nebraska Legislature are called by the governor, but the Unicameral may, by request of two-thirds of its members, require the governor to call a special session. Special sessions are limited to those subjects specifically mentioned in the call. The Minnesota Constitution, in contrast, does not allow the legislature to require the governor to call a special session, nor does it limit the special session to subjects mentioned in the call.

Special sessions in the two states occur with about the same frequency but typically last considerably longer in Nebraska than in Minnesota, mainly because of the Unicameral's exacting Floor procedures. The record of special sessions of the Unicameral in the last 25 years is as follows: 15 special sessions, totaling over 120 legislative days.¹¹ During the same span of years (1973-1997), Minnesota has seen 17 special sessions, for a total of about 45 legislative days.

¹¹ 1976 (8 days); 1978 (9 days); 1981 (7 days); 1982 (7 days); 1984 (7 days); 1985 (7 days + 16 days); 1986 (7 days + 7 days); 1988 (7 days); 1989 (7 days); 1991 (10 days); 1992 (7 days + 10 days + 7 days)

Bills and Session Laws

Summary: *In Nebraska, members must introduce bills very early in the session. On average, a Nebraska legislator appears to introduce more bills than the typical Minnesota legislator. However, the two states enact about the same number of laws each session.*

Most bills must be introduced in the Unicameral during the first ten legislative days of the annual session (about the first three weeks). Minnesota has no comparable time limit on bill introductions.

The 10-day limit on bill introductions in Nebraska is imposed by legislative rule. The deadline falls about three weeks into the annual session, because the Unicameral typically meets in Floor session four days a week. Certain bills are exempt from the 10-day deadline: general appropriation bills; "A" bills (separate bills appropriating money for program authorization bills); bills introduced at the request of the governor; and bills introduced at the request of a committee (if the request is accompanied by a written committee statement of intent and is approved by a three-fifths absolute majority of the whole body).

The 10-day limit is observed in practice. Only a few bills (20 or so) are introduced after the deadline each year, most at the request of the governor.

Minnesota legislators, in contrast, customarily introduce bills in large numbers up to the last day of session. Neither the constitution nor the legislature imposes a time limit on the introduction of bills, except for a legislative rule requiring that bills sponsored by the executive branch be introduced before the first deadline for committee action.¹²

Members in both states may introduce an unlimited number of bills. In Nebraska, unlike in Minnesota, a single bill may have an unlimited number of authors.

Neither state limits the number of bills an individual member may introduce.¹³ But Nebraska allows an unlimited number of members to be co-authors on a single bill, whereas in Minnesota, a bill may have no more than five co-authors (a rule that causes multiple introductions of some popular bills by various five-member groups).

¹² Minnesota once forbade bill introductions during the last 20 days of session, under a constitutional provision repealed in 1972.

¹³ Committees in Nebraska may introduce no more than eight bills each annual session, not including bills introduced at the request of the governor and revisor correction bills. Minnesota does not limit the number of committee bills.

In the 1995-96 session, members of the Unicameral introduced an average of 28 bills apiece. In Minnesota, members of the House introduced an average of 25 bills apiece, while senators introduced 43 bills apiece. However, most bills in Minnesota are companion files—that is, a single bill introduced twice, once in each house. In 1995-96, Minnesota legislators authored an average of 13 companion files apiece, less than half the average number of bills introduced by members of the Unicameral.

The legislatures in the two states turn bills into about the same number of session laws each year. In the 1995-96 session, Nebraska enacted about 470 session laws while Minnesota enacted about 440.

Committee Procedures

Summary: *Committee procedures in the Unicameral do not differ markedly from those in Minnesota, with certain exceptions: Nebraska uses a system of “priority bills;” Nebraska requires that every bill referred to committee be given a public hearing by the committee, with a seven-day advance notice; and Nebraska allows committees to meet in executive session.*

A priority bill system permits each member of the Unicameral to compel committee attention to a particular bill chosen by the member. Despite this system, committee chairs control committee agendas pretty much as they do elsewhere.

Guidance in session management—which elsewhere is the responsibility of political caucus leaders—is partly accomplished in the nonpartisan Unicameral by allowing members to designate “priority bills.” Each member may designate one priority bill, which may be the member’s own bill or, with permission, another member’s bill. Each committee chair may designate two priority bills from among the bills heard by the committee. The Speaker may designate up to 25 priority bills. In addition, with the approval of two-thirds of the Executive Board, the Speaker may designate up to five priority bills as “major proposals.” All priority bills must be designated before a deadline set by the Speaker, which must be no later than the mid-point of each annual legislative session (corresponding roughly with the deadline for committee action on bills). A designator may withdraw a designation but may not designate another bill as a replacement.

The rules of the Unicameral require committees to hear priority bills before all unscheduled, nonpriority bills, unless the designator agrees to another schedule. The rules also allow the Speaker to expedite committee action on the Speaker’s major proposals by requiring a committee to hold a public hearing and act on the bill by a certain date—by agreement, however, with the committee chair.

In practice, the priority bill system does not dictate committee agendas. In fact, the converse is more accurate: members tend to designate their priority bills close to the designation deadline halfway through the session, based on their judgment about likely committee action on bills. Consequently, committee chairs in Nebraska generally control the committee schedule and set the committee agenda, as do chairs in other states. Priority bill designations compel only a few committee hearings each year, generally very late in the session.

Committees in the Unicameral, unlike those in Minnesota, are required to hear and report on every bill referred to committee. Despite this requirement, committees in Nebraska control the fate of bills pretty much as they do elsewhere.

Under Nebraska rules, a committee must provide a hearing and a report on every bill referred to it. But the committee is free to report on a bill in the negative. A negative report takes the form of a recommendation to postpone the bill indefinitely. Such a report is recorded in the journal by the Clerk, without any Floor consideration, and thereafter an extraordinary majority of the body is required to resurrect the bill. Alternatively, the committee may kill the bill by not reporting it. In recent years, about one-fourth to one-third of all bills die in committee upon adjournment (which technically satisfies the rule requiring a committee report, by effecting an automatic committee recommendation of indefinite postponement of the bill).¹⁴

Committees in Nebraska are more punctilious about public hearing notices than in Minnesota.

Nebraska was an early leader of the "open meeting" movement in state legislatures, partly in response to concerns that an unchecked unicameral body might take ill-considered, hasty legislative action. In recent decades, however, other legislatures have matched and, in some respects, surpassed the Unicameral's openness.

The rules require a seven-day notice of the public hearing on each bill. Once set for hearing, a measure may not be withdrawn nor the hearing canceled within the seven days. These public notice rules are observed in practice and only occasionally circumvented (by an announcement on the Floor). At least 24 hours before the committee hearing, the bill author must submit a written statement of intent to the committee chair, discussing clearly and completely the purposes and effects of the bill. In practice, these statements are short and not particularly useful at the hearing, although authors typically read them for the record.

¹⁴ On proposed rule changes, the Rules Committee must act, within a specified period of time after referral to the committee. The committee must set the proposal for public hearing within five legislative days of the referral; the hearing must occur within 15 legislative days of the referral; and the committee must take final action on the proposal within ten legislative days after the hearing.

Legislative rules in Minnesota, in contrast, require a three-day notice of hearings on bills—to the extent practicable. Notice is sometimes much less than three days. There is no requirement that authors submit written statements of intent.

In Nebraska, committees routinely meet in executive session to mark up and act on bills, which is unheard of in Minnesota.

Executive sessions of committees are customary in Nebraska after the public hearing on a bill, for the purpose of discussing, amending, and voting on the bill. An executive session is open to the press, so the parties excluded are mainly lobbyists, public officials, and senators who are not committee members. The executive session is not recorded or transcribed, although copies of amendments and recorded votes are available afterward for public inspection. In reporting these meetings, the press used to avoid attribution to individual members, but now reports the discussion freely.

Committees may also, by majority vote, in “rare and extraordinary circumstances,” close a meeting to the press, as well as to the public; but formal action may not be taken until the meeting is reopened. This authority is used very sparingly by the Executive Board to discuss matters like litigation and personnel disputes.

In contrast, committees in Minnesota, including conference committees, never meet formally in executive session, even on the most sensitive matters (except occasionally during investigations of members for ethics violations). Some say, however, that the insistence on public meetings in Minnesota has driven important deliberation out of formal committee meetings and into private exchanges among members.

Floor Procedures

Summary: *The Floor consideration given to bills in the Unicameral is unusually full, exacting, and methodical. The Nebraska Constitution and legislative rules impose early deadlines on important bills and require lengthy and repeated Floor consideration of every bill, separated by lie-over periods to allow for the discovery and correction of error. These procedures seem intended to answer fears that a legislative body unchecked by a second house might be prone to hasty, ill-considered legislative action.*

Committee amendments to bills are not adopted and engrossed before Floor debate, as they are in Minnesota, but instead are debated and voted on by the full body before adoption.

In Minnesota, amendments recommended by the committee are adopted *pro forma* and are then engrossed (incorporated into the bill), before Floor debate on the bill begins. The Unicameral, in

contrast, fully debates and votes upon all amendments recommended by committee. Typically half of the first Floor discussion of a bill concerns amendments recommended by committee.

In Nebraska, the committee chair reporting a bill to the Floor must submit a written statement on the bill. A copy of the chair's statement, and any minority statement, is given to each senator and made available to the public. These statements are seldom robust, even though the rules require much information.¹⁵ The rules also require the chair to distribute the statement in draft form to committee members before the bill is reported to the Floor, a requirement that chairs regularly ignore without drawing much protest.

Every bill—after favorable committee action and before the Final Reading and vote on passage—is debated, amended, and approved by the full Unicameral *twice*. In effect, Nebraska legislators must debate and vote on every bill at least three times on the Floor.

The first of the two Floor considerations of a bill, preliminary to the Final Reading and vote on passage, is called General File. General File consideration begins with the Clerk reading the bill number, title, and author. (A member may request that a General File bill be read at large, but nowadays this is rare.) Following the reading, the author has ten minutes to explain the bill. Thereafter amendments are considered, beginning with the amendments recommended by the standing committee, followed by those proposed by the author, and finally those proposed by other members. Amendments from the Floor are taken in the order filed, unless the bill is one of the Speaker's major proposals,¹⁶ in which case the Speaker may determine the order of amendments. (The germaneness standard in the Unicameral is fairly strict, but it is interpreted loosely in practice, because the members want the right to offer amendments quite freely on the Floor.)

A bill that passes on General File is next debated, and is once again subject to amendment, on Select File. Select File consideration used to be brief, with most debate and amendment occurring on General File. In recent years, however, Select File debate and amendment have become more important. Members procrastinate on their amendments or are stimulated by the General File discussion to develop new amendments; lobbyists are at work between General File and Select File; and members have become freer in reoffering amendments previously defeated on General File.

On both General File and Select File, bills are taken up in the order reported, with some exceptions.¹⁷ In both of these proceedings, the adoption of amendments and favorable action on

¹⁵ Required information includes: short title and file number; roll call vote on the final committee action; date of the hearing; list of all individuals and organization that testified at the hearing; summary of the bill's purpose; description of major recommendations for change in the bill; and an explanation of any amendments to be proposed by the committee.

¹⁶ See the discussion of these above, under Committee Procedures.

¹⁷ Exceptions are for appropriation bills, member priority bills, the Speaker's major priority bills, and bills on the Consent Calendar; all of these bills have precedence on the calendar.

the bill require an absolute majority vote (25). On either General File or Select File, the body may return the bill to committee or postpone it indefinitely; and on General File, the Speaker may unilaterally order the return of the bill to committee.¹⁸ Neither of these actions is common.

After each of the two Floor debates prior to Final Reading, the bill lies over at least one day for technical review and correction.

Each bill goes through a correction procedure twice while under consideration on the Floor. These correction stages are called Enrollment and Review—E&R, for short. E&R Initial occurs after General File consideration, E&R Final after Select File consideration. During E&R, the bill and any amendments adopted on the Floor are checked for technical and grammatical mistakes (“arrangement, phraseology, and correlation”). Although the rules do not require it, the bill customarily lies over for at least one day for each of these two technical reviews.

E&R is done by the legal staff under the authority of the Enrollment and Review Committee. The E&R Committee is actually a single member, known as the Chair of Enrollment and Review, who is elected by the body at the start of each biennium along with other committee chairs.

If corrections to the bill or amendments are required, E&R amendments are prepared for adoption at the next step in the Floor process. The bill is not engrossed in E&R Initial, although a delete-all amendment may be prepared for a complicated bill that has been amended greatly on General File. In E&R Final, the bill is engrossed, printed for the Final Reading, and distributed to the members. With the increasing robustness of debate on Select File in recent years, E&R Final now uncovers mistakes in perhaps 20 to 30 bills each year, and the Chair of E&R more often than before finds it necessary to return bills from E&R Final to Select File for corrective amendments.

After the engrossed bill is printed and distributed to members, the constitution and legislative rules require that the bill lie over for yet another day before the Final Reading and the vote on final passage. Final Reading in Nebraska has traditionally been a full reading of the bill at large.

The debate on Final Reading, like the debate on Select File, is becoming increasingly robust and lengthy. A bill may not be amended at this point, but the body may return it to Select File or to a committee for further consideration; attempts to do so are increasingly frequent, as members seek more opportunity to amend, to add other bills, and to fix problems.

Until 1996, the Nebraska Constitution imposed at this point another impediment to hasty action by the Unicameral: a requirement that each bill be read at large, in its entirety, at Final Reading.

¹⁸ If the Speaker decides that a bill “has become substantially a new and different bill by reason of amendments having been adopted,” the Speaker may refer the bill to the Reference Committee for referral to a standing committee. Or if the Speaker decides that a bill “is in such form that it should properly be referred back to committee for further action,” the Speaker may so order. Either of these orders may be overruled by an absolute majority vote of the body. Speakers have used this power rarely (maybe once a decade), to divert a contentious bill consuming precious Floor time.

The at-large reading was once accepted as a time for quiet reflection on the impending final vote. But because the bills are read so fast that they are unintelligible, member respect for these readings has declined in recent years. Under a constitutional amendment approved in 1996, the requirement was modified: a bill must now be "presented" at Final Reading, but it still must be read at large unless three-fifths of the members vote to dispense with this requirement.

This constitutional change has been implemented by the Unicameral as follows: On the floor agenda for each day of session, the Speaker designates which bills will be considered for final passage without an at-large reading. When a bill so designated is taken up, the body first votes on the Speaker's order, without motion, amendment, or debate. If the order is sustained by the required three-fifths vote, the bill receives its Final Reading by title only; but in such cases the rules require that the voting board be held open for three minutes for the final vote. If the Speaker's order to dispense with the at-large reading is not supported by the body, or if the Speaker does not designate the bill for passage without an at-large reading, the bill is read aloud by the Clerk. Bills under 15 pages are still regularly read at large in Nebraska.¹⁹

The Unicameral does not have special calendars to expedite the passage of important or noncontroversial bills and does not suspend the constitution or legislative rules to accelerate passage of bills—practices that are common in the Minnesota Legislature.

While the Unicameral discusses, amends, approves, and corrects each bill twice on the Floor, before the Final Reading and vote on passage, the houses of the Minnesota Legislature normally consider and approve a bill just once before the Final Reading and vote on passage. In effect, including the vote on final passage, Nebraska legislators must vote three times on the Floor on each bill, whereas Minnesota legislators normally vote twice.

Moreover, the houses of the Minnesota Legislature often pass a bill in one day with just a single vote on the Floor. They do so by using special fast-track calendars (Special Orders, Rule 1.10, Consent Calendar) and by suspending provisions of both the state constitution and legislative rules that impose lie-over periods for bills.

There are no such expedited processes in the Unicameral. Every bill, no matter how important or urgent, requires seven legislative days (seven separate Floor sessions) to make its way through the Unicameral. The Nebraska Constitution prohibits final action on a bill until at least five legislative days after its introduction and at least one legislative day after it has been printed and filed for Final Reading. Unicameral rules add still more time by requiring that each bill—after committee action—be voted on by the full Unicameral at least three separate times, separated by two E&R checks for technical errors.

¹⁹ The at-large reading of bills under 15 pages persists because the Unicameral does not wish to ignore the constitutional requirement for every bill, and, secondly, because it requires no additional time, inasmuch as a bill of 15 pages or less can be read by the Clerk during the three minutes that the voting board is required to be held open for the final vote.

Unlike the Minnesota Legislature, the Nebraska Legislature is not empowered to suspend constitutional requirements to accelerate progress on a bill. Furthermore, the Unicameral is punctilious about following its own methodical Floor procedures. It does not have special, fast-track procedures for important bills and does not suspend legislative rules to allow quick passage for some bills.²⁰ Every bill receives the same methodical, multi-step consideration on the Floor following committee action (although priority bills and noncontroversial bills may be placed earlier on the agenda than other bills).

The only formal retreat from procedural nicety in the Unicameral seems to be the cloture rule, adopted six years ago to halt interminable Floor debates that forced the body to suspend its rules of debate two to four times a year. The cloture rule allows the Unicameral, by a two-thirds majority, to force a vote after 12 hours of debate on an appropriation bill or eight hours of debate on other bills. The hourly limit on Floor debate is not cumulative but applies at each stage of the process—so, for example, an appropriation bill could in theory be debated, without threat of cloture, for up 12 hours on Select File, and again on General File, and again on final reading.

The Unicameral attempts to avoid the hasty passage of numerous key budget bills in the closing hours of session by requiring that general (omnibus) fiscal bills pass weeks before the last day of session.

In Minnesota, key budget bills commonly pass during the last few days, or hours, of the annual session. In Nebraska, in contrast, all general (omnibus) appropriation bills must be passed at least ten legislative days (about two weeks) before the end of the year's session, and the Appropriation Committee must report these bills to the Floor ten legislative days before that (i.e., 20 legislative days, or about a month, before the end of session).²¹ General revenue bills setting tax rates must be passed at least five legislative days (about a week) before the end of the year's session.

The early fiscal bill deadlines were first instituted in Nebraska in the 1980s. After some initial difficulty, the Unicameral has become more successful with the deadlines, meeting them in each of the last four years. The deadlines are an attempt to avoid a common affliction of state legislatures: the hasty passage of numerous key budget bills in the closing hours of session, with special session looming as the consequence of failure. Also, the early deadlines on general fiscal bills in Nebraska allow time for the subsequent passage of other legislation having a fiscal effect. This is particularly important during the 90-day session in the odd-numbered year, when all general appropriation bills must pass before any other bills with a fiscal effect can be given a Final Reading. Bills that must wait for the passage of general appropriations bills are: "A" bills; bills that would cause a reduction of revenue to the general fund; and tax expenditure bills.

²⁰ The Unicameral normally suspends only the following rules: germaneness, final reading at large, and (before the cloture rule was adopted) unlimited debate.

²¹ If the committee fails to meet this deadline, the rules require the Unicameral to act on the appropriation bill as it was introduced by the governor.

The Office of the Legislative Fiscal Analyst, a statutorily-established legislative staff office, assists the Unicameral in monitoring fiscal bills. The Office prepares a fiscal note on each bill that has a fiscal effect (a task assigned to the executive branch in Minnesota). The Office also keeps a running tabulation on the cumulative fiscal effects of general appropriations bills, "A" bills, and tax bills. This tabulation is updated daily during session and is available to all legislators and to the general public.

The Nebraska Constitution also restricts precipitous legislative action by the Unicameral by requiring an extraordinary majority to make a bill effective immediately.

The constitution forbids the Unicameral from making a bill effective immediately, except by an extraordinary majority. No bill becomes law in Nebraska until three months after the adjournment of the annual session, unless it has an "emergency clause" making it effective upon the approval of the governor (or legislative action overriding a gubernatorial veto). A bill with an emergency clause requires a two-thirds vote (33) on final passage. Nowadays, about one-third of all bills have an emergency clause. The budget bills generally do, because the fiscal year starts July 1; hence budget bills in Nebraska require a two-thirds vote on final passage.

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