



# *South Dakota Legislative Research Council*

## *Issue Memorandum 98-03*

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### **Bicameral vs. Unicameral Legislatures**

A legislative body is perhaps most readily defined by the number of chambers, or houses, it has. That is what gives the body its framework. Whether that framework should consist of two houses or only one has been debated for hundreds of years. The debate continues today. Many arguments on both sides of the issue are the same today as they were centuries ago. Others have changed quite dramatically over time and through experience.

#### ***A Historical Perspective***

Bicameralism is steeped in tradition. It was embodied in the Parliament of England more than six centuries ago. It is not a concept that experts created, but one that evolved over time. Originally, it was a means of separating the social classes. Members of the nobility and upper clergy sat in one chamber, and representatives of the common people sat in the other. A majority of the members of each group had to assent to each measure before it could become law. As constitutional government began to spread, most nations patterned their legislative bodies after the English model. They had a senate, or an upper chamber, consisting usually of appointed members, and a larger, lower house whose members were chosen by popular vote.<sup>1</sup>

In the American colonies before 1776, bicameral legislatures were the rule. When the colonies reorganized as independent states, ten states retained their bicameralism while the other three created unicameral legislatures. Those three states, however, did not stay with unicameralism. Within a few years, Georgia and Pennsylvania had already switched to a bicameral legislature. Vermont held out the longest, but eventually made the conversion as well.<sup>2</sup>

When the remaining states joined the union, they adopted bicameralism right from the start just as most of the colonies had done. Many early state constitutions separated the upper houses from the lower houses based on property ownership or wealth. For example, in Maryland, only those whose net worth was at least a thousand pounds were allowed to vote for members of the upper chamber.<sup>3</sup> Thus, the upper house represented wealthy landowners while the lower house represented the common people.

Early in the twentieth century, widespread dissatisfaction with the legislative institution began to spread across the country. Charges of corruption were frequent. In various states, attempts were made to abolish the bicameral system and replace it with a smaller, unicameral system. Proposals were considered in constitutional conventions

in various states from coast to coast. In 1912, the people of Oregon were the first to vote on a constitutional amendment to make the change, but the voters rejected it.<sup>4</sup>

The idea of a unicameral legislature received attention in South Dakota during those years as well. In Governor Peter Norbeck's 1917 State of the State Address, he urged lawmakers to submit such a constitutional amendment to the vote of the people. He called the bicameral system "simply a relic of days gone before."<sup>5</sup> He said he thought legislators would give more careful consideration to bills if no other body considered the bills as well. The legislature, however, did not heed his advice. A few years later in 1925, the idea resurfaced. The state senate passed a resolution calling for a single house, but the house of representatives defeated it. The different views existing on this issue during that time were evident again in 1927. Governor Carl Gunderson's parting words to the legislature in that year reflected his strong opposition to a unicameral legislature. He feared that a one-house legislature would be too small, and that it would hinder democracy. In his estimation, the power would be placed in the hands of a few, and they would not adequately represent the citizens.<sup>6</sup> On the same day, newly inaugurated Governor William Bulow stated that he would like to see the question submitted to a vote of the people so they could decide.<sup>7</sup>

A constitutional amendment calling for a unicameral legislature prevailed in 1934 in the state of Nebraska. Supporters of the idea had worked toward that goal since practically the turn of the century. Though many people influenced its passage, it likely would not have succeeded without the support of Senator George W. Norris, who at the time had represented Nebraska in Congress for more than thirty years.<sup>8</sup> Also, the fact that the nation was in a depression probably propelled the idea because many citizens saw it as a cost saving measure.

Although Nebraska remains the only state to have adopted a unicameral system, it is an idea that still surfaces from time to time in other states. In fact, this year the idea received a lot of attention in Minnesota. A total of seven bills were introduced calling for a unicameral legislature, and the concept was supported by three of the four caucus leaders. In addition, a new lobbying group formed solely for the purpose of promoting a single house legislature. Though none of the legislation passed this year, it is clear that the issue gained momentum.

In 1972, North Dakota voters rejected by a wide margin a proposal calling for a unicameral legislature. Years later in 1991, North Dakota Governor George Sinner voiced his support for a unicameral legislature when speaking to a legislative committee on redistricting. In Alaska, an advisory vote on unicameralism passed by a slim margin in 1976. Thus, the voters advised the legislature to place a constitutional amendment on the ballot, but they did not. Voters in the state of Montana had the chance to vote on such an amendment. They rejected the idea, but the vote was close. Certain civic groups and leaders in states such as California, Michigan, Florida, and Hawaii have championed the cause in recent years, but they have not generated enough support to make it a reality.<sup>9</sup>

The dissatisfaction with state legislatures evidenced at the start of the century is also apparent today at the end of the century. The current public outcry for reforms such as term limits and increased accountability among public officials is likely to keep the discussion on unicameralism alive for years to come.

### ***The Nebraska Experience***

Nebraska's first unicameral legislature convened in 1937. Not only did the new legislature lack one of its former two houses, but also its partisanship. Senator Norris and the other promoters of the change felt strongly that unicameralism and nonpartisanship go hand in hand. The nonpartisan feature was initially a bitter pill for party regulars because it turned the voters' attention away from the political affiliations of the candidates. Instead, they focused on the candidates' views on the issues.

Since the adoption of unicameralism, the system has undergone some changes. At first, the one-house legislature consisted of 43 senators. Since then, the number of senators has grown to 49. For the first thirty years, the senators served two-year terms. In 1966, they began serving four-year terms. While the legislature met just every other year before 1970, they now hold annual sessions. The senators meet alternately for 90 legislative days and for 60 legislative days. However, a vote of four-fifths of the members can extend the length of any session.<sup>10</sup>

The Nebraska Constitution and rules of the legislature provide for several checks and balances to prevent the single house from making hasty decisions. For example, a minimum of seven days must elapse from introduction to final enactment on any measure. Bills must receive a public hearing, and they must give the public notice of the hearing at least five days in advance. Also, the rules require that bills receive what amounts to four readings. On final reading, the Constitution requires the Clerk to read the bill in full. The senators must be present, and they must be seated.<sup>11</sup>

In a recent article discussing Nebraska's unicameral legislature, the Clerk of the Legislature, Patrick O' Donnell, reflected on what makes the Nebraska Legislature different from many others. He concluded that perhaps it is the most democratic legislature in the country. He described his state's legislative process as "a very freewheeling process unbridled by party caucus or a tradition of leaders exercising great powers."<sup>12</sup> He also pointed to several polls conducted in the 1980s that showed that Nebraskans consistently had a positive view of their legislature.

The unicameral legislature's survival in Nebraska for close to 60 years is a good indication that it meets with the approval of most of the state's citizens. It also meets with the approval of most of the legislators themselves. In fact, they have been among its staunchest supporters. This was true of even those who first served in the bicameral legislature before the conversion.

Throughout the years, little sentiment has existed in the state to return to bicameralism. One notable attempt, however, was made in 1953. That year, the chairpersons of the

two main political parties got together and formed a bipartisan commission to study the possibility of going back to a partisan, bicameral legislature. They said it was necessary because the legislative sessions were becoming too costly, the legislators were discussing too many bills, and too many lobbyists were filling the halls of the capitol.<sup>13</sup> Oddly enough, their rationale for wanting the change consisted of the same arguments used by those promoting the unicameral legislature 20 years earlier. In the end, their efforts were fruitless. They were unable to garner enough support to place the idea on the ballot.

Since then, the idea of discarding unicameralism has gotten little attention. Political party operatives seem more concerned with the nonpartisan aspect of the legislature, but even the idea of restoring partisanship does not seem to get much attention outside the political ranks.

In Nebraska, the unicameral legislature has survived the test of time. That is not to say, however, that it has not received the same sort of criticism levied against the legislatures of other states. Some people have questioned the efficiency and the effectiveness of the unicameral legislature. At times, they have been frustrated when the legislature is unable to keep up with its workload. The unicameral legislature's popularity, however, shows that the public has not attributed those perceived faults to the fact that the legislature contains only one house.

Mr. O'Donnell, who has worked for the Nebraska Legislature for 18 years, said his office had more inquiries regarding their unique legislature in the last three years than they had in the previous 15 years. The inquiries have come mostly from legislators and legislative staff in other states and from interest groups.<sup>14</sup> How well comparable systems would fare in other states is unknown, but by just about all accounts, the Nebraska experiment of 1934 has been a success.

### **Arguments in Support of Bicameralism**

#### *Arguments Against Bicameralism*

#### **Bicameralism is traditional, customary, and familiar to people.**

- ▶ The people understand the process and are comfortable with it. It does not make sense to change something that has worked for hundreds of years.
- ▶ *A unicameral system is even easier to understand. It is more visible to the electorate, and it is popular among voters in the one state that currently uses it.*

**A bicameral legislature provides protection against corruption and control of the legislature by special interest lobbies.**

- ▶ It prevents legislators from seeking personal or party gain because deceiving two bodies is far less easy than deceiving one.
- ▶ *Bicameral systems offer lobbyists many opportunities to influence legislation. They do not need to control the entire legislature, or even one house, to block a pending measure. Often it can be done in conference committees that only include a handful of legislators.*

**The second house provides a check on hasty, ill-considered legislation.**

- ▶ Legislation receives more adequate consideration and careful revision when two separate groups of people review the bills.
- ▶ *Time constraints often prevent one house or the other from closely scrutinizing some bills. In those instances, one house is acting single-handedly. Additionally, the theory of checks and balances applies to the division of power among the three branches of government and not to divisions of power within one branch. Thus, the governor's veto, state courts, and the referendum process, in those states that allow it, all act as checks on the legislative branch.*

**Bicameral legislatures are more representative of the people than are unicameral ones.**

- ▶ They generally have more members and accordingly, members have more direct contact with their constituents.
- ▶ *In the 1964 U.S. Supreme Court decision Reynolds v. Sims, the Court ruled that, unlike the federal government, state legislatures had to have legislative districts in both houses based on population. Although the Court clearly stated that this did not mean that the houses had to be identical, it left little room for diversity.*

**Legislatures with two houses save time because they divide the workload.**

- ▶ A bill rejected by one house does not advance in the process. Therefore, the second house does not have to devote any time to it.
- ▶ *Having two houses review the same pieces of legislation is redundant. Any time saved by not requiring the second house to review bills that failed the first house is filled by requiring them to hear the ones that the first house passed.*

**Many current problems that exist in legislatures cannot be attributed to the two-house system, and they can be corrected without abandoning it.**

- ▶ If legislatures do not have ample time to consider all the bills that legislators introduce in a given year, the problem likely has more to do with time constraints than with the number of houses. If lobbyists have too much influence, solving the problem by adopting tough ethics laws makes more sense than trying to solve it by changing the structure of the legislature.
- ▶ *Limiting legislatures to one house is the obvious first step in reforming them. If that change is carried out, other reforms currently popular with the voters are likely to follow.*

*Arguments in Support of Unicameralism*  
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**Unicameral legislatures do not need conference committees.**

- ▶ *Conference committees are often considered the third house of a bicameral legislature because they wield much power. They often decide quickly and quietly outside public view. No records are kept of their proceedings, and other members must totally accept or totally reject their actions. Eliminating them results in a more open legislative process.*
- ▶ Compromise is an essential part of lawmaking. Conference committees promote compromise. They often prevent deadlocks between the two houses and encourage cooperation. Legislators can address any abuses existing in conference committee procedures without doing away with them altogether.

**Unicameral legislatures are more accountable than bicameral ones.**

- ▶ *The simplicity of the unicameral structure increases the accountability. Members of the public can readily identify actions taken by legislators. Members cannot [pass the buck] or lay blame on members of another house. They have to accept responsibility for their actions.*
- ▶ The voting public demands accountability from all elected officials. If legislators fail to meet the expectations of the public, the voters do not return them to office. It is just that simple.

## **Unicameralism is more economical than bicameralism.**

- ▶ *Since unicameral legislatures are generally smaller than bicameral ones, they cost less. They need less money for salaries and legislative staff. Operational expenses are lower. They need less space, and they have only one set of committees instead of two.*
- ▶ The cost savings associated with eliminating one house of a bicameral legislature are currently more theoretical than realistic. Since only one state legislature is unicameral and it has been unicameral for many years, doing much comparison is difficult. In addition, a move to unicameralism may end up costing taxpayers money if the change results in the enactment of poor legislation.

## **Unicameralism increases the visibility of individual legislators.**

- ▶ *The visibility promotes competency among legislators, and it entices talented people to run for the legislature. Since there is only one set of leaders, they are more prominent and may have greater influence in dealing with the executive branch.*
- ▶ Little evidence exists to prove this claim because unicameralism exists in only one state. Plenty of talented people seek election to bicameral legislatures year after year. The executive branch of state government is less likely to dominate a legislature that has two sets of legislative leaders instead of only one.

## **Conclusion**

There is less of a case for bicameralism today than there was before 1964. This is true, of course, due to the "one man, one vote" decision rendered by the U.S. Supreme Court. By requiring both houses of state legislatures to use only population for apportionment, the courts took away a main argument of bicameralists. States that wanted to mimic the federal government or base the representation in either of their houses on anything other than population were unable to do so. The two houses in all 49 states using a bicameral system were left with only small differences.

Although many considered the decision a major blow to bicameralism, it did not propel unicameralism. In fact, the odds against states making the conversion to a one-house system are considerable. This is true because the legislature itself is usually the starting point for constitutional amendments. Most members of a bicameral legislature are not likely to propose a measure that would radically alter the body in which they serve. Thus, unicameralism's best chances are probably in those states that allow citizens' initiatives.

Strong sentiments and valid arguments still exist on both sides of the issue. The end of the debate is not in sight. The ultimate decision is in the hands of the citizenry in each state. Just how far they are willing to go to reform their legislature is an unknown in most states. The compelling arguments for unicameralism and the enduring qualities of bicameralism make it difficult to predict.

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**This issue memorandum was written by Clare Cholik, Legislative Librarian for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.**

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## Endnotes

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1. Harrison Boyd Summers, *Unicameral Legislatures*, 1936, p. 43.
  2. *Ibid.*, p. 44.
  3. Donald Janson, The House Nebraska Built, *Harper's Magazine*, November 1964.
  4. Harrison Boyd Summers, *Unicameral Legislatures*, 1936, p. 45.
  5. Governor Peter Norbeck, Address to a Joint Session of the Fifteenth South Dakota Legislature, January 2, 1917, *Senate Journal*, p. 76.
  6. Governor Carl Gunderson, Address to a Joint Session of the Twentieth South Dakota Legislature, January 4, 1927, *House Journal*, pp. 26-27.
  7. Governor William Bulow, Address to a Joint Session of the Twentieth South Dakota Legislature, January 4, 1927, *House Journal*, p. 49.
  8. Robert Sittig, *The Nebraska Unicameral After Fifty Years*, January 1987, p. 5.
  9. Pat Wunnicke, Nebraska's Unicameral: Fifty Years Without A Conference Committee, *State Legislatures*, National Conference of State Legislatures, October 1987, p. 20.
  10. *Nebraska Blue Book*, 1994-95, pp. 238-239.
  11. Pat Wunnicke, Nebraska's Unicameral: Fifty Years Without A Conference Committee, *State Legislatures*, National Conference of State Legislatures, October 1987, p. 22.
  12. Patrick J. O'Donnell, A Unicameral Legislature, *Journal of the American Society of Legislative Clerks and Secretaries*, Spring 1996, p. 8.
  13. Jack W. Rodgers, One House for 20 Years, *National Municipal Review*, July 1957, pp. 339-340.
  14. Patrick J. O'Donnell, A Unicameral Legislature, *Journal of the American Society of Legislative Clerks and Secretaries*, Spring 1996, p. 3.