

ALASKA LEGISLATURE COMMITTEE FILES

1991-1992

80/2

6998 HOUSE JUDICIARY

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 76

Revision Date: _____
Title: Amendment to the Constitution RE: Rights of
Victims of Crimes
Sponsor: Representative Donley
Requestor: Representative Donley

Department Affected: Office of the Governor-Elections
BRU: Division of Elections
Component: II-Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Laura A. Wisner, Projects Coordinator Phone: 465-4611
Division: Elections Date: 02/21/92

Approved by Commissioner: _____ Date: _____
Agency: Office of the Governor

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

REPRESENTATIVE DAVE DONLEY



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CHAIRMAN
JUDICIARY COMMITTEE
VICE CHAIRMAN
REGULATION REVIEW COMMITTEE
MEMBER
RULES COMMITTEE
LABOR AND COMMERCE COMMITTEE

MEMORANDUM

TO: HESS Committee Members

FROM: Representative Dave Donley ^{DB}

RE: HJR 76, a resolution to amend the Constitution to provide constitutional guarantees for victims of crime

DATE: February 25, 1992

Thank you for hearing HJR 76, a resolution that proposes an amendment to the Alaska Constitution to provide key guarantees to victims of crime.

HJR 76 is straightforward legislation that is intended to elevate to a constitutional guarantee a number of rights already provided to victims of crime by statute. HJR 76 is intended to protect and maintain the rights delineated in these statutes. It is proposed to address the disparity represented by the fact that the rights of the criminally accused are guaranteed by our Federal and State Constitutions, but the rights of innocent victims are not. In an era where procedural due process is just as vital to victims of crime as it is to the accused, this amendment provides key guarantees to the victims of crime.

Specifically, HJR 76 proposes to amend the State Constitution to provide crime victims a constitutional guarantee to:

- 1) the right to timely disposition of the case



JUNEAU OFFICE
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Sponsor Statement

2) the right to participate in court proceedings, including a right to notification, a right to attend all court proceedings the accused has the right to attend, a right to confer with prosecution, and a right to make a statement to the court at sentencing

3) the right to restitution, and

4) the right to information about the conviction, sentence, imprisonment, and release of the accused.

Together these guarantees will operate to ensure that the crime victim is treated with fairness and respect throughout the criminal justice process. HJR 76 is modelled after a similar, successful amendment to the Michigan Constitution that was overwhelmingly approved by Michigan voters in 1988.

Thank you for taking the time to hear this legislation today.

DD/jmn

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 19, 1992

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/25/92

The HEALTH EDUCATION AND SOCIAL SERVICES Committee considered:

HJR 76

HOUSE JOINT RESOLUTION NO. 76

RIGHTS OF VICTIMS OF CRIMES

Proposing an amendment to the Constitution of the State of Alaska relating to the rights of victims of crimes.

RECOMMENDATIONS: [] the same title
be replaced with _____ [] a new title

[] have attached amendments(s)

[] do pass

[] do not pass

[] no recommendations

[✓] individual recommendations

[] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[✓] fiscal impact _____

[] fiscal note(s) _____

[] zero fiscal note _____

[] zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	Cheri Davis		✓	
<i>[Signature]</i>	✓	Mark Hensley		✓	
Betty Davis	✓				
<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

Proposal B — 1988

Introduced by Representative Van Regenmortel — 74th Legislature — HJRP

Amendment to the Michigan Constitution

Article I, §24

Sec. 24. (1) Crime victims, as defined by law, shall have the following rights, as provided by law:

The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.

The right to timely disposition of the case following arrest of the accused.

The right to be reasonably protected from the accused throughout the criminal justice process.

The right to notification of court proceedings.

The right to attend trial and all other court proceedings the accused has the right to attend.

The right to confer with the prosecution.

The right to make a statement to the court at sentencing.

The right to restitution.

The right to information about the conviction, sentence, imprisonment, and release of the accused.

(2) The legislature may provide by law for the enforcement of this section.

(3) The legislature may provide for an assessment against convicted defendants to pay for crime victims' rights.

Approved by House of Representatives April 20, 1988; By the Senate July 12, 1988
Approved by the People of Michigan November 8, 1988; Effective December 24, 1988



Crime victims: Learning how to help them

by Robert C. Davis

Future legal historians may well call the 1980's the decade in which a start was finally made toward recognizing victims of crime as central characters in the criminal event, worthy of concern, respect, and compassion. Since 1981, President Reagan has proclaimed National Victims of Crime Week annually to focus attention on victim problems. In April 1982, he established the President's Task Force on Victims of Crime, which made 68 recommendations for addressing the problems of victims. Then in 1984 the Attorney General's Task Force on Family Violence presented 63 recommendations for combating violence within the family and aiding its victims.

Crime victims have also been the subject of a good deal of legislation. The 1982 Omnibus Victim and Witness Protection Act requires use of victim impact statements at sentencing in Federal criminal cases, greater protection of Federal victims and witnesses from intimidation by defendants or their associates, restitution by offenders to victims of Federal crimes, guidelines for fair treatment of victims and witnesses in Federal criminal cases, and more stringent bail laws. The Comprehensive Crime Control Act and the Victims of Crime Act of 1984 authorize Federal funds for State victim compensation and victim assistance programs. These funds are distributed by the Office of Justice Programs, through its Office for Victims of Crime and Bureau of Justice Assistance.

More than 35 States have enacted comprehensive legislation protecting the interests of the victim, compared with 4

before 1982. State victim compensation programs have continued to expand (43 States and the District of Columbia now have such programs), as have victim assistance services in the community.

Research has played an important role in the rethinking of public policies about crime victims. Much of that research has been sponsored by the National Institute of Justice. Institute-supported projects have provided legislators, criminal justice planners, and practitioners with new information on the effects of crime on victims, on the success of programs to help victims recover psychologically and financially, and on ways of helping victims through the criminal justice process.

This article reviews some of the significant findings of NIJ research on victims. It also reports on studies now in progress and on questions that still need to be answered. (Most of the research reports discussed are listed in references at the end of the article.)

Crime takes psychological toll

Only recently have people come to realize that victims of crime experience crisis reactions similar to those experienced by victims of war, natural disasters, and catastrophic illness.

Research in 1975 focused on victim experiences both with crime and with the criminal justice system. The findings had a significant impact on the thinking of criminal justice planners and the development of programs for victims and witnesses. Researchers at Marquette University¹ interviewed 3,000 victims and witnesses from cases active in Milwaukee County's court system and 1,600 persons identified as victims of serious personal crimes by a previous National Crime Survey.

They found mental or emotional suffering to be the most frequent problem expressed by victims in general, while time and income loss posed the greatest difficulties for victims involved in the court process. The fear and emotional distress experienced by victims often extended as well to the victims' families and friends.

The study produced a wealth of policy recommendations to improve the treatment of victims and witnesses in the courts. Many have since been widely adopted.

The Milwaukee study introduced the term "secondary victimization" to characterize the distress experienced by the family and friends of crime victims. In 1982, a research team from the New York Victim Services Agency,² pursuing this theme, questioned 240 New York City victims of robbery, nonsexual assault, and burglary. They asked about problems and needs stemming from the crime and about organizations and individuals to whom victims turned for assistance.

While few victims had sought assistance from organizations, virtually all had received help from friends, neighbors, or relatives. The help ranged from listening while victims "ventilated," to aiding in apprehending the criminal, to lending money, to helping with replacement of doors, windows, and locks.

The New York researchers then contacted supporters named by the victims and interviewed them about the costs (and benefits) incurred in helping the victims. Most supporters reported being glad to help, but many said that their own fears about crime had been heightened because of the victim's experience. Such reactions were most prevalent among family members and neighbors of victims.

Robert Davis is Director of Research and Information Systems for the Victim Services Agency in New York City. He has been principal investigator for three NIJ research grants.

Crime victims: Learning how to help them

The study showed that the effects of crime hit hardest among the poor. Psychological distress and crime-related problems were more common among the less affluent and less educated, and these differences persisted at least up to 4 months after the crime. Similarly, poorer, less educated supporters were more likely than affluent supporters to report that providing assistance had placed a burden on them.

In a surprising finding, an earlier study revealed that nearly as many burglary as robbery victims underwent a "crisis reaction" during the weeks following victimization. In fact, according to researchers at the American Institutes for Research,¹ the impact of crime on victims' emotions and everyday behaviors was actually greater for burglary than for robbery victims.

Psychological reactions of victims were examined in depth under a 1984 NIJ study funded in response to a Victims Task Force recommendation. Researchers at the Medical University of South Carolina² interviewed female victims of sexual assault, robbery, aggravated assault, and home burglary, identified through a random victimization study.

Psychological adjustment of victims was measured against that of a sample of nonvictims. Details were gathered about current psychological status, previous mental health history, treatment history, and about the crime itself. This research provides the first reliable information about the proportion of victims in various crime categories who experience serious adjustment problems. Results indicate that victims of sexual assault suffer more adverse psychological reactions and adjustment problems than victims of robbery and burglary.

Helping crime victims cope

Research detailing crime's impact on victims helped build support for creation of special service programs to help them cope. As victim witness programs proliferated during the 1970's, so did evaluations of these programs. Most evaluation efforts, however, were limited in scope, often confined to questioning victims about how they felt about services they used.

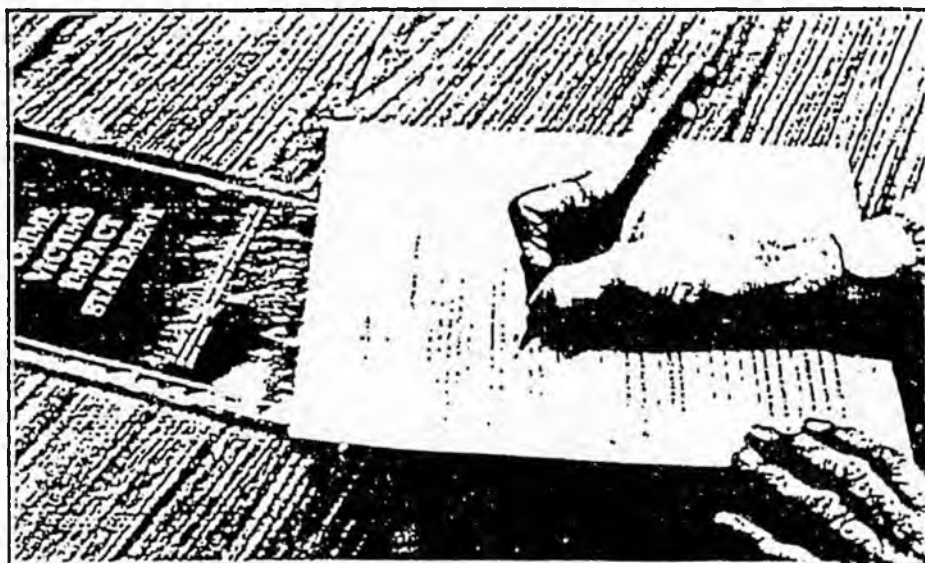


Photo by Ann Gardner, AP Wire

Victims in the Federal courts and in many State courts can now make "impact statements" that may affect sentencing decisions. An NIJ-funded study is currently looking at this State experience to find out how the laws have actually been implemented by local criminal justice agencies.

In fact, little was known about the effect of one of the key services offered: crisis intervention. An NIJ-funded assessment by the American Institutes for Research³ in 1981 found that no studies had "examined whether the project clients suffer less trauma, either in the short or long run, than victims who go without help."

Crisis intervention program research. To rectify this lack, researchers at the Institute for Social Analysis⁴ evaluated the effectiveness of a program in which victim counselors called in by the police aided victims at the crime scene. The researchers interviewed victims twice within 6 months of the crime.

The study found that victims of robbery, burglary, and nonsexual assault were traumatized by crime, although not to as great an extent as rape victims. Prior life stress contributed significantly to the "initial, most troubling stages" of victims' psychological distress and, in fact, was the strongest single determinant of victim distress.

However, the authors noted that victims who received project services differed markedly from those who did not: the police summoned counselors only for the most traumatized victims. It was

therefore not surprising that the measures of emotional trauma did not indicate any substantial effects for those who received services.

To learn more about crisis intervention services, the New York Victim Services Agency⁵ studied victims of robbery, burglary, assault, and rape. The victims were randomly assigned to one of four experimental groups: (a) crisis intervention with supportive counseling, (b) crisis intervention using a form of cognitive/behavioral therapy, (c) material assistance only, or (d) a control group receiving no services.

Three months later no differences were apparent between the experimental groups on measures of psychological or material recovery from the effects of crime. However, the vast majority of victims chose to attend only one session of counseling. Research now in progress in New York is examining how counseling can be more helpful to victims. Specifically, the study is finding out if giving victims information on how to protect themselves from future crime can lead to speedier psychological recovery.

Victim compensation program research. In 1981, the U.S. Attorney General's Task Force on Violent Crime

observed that there was a need for study of "the various crime victim compensation programs and their results." The National Institute then funded a survey* of how victim compensation programs were structured and run. The survey reported that only a small fraction of victims at that time were aware assistance was available and applied for it. The authors also found that compensation programs had generally served increasing numbers of victims while maintaining low administrative costs relative to other kinds of benefit programs.

The victim in the criminal justice system

In the 1970's and early 1980's, the criminal justice community began to realize that victims play a key role in the ability of the police and courts to bring criminals to justice.

For many years studies have continued to show that the victim is crucial in helping police apprehend criminals. Research by the Rand Corporation* in 1975 reported that information supplied by the victim to the first police officer

responding to a crime is more important than any followup investigative work.

A 1984 study by the Police Executive Research Forum** underscored the importance of the victim's actions. The research found that the time it took *citizens to call the police* affected the probability of on-scene arrests to a greater extent than the time it took *police to respond to the call*. And earlier research by the Institute for Law and Social Research** reported that a larger number of citizen witnesses in a case, as distinguished from police or professional witnesses, increased the chances of conviction.

Based on research findings in this area, the National Institute produced public service announcements that dramatize how citizen action—or inaction—can affect criminal justice outcomes.

The system's response to victims

Victims are more likely to report a crime if they think the police will respond effectively. And victim satisfaction with police response seems to be determined

primarily by the predictability rather than the speed of the police response. Victims will accept a delayed response in nonemergency cases if they are told in advance when to expect police.†

The earlier research in Milwaukee,† examining the impact of crime on victims, also measured victim reactions to the criminal justice system. One significant finding was that a positive experience with the criminal justice system led victims to be more willing to cooperate with officials in the future.

The study recommended several ways to make involvement in prosecution more attractive to victims, including the use of equitable witness fees and establishing an Office of Justice Advocates to represent the needs of victims, witnesses, and jurors within the criminal justice system. Other recommendations stressed the importance of modifying criminal justice policies and procedures to make them more responsive to victims and to keep both victims and witnesses better informed throughout the adjudication process.

Other research** showed that some victims and witnesses fail to cooperate with prosecutors because officials do not communicate important information to them: prosecutors or police may fail to inform people that they are needed as witnesses or to tell them when they should appear in court.

Rape victims

How the criminal justice system deals with particularly traumatized groups of victims—rape victims—was the focus of a 1976 study by the Battelle Memorial Institute Law and Justice Study Center.† The research surveyed police and prosecution agencies nationwide and looked at practices in several jurisdictions.

Police officers and prosecutors at that time lacked training in putting together the essential ingredients for successful prosecution of rape cases. Battelle concluded. Reports were distributed to help patrol officers, prosecutors, police and prosecutor administrators, and legislators improve the chances for successful prosecution of rape cases and to make criminal justice more responsive to the needs of rape victims.

Photo by Helton Bakeman



A counselor at New York's Victim Services Agency helps a victim cope with the aftermath of crime and assists her in working with the criminal justice system. More and more communities are offering victim counseling services.

Domestic violence victims

Are nonstranger violence cases treated less severely by the courts than stranger-to-stranger cases? If so, is this because that is what the victims want?

Research by the Institute for Social Analysis in 1983¹¹ sought answers to these questions in a study of four jurisdictions. In the four sites, the dismissal rate for nonstranger violence cases was three times higher than for stranger-to-stranger cases, the researchers found. Nevertheless, nonstranger victims were more satisfied with case outcomes than stranger-to-stranger victims. The reason: they were likely to believe that the defendant's behavior would change as a result of punishment imposed by the court or simply as a result of arrest and prosecution.

Many police forces are changing the way they respond to family violence, especially spouse abuse, at least in part because of findings from an Institute-sponsored experiment published in 1984.¹² Police policy in responding to domestic disturbances generally was to counsel the parties or to order the aggressor party to leave the premises for 8 hours or more.

The Institute experiment, however, found that arresting the aggressor leads to fewer repeat offenses. Conducted by the Minneapolis Police Department, the controlled experiment randomly assigned officers to provide one of three responses to violent domestic disputes. The research showed that only 10 percent of aggressors who were arrested repeated their violence within 6 months compared to 19 percent of those involved in mediation and 24 percent of those who were ordered to leave the home.

The study is currently being replicated in six more cities, to refine understanding of the most appropriate police response to domestic violence situations.

Child victims

How the courts deal with child victims is the subject of research conducted by the American Bar Association.¹³ This study examined data in three counties (Fairfax, Virginia; Mercer, New Jersey;

Santa Cruz, California) to see if the courts are too lenient in sentencing child sexual abusers. It also examined the practices of criminal justice and child welfare agencies in processing child sexual abuse cases over a several-year period.

While the study's statutory review found little difference between sentencing provisions for offenses involving child versus adult victims, analysis of case files revealed a pattern of more severe sentences in adult victim cases. In cases involving child victims, a higher proportion of abusers knew or were related to their victims, which may help explain the greater leniency observed. Almost half of the confirmed child victim cases did not result in an arrest, and only 63 percent of those arrested were prosecuted, with the offenders often being allowed to plead guilty to a misdemeanor. The study pointed out the need for better interagency coordination in such cases, and for greater community consensus on what sanctions are appropriate.

The Institute has also examined both research and experience in the use of child victims as witnesses. A report by Abt Associates, Inc.,¹⁴ describes new techniques and legal theories for obtaining a child victim's testimony with a minimum of trauma for the child. Two research efforts now being conducted in Colorado¹⁵ and North Carolina¹⁶ are examining the effects of criminal justice system participation on child victims of sexual assault.

Consideration of victim impact

Several major research projects have focused on the idea that a crime's effect on the victim ought to play a larger role in sentencing decisions.

A 1984 study by the Institute for Law and Social Research¹⁷ sought to understand how criminal justice officials learn about victim harm, how victim harm affects their decisions about cases, and how victims respond to their experiences with the criminal justice system. The researchers interviewed police, prosecutors, judges, and victims at eight sites chosen to include providers of both extensive and limited services for victims.

The study found that of three variables examined (injury, psychological harm, and property stolen), only victim injury appeared to be important in prosecutors' screening decisions. None of the three factors was important in sentencing decisions.

The study also found that the majority of police officers, prosecutors, and judges felt that current levels of victim involvement were about right. Yet victims felt that being better informed, punishing the defendant more harshly, and providing more social services were important to increasing their satisfaction. Moreover, sites with full-service victim programs (where officials were more influenced by victim-related factors than practitioners elsewhere) were found to have the highest levels of victim satisfaction.

The first systematic effort to allow victims a chance to participate directly in case decisions was described in a 1979 report by the University of Chicago Law School.¹⁸ Researchers evaluated an experiment in Dade County, Florida, in which victims participated in pretrial settlement conferences for certain criminal cases selected on a random assignment basis. At the conferences, judges, attorneys, the arresting officer, defendants, and victims discussed the incident and tried to fashion an appropriate disposition.

The results were mixed. Only a third of the victims attended the conferences; many victims, however, told researchers they had not been notified that a conference was scheduled. Most victims who did come said little and did not demand unreasonable punishment, the authors noted.

The authors found some evidence that victims whose cases went to conference were more satisfied with the way their cases were processed than other victims were. However, no differences were found between victims who did attend and those who did not with regard to their satisfaction with case outcomes or with the criminal justice system.

Several years later, NIJ awarded a grant to the Institute for Law and Social Research (INSLAW)¹⁹ to replicate the

Dade experiment in three additional sites. INSLAW found that victims who attended settlement conferences were more satisfied with case outcomes and with the idea of plea bargaining than victims who did not attend. The level of victim participation was similar to that in earlier results. About half of invited victims attended, and victims who did come usually only described the facts of the case.

Another study has provided some of the first empirical data on a procedure which is gaining acceptance across the country. In California, a 1982 Victim's Bill of Rights included a provision that victims had the right to appear and be heard at adult felony sentencing proceedings and at parole eligibility proceedings for adults and juveniles. The effects of the provision on victims and on criminal justice personnel—judges, clerks, prosecutors, parole officers, and probation officers—were examined in a 1983 Institute grant to the University of the Pacific's McGeorge Law School.²⁴

The study found that inadequate notification procedures were a major problem: less than half the victims sampled were aware that they had the right to appear and speak at sentencing. Less than 3 percent of the eligible victims actually did appear.

Most victims interviewed said the right to speak at hearings was important, but most also indicated that they would need more information, more support, and some legal assistance to be able to exercise this right effectively. Victims also wanted information about the status of the case against the defendant as much as they desired the legal right to participate in the case.

Research is now giving special attention to the impact and effectiveness of various reforms designed to make the criminal justice system more responsive to victims. For example, the Institute is currently funding a nationwide examination²⁵ of States with legislation allowing victim impact statements, to determine how the legislative intent has been implemented through administrative regulations and through actual practices of criminal justice and victim services personnel.

Similarly, the Institute has helped promote the view of the victim as vital participant and witness by supporting research on how victims are treated by the system; on innovative programs and legislation to expand the victim's role; and on the victim's historical status in the criminal justice system and rights under the law.

Currently under way is a nationwide study of the more than 30 States with victim bill of rights legislation.²⁶ The research will determine how legislative intent is being carried out, identify successful approaches to meeting the needs of crime victims, and pinpoint victim concerns requiring additional attention.

Unresolved issues

The availability of services for victims and a larger role for victims are becoming part of the American criminal justice system. Research has provided the underpinning to many of today's innovations in the treatment of victims. But there remains much to be learned about ways to make these reforms as effective and as efficient as possible. The following highlights only a few of the issues research might address.

More information is needed on the effects of service programs for victims. These are some specific questions that might be addressed:

- Which counseling techniques work best for which victims?
- Can we learn something about which techniques might be most effective by studying differences in coping styles between victims who do and those who do not recover quickly after the crime?
- Can police officers, whose behavior seems to significantly shape how victims react to their experience, be trained successfully in techniques to alleviate victims' trauma?
- Do programs designed to aid victims in the court process promote greater willingness of victims to cooperate with officials?
- Are compensation programs aiding those victims with the greatest needs or are such victims often excluded due to

lack of information or overly complex application procedures?

Secondly, more research is needed about the role of the victim in the criminal justice system. Current research on victim impact statements will yield important information on the administrative effects of such statements. But we still need to learn about other basic issues involving the use of impact statements:

- How many victims actually want the opportunity to make a statement?
- Does the opportunity to make a statement promote the healing of psychological wounds?
- Do victims view the opportunity to make impact statements as meaningful involvement in the criminal justice process? If so, do impact statement opportunities increase satisfaction with the criminal justice system? What new incentives can be developed to increase victim participation?

Research might provide useful answers to questions on other victim-related issues as well. For instance:

- Do elderly and child victims have special psychological or material needs that are currently not being addressed?
- What are the benefits and impediments to having the private sector ease victims' financial burden through employee counseling and referrals and provision of paid leave for medical treatment or court appearances?

Unquestionably, the attention given to victim issues over the past two decades has changed police, prosecutor, and court procedures throughout the United States. In many jurisdictions programs now exist to help reduce the trauma of victimization and to ease the victim's way through the criminal court process.

Research projects funded by the National Institute of Justice and others have provided the impetus and rationale for many reforms in the treatment of victims. Continued collaboration by researchers and practitioners can help sustain these advances and lead to new ways of helping victims of crime.

HJR

80

Date of Committee Action: 4-3-92

The JUDICIARY Committee considered: HJR 80

HOUSE JOINT RESOLUTION NO. 80 ESTABLISH A UNICAMERAL LEGISLATURE

Proposing amendments to the Constitution of the State of Alaska establishing a unicameral legislature; and providing for an effective date to the amendment.

RECOMMENDATIONS:
 be replaced with AS HJR 80 (JUD) the same title
 a new title

- have attached amendments(s)
- do pass
- do not pass
- no recommendations
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)
 fiscal impact _____
 zero fiscal note _____

APPROVES PREVIOUS: (Dept/Date)
 fiscal note(s) LAA (3.13.92); Gov. (3.13.92)
 zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		<i>J. Ellis</i>		•	
		<i>Kathleen V. ...</i>		✓	
		<i>Mike Miller</i>	X		
		<i>Terrell ...</i>		✓	
		<i>Mark ...</i>		—	
		<i>W. J. ...</i>		—	

Mark ...
 CHAIRMAN'S SIGNATURE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO: HJR 80

Revision Date: _____
Title: Proposing amendments to the
Constitution...establishing a unicameral legislature...
Sponsor: Representative Navarre
Requestor: House State Affairs

Department Affected: Legislative Affairs Agency
BRU: All
Component: All

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
OPERATING						
PERSONAL SERVICES	0	0	0	0	[679.3]	[1,358.6]
TRAVEL	0	0	0	0	[241.5]	[241.5]
CONTRACTUAL	0	0	0	0	[146.7]	[146.7]
SUPPLIES	0	0	0	0	[10.0]	[10.0]
EQUIPMENT	0	0	0	0	[10.0]	[10.0]
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS					200.0	0
TOTAL OPERATING	0	0	0	0	[887.5]	[1,766.8]
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND					[887.5]	[1,766.8]
FEDERAL FUNDS						
OTHER FUND SOURCE						
TOTAL	0	0	0	0	[887.5]	[1,766.8]

POSITIONS:

FULL-TIME	0	0	0	0	30	30
PART-TIME	0	0	0	0	31	31
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

HJR 80 proposes establishing a Unicameral Legislature of fifty members. There would be a transitional Unicameral Legislature of sixty members until the Twentieth Legislative Session when the membership would be 50.

(Continued on Page 2)

Prepared By: Pamela A. Stoops, Director *Pamela Stoops* Phone: 465-3850
Division: Administrative Services Date: 3/12/92

Approved By: Warren W. Endicott, Executive Director *Warren Endicott*
Agency: Legislative Affairs Agency Date: 3/12/92

It is estimated there would be a savings in decreasing the size of the Legislature because of the reduced number of members, consolidation of chief clerk and senate secretary's offices, consolidation of sergeant at arms staff, consolidation of committee records staff, reduced legislative staff, reduced office space, reduced travel, reduced supplies, etc.

The cost involved would be to remodel the Chambers on the second floor of the Capitol and relocate several offices.

PERSONAL SERVICES

It is anticipated the reduction in the number of staff and members will not occur until FY 97.

- Ten less legislators (50 not 60) - \$353,780.
- Twenty less full time staff members - \$562,889.
- Twenty less perm part time staff members - \$231,108.
- Four less chief clerk or senate secretary staff members - \$103,143.
- Five less sergeant at arms staff members - \$73,920.
- Two less committee records staff members - \$33,725.

Personal services costs are estimated using FY 93 personal services costs. Total estimated personal services savings - \$1,358,565. FY 97 cost is for 6 months. -1,358.6

TRAVEL

A reduction in travel would occur by having a smaller membership. Travel & moving costs, session per diem, etc. would be reduced.

Estimated savings in travel, per diem and relocation costs - \$241,537. -241.5

CONTRACTUAL

A reduction in communications costs for phones, reduction in the number of allowances, anticipated reduction in office space for district offices, etc.

Estimated savings in contractual - \$146,666. -146.7

SUPPLIES

A reduction in supplies is anticipated with a smaller membership and a reduced number of staff.

Estimated savings in supplies - \$10,000. -10.0

EQUIPMENT

A reduction in equipment is anticipated with a smaller membership and a reduced member of staff.

Estimated savings in equipment - \$10,000. -10.0

MISCELLANEOUS

The cost of remodeling the House Chambers to accommodate 50 members instead of 40 members, relocating offices, etc. would be spread between contractual, supplies, personal services, etc.

Estimated remodeling costs - \$200,000. 200.0

1992 LEGISLATIVE SESSION

Revision Date: _____
 Title: Amendment to the Constitution RE: Establishing a
Unicameral Legislature
 Sponsor: Representative Navarre
 Requestor: House State Affairs

Department Affected: Office of the Governor-Elections
 BRU: Division of Elections
 Component: 11-Primary and General Elections

COMPONENT SERIAL NO.

0	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE:	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared by: Laura A. Glaisor, Projects Coordinator *L.A. Glaisor* Phone: 465-4611
 Division: Elections *C. Navarre* Date: 3/5/92
 Approved by Commissioner: _____ Date: _____
 Agency: Office of the Governor

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DBR, Gov. Legis. Ofc., & Impacted Agency(ies).

(7)
Date Referred: February 19, 1992

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 3/13/92

The STATE AFFAIRS Committee considered:

HJR 80

HOUSE JOINT RESOLUTION NO. 80

ESTABLISH A UNICAMERAL LEGISLATURE

Proposing amendments to the Constitution of the State of Alaska establishing a unicameral legislature; and providing for an effective date to the amendment.

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Daic)

fiscal impact LAA, Div of ELECTIONS

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
<i>Eugene G Kukina</i>	<input checked="" type="checkbox"/>	<i>Bill Miller</i>		<input checked="" type="checkbox"/>	
		<i>Wend Mitchell</i>		<input checked="" type="checkbox"/>	
		<i>P. Bricker</i>		<input checked="" type="checkbox"/>	
		<i>Long in Sale</i>		<input checked="" type="checkbox"/>	
		<i>Mike Miller</i>	<input checked="" type="checkbox"/>		
		<i>vs Shumaker</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

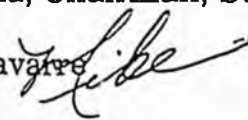
Eugene G Kukina
CHAIRMAN'S SIGNATURE

SPONSOR STATEMENT

March 3, 1992

TO: Representative Gene Kubina, Chairman, State Affairs Committee

FROM: Representative Mike Navarre



SUBJECT: HJR 80, A resolution proposing amendments to the Constitution of the State of Alaska establishing a unicameral legislature.

.....

House Joint Resolution 80 was introduced to allow a vote of the people on establishing a unicameral legislature.

The unicameral legislative body is quite common. Virtually all local governments in the United States have, by design, a unicameral process. When proposed at the state level, however, it's often been met with strong opposition. Nebraska is the only state to have a unicameral legislature. It seems to work well there.

The idea of a unicameral legislature is not new to Alaska. In the 1930's, the late Judge Dimond suggested Alaska's Territorial Legislature be a unicameral body. Later, at the State Constitutional Convention, there were a number of delegates who favored a one-body legislature. The proposal was defeated by some who felt that a single legislative body lacked a certain formality, and that two legislative bodies were needed.

In 1976, Alaskan voters approved a statewide ballot question which requested the legislature to proceed with a constitutional amendment for a unicameral legislature. The legislature did not act on the initiative, and the concept once again faded into obscurity.

I believe a unicameral legislature offers a more efficient process, and will make no appreciable difference in how our current system of "checks and balances" actually functions. For example: More often than not, bills introduced in the House or Senate have a duplicate "companion measure" in the other body. This enables a bill's progress through the second body to be "speeded up," by waiving duplicate committee hearings on substantially identical bills. Essentially, this practice is an "end run" around the bicameral process, and provides a valid argument for a unicameral body.

DISTRICT 5

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A unicameral form of government advances the opportunity for the demystifying of government. John Q. Public will have a simpler and more understandable legislative process, therefore public accountability and awareness is increased.

An important democratic value that unicameralism should enhance in Alaska would be smaller election districts. Alaskans in these smaller districts would have better access to their elected representatives.

In conclusion, I offer that sending HJR 80 to the vote of the people we have nothing to lose and everything to gain. The gain for the State of Alaska is a more streamlined, efficient, and better understood form of government.

HJR 80 Fact Sheet

- Most local governments have a unicameral type of government. Therefore the transition to unicameralism would not be difficult for the people of the State of Alaska to accept.
- Nebraska is the only state to have an unicameral legislature. Reports from Nebraska are positive. Nebraskans wonder why other states do not adopt this sensible form of government.
- The Nebraska legislature is nonpartisan, but the executive branch and other elective offices stand for office on a partisan basis.
- Senators, as the Nebraska legislators are called, were intended to be independent actors, and according to reports are very independent.
- The Nebraska legislature has fourteen standing committees. The process of electing the presiding officer and the chairmen of these committees (by secret ballot, with committee members assigned by a committee on committees) appears to differ significantly from the method used in Alaska.
- The Nebraska constitution authorizes a legislative body of up to fifty members. It currently has forty-nine members.
- An unicameral legislature is not new to Alaska. In the 1930's it was considered by the Alaska Territorial Legislature considered, but tradition won out. In 1976, Alaskans approved a ballot measure requesting the state legislature to proceed with a constitutional amendment for an unicameral legislature. The legislature did nothing.
- Fears from special interests come from all quarters when a progressive change in a process is suggested. Special interests have to reorganize and make themselves again appear to be significant.
- "Checks and balances" will not be altered, in fact, they could be enhanced and their importance moved to the forefront of the legislative process.
- Under an unicameral form of government there would be no need for the duplicate effort of companion measures in the House and Senate. This time saving would create a more efficient system.
- Bartering of bills between the House and Senate would be eliminated.
- Another democratic value that should be enhanced by unicameralism in Alaska is the fact that there would be smaller election districts, therefore more direct access to one's elected representative.
- The unicameral form of government provides Alaskans with a simpler and more understandable system. Why make government more mystical or difficult when it doesn't have to be?

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THE UNICAMERAL'S 50TH ANNIVERSARY

The Nebraska Unicameral Legislature's Golden Anniversary: 1937-87

By Jack Rodgers

(Jack Rodgers served as director of legislative research from 1954-1984, and as a senior research consultant since 1985.)

I. Brief Background to the Establishment of Unicameralism in Nebraska.

Interest in the establishment of unicameralism—which can be equated with disenchantment with bicameralism—began in Nebraska as early as 1913. It was an outgrowth of concern for political reform stimulated by the Progressive Movement. A joint legislative committee in that year made a number of recommendations for improving the operation of the state government to the 1915 Legislature, including a proposal for the creation of a unicameral Legislature. No action was taken on this proposal.

During the 1917 Legislative Session, Rep. J.N. Norton of Osceola, who was to become a longtime advocate of unicameralism and a member of the first unicameral Legislature in 1937, introduced a joint resolution proposing a constitutional amendment to create a one-house Legislature of 60 members. It was reported to the floor, but was ultimately indefinitely postponed when it got caught along with many other bills in a late session legislative traffic jam.

This same Rep. Norton, now a delegate to the 1919-1920 constitutional convention, introduced a proposal providing for a Legislative Assembly of one house consisting of 100 members, but not to exceed 133 members. It was approved by the committee on the floor of the convention with the suggestion that it be submitted to the voters as a separate and alternative proposal. The final vote on this proposition was 43 in favor and 43 opposed. By such a slim margin were the voters denied a chance to vote on unicameralism at the special election held in September 1920.

Three additional attempts were made to change from bicameralism to unicameralism prior to the successful campaign in 1934. First, a campaign to place the issue on the ballot through the initiative petition failed in 1923. Second, a proposal introduced in 1925 by Rep. J.D. Lee of Lynch for a single chamber of not more than 100 members was indefinitely postponed by the judiciary committee. Finally, a measure introduced by Sen. John Boelts of Central City in 1933 to vest the legislative authority of the state "in a Legislature consisting of a House of Representatives only" got as far as final reading. It was defeated by a close vote of 15 in favor, 14 opposed and four not voting.

This brief background indicates that the issue of unicameralism had been a live one in the state for a number of years prior to the adoption of the amendment in 1934 creating the present one-house Legislature. That is, in 1934 it wasn't a novel idea snatched from someone's vivid imagination, but merely the logical outcome of developing circumstances. In any event, the efforts described above from 1919 to 1933 to establish unicameralism showed that the momentum was picking up. The catalyst was to be the general ineffectiveness of and popular dissatisfaction with this same 1933 legislative session which had narrowly defeated the issue.

II. The Role of Sen. George W. Norris.

There was one additional factor that had kept the unicameral issue alive in Nebraska since the early 1920s, and this was the influence of Sen. Norris—former U.S. representative, a leader of the Progressive Republicans, and U.S. senator since 1912. The esteem in which he was held by persons of all political persuasions in the state, and his influence and accomplishments in national affairs, lent great weight to his views. And one of his favorite targets for political reform was the bicameral Legislature. He began to flail away at it with gusto in an article published in the New York Times of Jan. 28, 1923. He continued his indictments of state legislatures (he recognized the impossibility of creating a unicameral Federal Legislature although his views applied to Congress with equal strength) until the successful campaign of 1934.

Therefore, the principal supporting arguments in behalf of unicameralism are based on the criticisms of bicameralism. That is, the advantages, or basic principles, of unicameralism are the absence of the disadvantages of bicameralism. Sen. Norris' attack on the two-house system still remains the basic rationale behind the Nebraska plan.

III. Basic principles, rationale and advantages of unicameralism.

As articulated by Norris, Norton and other supporters of unicameralism, they can be briefly summarized as follows:

(1) The principal criticism of the bicameral Legislature was the conference committee, the joint committee appointed to iron out differences or bring about compromises in bills that passed both chambers but in different form. Such committees met in secret, no record was kept of their proceedings, conference reports were not subject to amendment when returned to the respective houses, and the need to compromise in order to "get something" often resulted in provisions being included not supported by a majority of the legislators. Because such committees do not function under unicameralism, this secret "take all or nothing" procedure is not part of the legislative process. This results in more openness of the procedure—one of the hallmarks of the Nebraska unicameral system.

(2) Unicameralism proponents argue that, far from one house acting as a check upon the other, a traditional defense of the bicameral Legislature, one house too often shifts responsibility to the other house. (In one of his later writings, Sen. Norris penned a colorful rebuttal to this "checks and balances" argument. He said: "In every two-house Legislature, after the close of the session, if we post the checks and balances we shall find that the politicians have the checks and the special interests have the balance.")

Supporters of unicameralism point out that there are ample checks on the one-house Legislature through judicial review, the governor's veto, and the availability of the referendum.

The Unicameral's 50th Anniversary

(3) It was believed that there was a natural correlation between a one-house Legislature and numbers—that they would naturally be smaller. This would avoid the frustration of the personal efforts of the individual members found in larger bodies in their cession of many of their individual rights as legislators to the committees, the difficulty in their offering amendments to bills, and the curtailment of their right to debate freely. Thus, again, legislative proceedings in one-house legislatures can be much more open—and it is imperative that the people know, or have an opportunity of knowing, what is going on.

(4) Sen. Norris, and other advocates, were also convinced that corruption would more likely occur under bicameralism because it would be easier for corrupt legislators to cover their tracks. He also stressed the baneful influence of lobbyists resulting from legislatures (two-house) too large, too cumbersome, too secret and too irresponsible.

(Of course, no one would seriously argue that lobbyists do not wield measurable influence in the Nebraska Legislature, but perhaps the difference is that it is more open, more personal, and less likely to be kept under cover than would be the case in the unwieldy two-house bodies.)

(5) On a more recent note, it could be argued that as a result of the "reapportionment revolution" of the 1960s, bicameralism makes less sense than before. The courts have held that both houses of state legislatures must conform to the "one-man, one-vote" standard, thus representing, essentially, the same constituencies. In fact, Sen. Norris and the other early proponents of unicameralism had long before this made the same essential point. They said that because both houses of the state legislatures were elected from the same groups of people and were granted the same legislative authority, which meant that each house did the same work, there was no reason for it to be done twice.

(Of course, Norris also included non-partisanship as an important element in his plan for improved state legislatures. Some feel that unicameralism and non-partisanship are so intertwined that they must go together. I personally view them as separate issues. In other words, based on the claimed intrinsic merits of unicameralism, they would still exist even if the members were chosen on partisan tickets. However, this is a matter of opinion. J.W.R.)

In sum, it would seem that the basic advantage of the one-house system, and thus the basic principle it reflects, is that of openness, flexibility (which certainly turns in part on the rules of procedures adopted), and accessibility to all who wish to approach it.

Source: *Nebraska Blue Book, 1986-1987, p. 38-41.*
published by Nebraska Legislative Council.

The Nebraska Unicameral After Fifty Years

By Robert Sittig

(Robert Sittig is professor of political science at the University of Nebraska-Lincoln. He has been a staff member there since 1962 and has teaching and research interests in political parties, the legislative process and state government.)

Democracy and legislatures have come to be virtually synonymous in modern societies. The popular election and control of legislative officials is just naturally assumed by democrats of all stripes nowadays. We accept the partial shielding of judicial officials from popular control at all levels of American government, and chief executives are occasionally sheltered from total public accountability by devices such as electoral college selection or legislative removal (impeachment). Not so for legislators. This branch of government has become the hallmark of popular sovereignty, and it is in this light that the Nebraska unicameral legislative experiment, which now has endured for a half-century, will be described, examined and evaluated in the commentary which follows. Political institutions are similar to other human institutions in that they benefit from periodic review and assessment, and in this instance, an evaluation is of particular importance because Nebraska, in 1934, departed from the conventional organizational wisdom practiced in all other states, with its institution of a single legislative chamber system. 1

Some innovations become institutionalized quite quickly (direct primary system of nomination, for example); others fail to meet the tests of time and practicality and slip into gradual disuse (commission form of government for cities, for example). That unicameralism has succeeded so broadly in Nebraska is sufficient reason for this recounting of its origin, structure and operation, as well as a restating of some of the major reform proposals certain observers and evaluators have put forth over the years as they seek to further improve the Nebraska Legislature's effectiveness.

Adoption of the Unicameral Amendment

For the first 75 years of Nebraska's governmental history, the Legislature's organization reflected the traditional pattern. It was constituted as a bicameral body, with the upper house representing geography or area (local governmental units), and the lower house based on population, a broader standard. This approach was then in common use and Nebraska's Legislature was nearly a carbon copy of the Iowa and Illinois legislative systems, since the territorial political leaders relied heavily on these states' documents in the drafting of the 1867 (first) and 1875 (present) constitutions. About 20 years after statehood, the combined effects of economic deprivation among farmers, and the emergence of organized reform groups (especially the Populists), resulted in persistent criticism and occasional attacks on state government here and elsewhere in the West. The attacks centered on the alleged unresponsiveness of state government to the common man's needs, and its overresponsiveness to the claims of the large interests (railroads, bankers, millers, etc.).

These reformers, around the turn of the century, had a long list of remedies for the governmental inadequacies of the day, and they were especially influential in the agrarian plains states. They were able to implement their reforms in some states with speed and ease; examples would include: the direct election of U.S. senators, a ban on use of free railroad passes by public officials (especially legislators), control or ownership of grain transport and terminal facilities, and establishment of state-operated banks. But for our purposes, their legislative structural reforms were of more interest. They were committed, most of all, to a simplification of legislative procedures, and unicameralism gradually came to be an integral part of the reforms they were advocating. Another was democratization of political parties, which were gradually coming to wield increasing control over the nomination and election of officeholders, as well as a bigger voice in the day-to-day conduct of government, especially the Legislature. Political parties, in the view of these progressives, were at a minimum to be opened to public control, and maybe even dismantled or abolished, with the election system then converted to non-partisanship. The politics of many states in this region during these two generations (1880s-1910s) consisted mainly of struggles over the relative power of the "man on the street", vs. that of the organized interests—the corporations or "big business."

In Nebraska, unicameralism was continually being advocated, especially toward the later end of the progressive period. Specific proposals numbered at least seven, and a variety of attempts were made to get the reform implemented. Normally, structural change of governmental institutions requires a constitutional amendment, since it is in these charters that the specific shape of government is mandated. To change the constitution invariably required the proposal to be initiated by the Legislature (by an extraordinary majority), and subsequent ratification by the voters. Given this process, it is not surprising that the existing route of constitutional change was virtually closed to unicameral proponents, since the Legislature itself would have to be willing to sacrifice about half its members, since any one-house legislature would, in effect, replace one of the two houses in a bicameral legislature. Largely for this reason, unicameral proposals repeatedly went down to defeat in the Nebraska bicameral Legislature in the early 1900s. During this same period, especially in Midwestern and Western states where the reform impulse was the strongest, unicameral proposals often were considered, but as in Nebraska, the Legislature was rarely inclined or willing to propose anything this encompassing despite significant public support and clamor for legislative simplification in some form. 2

In response to this legislative recalcitrance on reform matters such as unicameralism, the progressives of the day rose to the occasion. They devised a new system of direct democracy whereby the citizenry also could initiate laws (and perhaps constitutional amendments), and thus water down the Legislature's monopoly over this crucial stage of the

The Nebraska Unicameral After Fifty Years

process. Ultimately, about 15 states adopted this unprecedented solution to the problem of legislative unresponsiveness by authorizing their citizenry to also propose either laws or amendments or both. Nebraska was one of the first states to take this step (1912), and, not surprisingly, unicameral proponents shifted their attention to this new device despite its cumbersomeness in that thousands of petition signatures needed to be collected to trigger the process of taking a proposed law or amendment to all the voters. A significant Initiative campaign was launched in Nebraska in 1923, but it failed to produce enough signatures.

Finally, constitutional documents also can be altered in a comprehensive way through a constitutional convention. States tend, periodically, to convene these bodies to assess and evaluate an entire document. Nebraska established such a constitutional convention and the delegates were popularly selected; it deliberated during the years 1919-20. The delegates considered and proposed dozens of structural and policy changes for Nebraska state government including unicameralism. The unicameral proposal was given a much better reception in this arena than it had gotten in the Legislature, but in the end the proposal failed by the narrowest of margins—a single vote. One can appreciate the stamina and persistence of the unicameral proponents, here and elsewhere during this period, but it appears that not enough of the Nebraska public was supportive to influence either the legislators or the convention delegates to propose the measure, or to sign the initiative petitions themselves.

The major change in the unicameral movement in Nebraska during this period was the direct participation of Sen. George Norris. Although seemingly fully occupied with national issues (rural electrification, flood control, etc.) in Washington, Norris began to involve himself with the unicameral proponents in Nebraska and, in the end, single-handedly breathed new life into the largely stalemated effort. Norris had, by this time (late 1920s), firmly established himself with Nebraska voters despite some earlier tussles with his party's (Republican) leaders, and some narrow election wins in earlier House and Senate primary or general elections. His philosophical commitment to unicameralism was of long standing, but he had gradually broadened his concern for unicameralism to include the non-partisanship feature. Although both these reforms had always been parts of the progressive package, they had not been laced together in Nebraska prior to Norris' assumption of a leadership role in the unicameralism drive. Norris had become very disenchanted with what he perceived to be "the evils of partisanship," and he conditioned his involvement in the unicameral effort on the inclusion of non-partisanship. Given the repeated defeats of unicameralism in Nebraska, the proponents reluctantly accepted Norris' condition; they were fearful it would further complicate and thus jeopardize the adoption of either reform.

The particular strategy decided on by the newly forged unicameral-non-partisan advocates in Nebraska started with the petition initiative route to get the proposal listed on the 1934 ballot. There was to be a wide effort to draw the public into the campaign, and this would be headed by Norris himself. The signature-collecting phase of the campaign sought to stimulate public interest and participation, and where it had failed before, this time it succeeded beyond expectations with one and a half times the needed number of signatures being amassed. Conditions for reform in Nebraska

were apparently much more favorable in 1934 because of the continuing depression in the farm sector, and the mediocre performance of the inexperienced sitting Legislature, which had been swollen with freshman Democrats in the Roosevelt landslide in 1932. Norris, upon the conclusion of the 1934 congressional session in Washington, returned to Nebraska and for the remainder of the fall campaign he "sold" the proposal while crisscrossing the state in dozens of personal speaking appearances. Norris, according to news reports, made an especially fervent appeal to the Nebraska citizenry,

occasionally saying that he would even be willing to give up his Senate seat if that sacrifice somehow would ensure adoption of the unicameral (non-partisan) proposal.

The opposition, although unable to match the popular attention that Norris was generating, attempted to counter the claims of the unicameral proponents. Although Nebraska had never had a deeply rooted political party system, the leadership elements of the two parties argued that the measure, especially its non-partisan feature, was neither necessary nor advisable. When the arduous campaign ended, the voters sided with Norris, and the state had surprisingly committed itself to the replacement of the age-old bicameral partisan Legislature with a single-house non-partisan chamber. Subsequent analysis of the popular vote revealed across-the-board support; the measure passed in over 90 percent of the state's precincts and counties, and the final statewide tally found it prevailing by a 3-2 margin among those who had expressed a preference. Norris, and those who for decades had been urging the adoption of the unicameral approach, were no doubt exuberant given this endorsement by the voters.

Implementation of the Unicameral Principle

Political ideas first need to be sold in the marketplace; then they have to be put into form and shape. Ironically, the shaping task in Nebraska was in the hands of the last bicameral legislative body, which had been elected at the same time that the voters adopted the unicameral proposal. The amendment contained a few organizational mandates (number of seats and bill consideration procedures, for example), and the sitting legislators ultimately divided the state into 43 single-member legislative districts, with each member serving a two-year term. The non-partisan feature required that candidates would be listed on the ballot without reference to party, and it evidently was intended that they govern, after elected, free from the influence of the two major political parties. In the ensuing election scramble in 1936 for the sharply reduced number of legislative seats, nearly 300 primary candidates entered. In the non-partisan system, all candidates run in the primary and the top two in each district are nominated, and they in turn face each other in the general election.

One apparently unanticipated outcome of the first election was the presence in the non-partisan unicameral of a high ratio (nearly 75 percent) of members who had previous service in the bicameral partisan Legislature. Given the widespread previous opposition by legislators to the various unicameral proposals, partisan or non-partisan, this is an early example of the ability of incumbent officeholders to adjust to markedly changing conditions, or to the inconsistency of the voters who elected to the unicameral many of those who had been opposed to its creation.

Regardless, the eyes of the nation were on Nebraska in January 1937. Sen. Norris bypassed the opening of the U.S. Congress in order to give the charter members of the

The Nebraska Unicameral After Fifty Years

Unicameral an inspirational address on the opportunity they had to expand the horizons of representative government through the innovative device of unicameralism.

To compensate somewhat for the elimination of the second (or checking) chamber, the framers of the amendment included a restraint against hasty bill enactment: Minimal time for a bill to go from introduction to final enactment was set at seven days; and to afford those outside the chamber some specific check on the legislators, the rules require that all bills must have a public hearing. At a more descriptive level, the legislators assumed the title of senator, normally an upper house prerogative; usage has since converted the adjective, unicameral, into a noun, Unicameral, which has been shortened by the media to, "The Unicam." Other matters the amendment left up in the air were those of the internal structure and leadership posts in the new body. In partisan legislatures these questions are handled by the majority/prevaling political party, which uses its unified voting strength in the chamber to control any organizational decisions, as well as the placement of individuals in leadership posts. Thus, there was the need, or opportunity, to substitute in the place of parties some other basis for allocating authority and influence inside the non-partisan Unicameral.

Since most "new" members had served in the previous bicameral partisan Legislature, it would not have been surprising if they persisted in some of their previous practices, but it appears they attempted to implement, to a considerable extent, the non-partisan principle. The election system for officers, for instance, is very open and unstructured. The office most common to legislative institutions and retained in the Unicameral was that of speaker. Probing further into the legislative structure, we find a continuation of the system of relying on permanent standing committees to do a preliminary review of legislative proposals. This reserves for the full Legislature the role of giving final consideration to just those measures that have first cleared the committee system. At the floor stage, bodies of this size (43) require rules to standardize how bills will be considered, if the process is to be fair and orderly. It appears the new members sifted through the previous partisan bicameral practices and adopted some, converted others, and added a few new approaches as they agreed on the method whereby basic state policy would henceforth be officially determined.

Institutional Features

Organization, structure, rules and procedures take us toward understanding the operation of public bodies. And those who are elected must mesh their personal careers with these institutional arrangements, which include: the number of seats in the chamber, the duration (terms, sessions) of legislative service, and the amount of compensation, an important part of the member reward system.

Size—The number of districts/seats a legislature, bicameral or unicameral, should have never had been clearly established. Sen. Norris was convinced that legislative bodies had become swollen in size, thus complicating, if not preventing, citizen accountability. He urged creation of a very small body, perhaps as few as 25. Considering the Nebraska two-house Legislature by 1933 had 133 members, the size eventually agreed to in the amendment (50 maximum, 30 minimum) represented a compromise. The actual number established was 43, and this size remained constant through much of the early years. There was a constitutional provision

allowing (but not requiring) the reapportionment of districts in conjunction with each 10-year federal census in order to accommodate internal population shifts; it was apparently patterned after a federal law then in existence. Since reapportionment had proved to be a prickly task for legislative bodies, these provisions tying it to the census count were intended to make the process virtually automatic. Regardless of the constitutional option, the Unicameral did not actually reapportion after the 1940, 1950 or 1960 censuses. Elsewhere in the country, reapportionment quickly was becoming politicized as underrepresented urban advocates were pressing the legislatures (and, more importantly, in the courts) for actual allocation of legislative seats on a population standard alone. This urban-rural dispute in Nebraska ultimately led to a raise in the number of districts, but only after years of struggle, including the adoption of a "compromise" constitutional amendment authorizing as much as a 20 percent area factor in any reapportionment formula. In the end, this compromise also proved unacceptable to the federal courts, since they were moving toward an apportionment system based solely on the population factor.

Once this principle became clearly evident (mid-1960s), the Nebraska Legislature reversed itself and adopted an apportionment law based exclusively on population. Given the population shifts that had occurred in Nebraska since the adoption of the Unicameral, a significant urban boost in seats/representation was in order. In the final plan, the urban increase in seats was accommodated by adding six seats, which brought the total to 49, one less than the constitutional maximum. This allowed the rural areas to retain almost exactly the number of seats they previously held, but their influence was reduced, given the larger number of senators in the body. After the 1970 and 1980 censuses, the Legislature again reallocated districts, but only minor rural to urban shifts were necessary. Currently, the two metropolitan areas have been allocated 21 seats (Omaha 15; Lincoln six) and the remainder of the state has 28 seats. It is, of course, possible that the Legislature could be increased to 50 seats at some time, but it seems unlikely since this option was not exercised either in 1971 or 1981 by the Legislature when it reapportioned. The legislative size question seems pretty much settled and only occasionally has been a factor in the discussions over the years regarding the effectiveness of the Unicameral.

Terms—Legislators serve a four-year term, but this is a rather recent change. The term was two years from 1937 until 1966, when it was increased. A two-year term has long been the practice in lower houses of state legislatures; conversely, four-year terms are the norm in state legislative upper chambers. The increase in term length for Nebraska legislators paralleled closely the boost to four-year terms for Nebraska executive officers (governor, attorney general, etc.). The legislative term increase also allowed for the staggering of terms (half the members are elected each two years), which assures each legislative session will have some mixture of experience and freshness. Some critics oppose this overlapping and argue that each election ought to provide the opportunity to replace every public official. In practice, the lengthening (and staggering) of terms is the trend nowadays.

Sessions—The frequency and duration of legislative sessions is another organizational question that eludes easy answer. At one time, annual legislative sessions were common; but public disenchantment earlier in this century led to the curtailment of session frequency. In 1964 for example,

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31 of the state legislatures met biennially. In Nebraska, biennial sessions were the practice, both before and after the introduction of unicameralism. As state governmental responsibilities surged after WWII, it became a reform goal to re-establish annual sessions, and almost all states (42) now meet each year. Nebraska switched to annual sessions in 1971, but the reform was somewhat muted since a specific day limit (90 days in odd and 60 in even years) was built into the proposal. There also is a provision in the current system that allows the Legislature to extend itself beyond these limits in an emergency.³

The machinery for calling special sessions by the governor, or the Legislature, always has been present, and this device is increasingly being relied on to deal with fast-moving state problems, especially economic declines that cut into state revenues and jeopardize the balanced budget the constitution requires. In fact, duration records were set in 1985 and 1986, when two special sessions each year proved necessary; this contrasts with the period 1971-84, when only five special sessions were called.

Compensation—As session duration expands, the related question of full-time vs. part-time legislative service arises. Most state legislators are not paid a full-time salary; yet, with legislative service increasingly encompassing most of the year, justice alone seems to dictate something closer to a full-time salary. Conversely, if one believes that state legislators should restrict themselves to general policy-making, a task that could be completed in a few months each year, then infrequent and limited duration legislative sessions with commensurate compensation should prevail at the state level. Let us now turn to this specific question of salary for legislative service in Nebraska.

The precise level of legislative salaries in Nebraska has, more or less, become a tug of war between the legislators themselves and the voting public. Nebraska remains one of a few states that specifies a dollar salary (\$400 monthly) for legislators in the constitution; thus, any alteration of the figure must first be proposed by the Legislature, and then adopted by the voters. On eight occasions since 1972, the Legislature has proposed an increase, either directly or indirectly, and the voters rejected them all, often by margins which indicate there is no room for compromise. The voters seem to be saying that the current salary is sufficient, or that legislators invest too much time in the venture, or that economic conditions are such that savings should be practiced wherever possible. In the nearly 20 years since the last raise was approved (1968), Nebraska, compared with other states, has slipped to near the bottom of the list. A related but unexpected event occurred in 1984 when the Nebraska Supreme Court approved payment of a daily allowance for living and traveling purposes for legislators during legislative sessions. This alone nearly doubled the total compensation the average legislator receives, yet the salary remains unchanged. Proponents of the per diem allowance arrangement claim that equity requires it, or something similar, whereas opponents criticize it as an evasion of a constitutional ban on payments beyond salary and a modest (one round trip per session) travel reimbursement. The controversy is long standing in Nebraska over what represents an adequate salary for the state's legislators, and the clash of viewpoints seems nearly unresolvable.

The Election Process

The system for nominating and electing unicameral legislators has remained basically the same over the years.

Candidates are required to live in their district, be an eligible voter and file a declaration of candidacy, and pay a fee equivalent to 1 percent of the annual salary of the office they are seeking. The names of contenders are listed on the non-political (non-partisan) portion of the primary ballots—the partisan primary is held at the same time—and the top two contenders are nominated. They then meet in the general election, and on rare occasion are joined by independent petition candidates (identified as such on the ballot) who must collect citizen signatures to qualify for general election ballot status; if elected, the person serves a four-year term, and there is no limit on the number of terms that may be served. In the event of a vacancy (death, resignation, etc.) in the office, the governor is empowered to appoint a replacement who serves until the next general election. The non-partisan feature of the election system is described this way in the constitution: "Each member shall be nominated and elected in a non-partisan manner and without any indication on the ballot that he is affiliated with or endorsed by any political party or organization." Beyond this provision, no other laws elaborate on this unprecedented departure from all other state and national legislative elections. Finally, write-in votes for this (and other offices) are allowed, and occasionally this has resulted in a late-starting candidate being nominated (one occurred in 1984) or elected; always with the restriction that the person be otherwise eligible, and pay, after the fact, an amount equal to the filing fee charged to listed candidates.

Organizing the Chamber

Once the election has determined who the representatives are, legislators assemble and are officially seated. One of the first steps is the designation of chamber officers and leaders. The major officers are the president, the speaker and two other committee chairs. One of the committees is important in the organization of the internal structure of the Legislature (the Committee on Committees), and the other acts on a growing number of matters in behalf of the entire Legislature (Executive Board).

President—The lieutenant governor is the president, or presiding officer, of the Nebraska Legislature; the duties of the office include the recognition of senators during floor debate and serving as parliamentarian. Most states follow this tradition of having the second executive preside in the upper house; some states, however, have the lieutenant governor serve full time in the executive branch, and in a few states the position has been abolished altogether.

In Nebraska, a number of attempts have been made recently to allow the Legislature to select a presiding officer of its own choosing, but the constitutional provision directing the lieutenant governor to serve in that position remains intact despite the change in 1971, which sought to restructure and modernize the office. The overall effect then was mixed, because the voters inexplicably approved having the lieutenant governor teamed with the governor in the general election and assigned full-time executive duties, but they defeated, in the same election, a companion measure eliminating the legislative presiding provision. Recent lieutenant governors have responded to this predicament in different ways; most have presided over the Legislature; one did not, but none has been assigned full-time executive duties by the governors they were elected with.⁴

Thus, the office is in a transitional period and resolving the question of an executive or legislative role for the lieutenant governor will continue to be debated.

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Speaker—The office of speaker, the top legislative official in most state and national lower houses, suffered somewhat in Nebraska in the transition to unicameralism. Although never evidently as powerful as certain speakers in other states, the Nebraska speaker, prior to 1936, was the leader of the majority political party in the lower chamber. With the adoption of non-partisanship, the single strongest link between this officer and individual legislators was severed. But in recent years, the institutional needs of the body have evidently become greater and the office has been strengthened; it now commands at least medium levels of authority and influence. In a succession of steps the speaker, who is elected by all members, has been given responsibilities for: coordinating the committee system; preparation of the daily agenda setting the order for bills being considered on the floor; and expediting the flow of business in the chamber. 5

Added to these new formal powers is that of presiding in the absence of the lieutenant governor, and, finally, a longtime tradition of non-re-election of top legislative leaders has been breached by two recent occupants of the office. No speaker has an easy task of synchronizing the efforts of nearly 50 unaffiliated senators who tend to pursue individualistic goals, but increasingly it is the speaker's responsibility to achieve this goal, to the extent possible. 6

Legislative Council Executive Board—The board is somewhat of an administrative subcommittee of the entire Legislature and is empowered to act in behalf of the Legislature, especially when the full body is not in session, on a number of matters of a supervisory nature. A specific responsibility includes the administration of a personnel system for all professional and clerical staff, which in recent years has grown to about 300 employees during the session, and somewhat fewer in the period between sessions. The board also assigns the hundreds of bills each session to particular committees and has increasingly taken on substantive policy matters that do not fit neatly into the existing jurisdictional niches in the Legislature; two recent examples were the handling of the impeachment preliminaries involving the attorney general, and a review of the circumstances that led to the failure of a large state-regulated industrial bank. The board consists of two officers (chair and vice chair) elected by all members, and six regionally elected representatives, plus the speaker and chairman of the Appropriations Committee, who serve ex officio.

Committee on Committees—The remaining officer of the full Legislature is the chairperson of the Committee on Committees. This senator also is elected by the entire membership for the session, and the non-re-election custom has been observed by those in this post. The Committee on Committees consists of the chair and 12 regionally elected members and has the task of assigning individual members to particular standing committees. On balance, this committee is not any more influential now than it has been in the past, and it may be that its overall influence has slipped since at one time it made initial recommendations to the full Legislature on those gubernatorial appointees needing legislative approval or consent. This review now is done by the standing committee whose jurisdiction covers the area where the appointee will serve. And, until 1975, the Committee on Committees selected the chairs of the regular standing committees; now this decision is made by the entire body in an election system identical to that used for other legislative officers (speaker, etc.).

Standing Committees—The final organizational step each new Legislature takes is to set up the standing committee system. American legislatures have made a very heavy investment in the committee approach to meet the pressing need for narrowing the number of bills that stream onto the typical chamber floor. In theory, it would seem that every legislative proposal is entitled to a review of its appropriateness by the entire membership of the Legislature; in fact, this is not feasible given the time constraints and the volume of legislative business. The most frequent institutional device used by legislatures to separate the "wheat from the chaff" is the committee system, so a more extensive consideration of this process in the Nebraska Unicameral follows.

In a typical recent session, the Unicameral has commissioned about a dozen standing committees to consider the approximately 500-700 bills that have been introduced or carried over. These committees are delegated jurisdictional authority along functional/policy lines (agriculture, education, welfare, etc.), and those measures dealing within a committee's jurisdiction are assigned to it for preliminary review and disposition. Unicameral committees are similar in size (seven-nine seats), and each member typically serves on two committees, although a few serve on three, and those on Appropriations serve on just that committee given its unusually heavy workload (annual review of some 100 agency and department programs). Members request assignment(s) to particular committees to regional caucuses of the Committee on Committees and, depending on the match between vacancies and requests, individuals are accommodated to the extent possible. Each committee is structured on a regional pattern: Legislative districts are grouped in one of four regions (Omaha, northeast, southeast and west); each region is entitled to two seats on each committee; the member requests from each region need to be synchronized so that the geographical pattern can be maintained. To an extent this substitutes geography for partisanship in the non-partisan Nebraska Legislature, since other legislatures normally use political party ratios in the full chamber as the formula for distributing standing committee seats.

Consideration of Legislative Bills

Committee Consideration—Once the officers are elected and the committees constituted, the Unicameral turns to its prime task—the consideration of proposed laws. Since many bills are prepared ahead of time and are introduced at the onset of the session, the preliminary review of bills by the committees starts almost immediately. In a major concession to the general public, the rules of the Legislature require that all bills receive a public hearing, and that the hearing be preceded by media announcement as to date, time, place, etc. These checks on hastily considered legislation, as well as others, are built into the Unicameral's structure and rules. These restraints take a considerable toll on the time and resources of the members, but apparently it was felt that the sifting process, which occurs naturally in bicameral legislatures, needs to be grafted onto the unicameral process, and the public hearing mandate is a good example of this type of check.

In the early weeks of the session, half of the Legislature's time is devoted to these public hearings. Spokesmen from the executive departments and private interest groups, the bill's legislative sponsor, concerned legislators who do not serve on the committee considering the legislation, as well as individual citizens, are afforded the opportunity to present

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their views—pro or con—on what is being proposed. Once the testimony is completed on the first few bills, the committee goes into closed or executive session to deliberate the advisability of forwarding these proposals to the entire body.

At this stage, the rules allow for media representatives to attend and report on the discussion, viewpoints exchanged and votes that transpire; this is another procedural assurance that legislative business in the Unicameral is not decided by a few legislators in secret session.

During these executive sessions, the most crucial vote in the life of a bill occurs. Any proposal to advance a bill to the floor must attract majority support from the committee members. If a proposal cannot muster this level of support, or results in a tie vote, it remains somewhat suspended between life and death. In recent times, roughly half of all bills referred fail to advance out of committee. This demonstrates the wide influence of these standing committees—and experience shows that it is nearly impossible to reverse a negative (or tie) committee decision, even though the rules explicitly provide, if a member acts promptly, for a reconsideration vote on the floor of any negative committee decision.

Floor Action—With about 10-12 committees reporting favorably on about half of the bills they have considered, one can appreciate the challenge the speaker faces in maintaining an orderly flow of business. Added to this are the numerous procedures the Unicameral's rules impose on floor deliberations, again as a check on hasty action. Some of the checks are assurances for any senator (five minutes speaking time on any measure by any member); to the minority and/or opponents (minimum of seven days must elapse from introduction to final enactment); and, to those outside the Legislature (bills must be available in printed form at least one day before any vote to advance can be taken). When combined, the sheer volume of bills along with the procedural restraints, result in insufficient time for the systematic review of all the legislative business before the Unicameral. A number of attempts have been made, especially in recent years, to remedy this situation; some have proved unworkable (limit each senator to a set number of bill introductions); while others still are undergoing experimentation (allowing senators, committees and the speaker to designate a limited number of "priority" bills earmarked for floor consideration ahead of other committee-approved bills).

Gubernatorial Action and Legislative Veto Overrides—Measures that clear the Legislature in three different floor votes, with at least majority support, then are presented to the governor for signature, rejection (veto) or acquiescence (merely allowing a bill to become law without gubernatorial affirmation). An executive veto is one of the most contentious acts a governor can take as far as the Legislature is concerned; thus, governors tend to wield this power with both caution and skill. Even though the Legislature legally has the last word in that it can override gubernatorial vetoes, the extraordinary majority vote requirement (60 percent) is difficult to achieve, and especially after the governor has singled out a legislative enactment for partial disapproval or full rejection. Fewer than 5 percent of the measures that clear the typical state legislature (and Nebraska is close to typical) are vetoed by the governor, and the legislative overrides occur at rates only slightly higher than this. Again, the politically charged atmosphere in which executive vetoes and legislative overrides occur is often

counterproductive; instead these officials compromise in a "give and take" way in Nebraska and other states nowadays.

Popular Action/Reaction—Finally, legislative enactments also can be slowed down, sidetracked and perhaps reversed by the general public. Nebraska is one of about half of the states that allow the citizenry to legally "second guess" the Legislature on the laws enacted. The device is the referendum, one of three direct democracy (recall and initiative are the others) procedures adopted around the turn of the century in response to persistent claims that legislative assemblies were unresponsive, if not corrupt. Reformers at the time urged the adoption of direct tools to bypass any tainted or unresponsive legislatures. Nebraska took this step with passage (by an astonishing 90 percent popular margin) of a constitutional amendment in 1912, and, on occasion since then, disgruntled citizens have collected sufficient numbers of signatures (5 percent of the total vote cast for governor in the preceding general election) to require the law be held to an approval vote of the citizenry. If double that number were to sign, the law is suspended until the popular verdict is rendered. These requirements have been met 14 times over the years, and in eight of the instances the voters rejected the legislative enactment.

Laws in Nebraska and some other states can be both initiated and approved by the citizenry, thus bypassing completely the Legislature, but with 7 percent signature requirements. Here, though, the record in Nebraska is less supportive of the device, because in only one of the 10 times the legislative initiative has been activated have the voters sided with the citizen petitioners. This, then, completes the description of the legislative process as it applies to the non-partisan Nebraska Unicameral. Let us now shift to an evaluation of the Nebraska legislative operation; this will be a more challenging task: a generally acceptable system of evaluation has as yet not been covered or agreed to by those who observe and assess governmental performance.

Evaluation and Recent Changes in the Unicameral

The ultimate test of any innovative political reform is whether it can meet the needs and expectations of the individuals and groups that interact with it as they pursue their particular political goals and objectives. The mere survival of Nebraska's Unicameral these past 50 years is a solid indication that the experiment has passed this test. Actually, very few reform proposals are able to make their way through the rigors of legislative enactment, popular approval, and then be capable of being put into successful operation. The Unicameral has clearly achieved a high level of general support and it has done so in a handsome fashion. There is virtually no current opposition to it, in the sense that no critics are seeking to have it replaced with the earlier bicameral arrangement. Instead, support for the Unicameral runs broadly through all elements of the polity: participants, practitioners, observers and the general public. It is surprising that an institutional change of this magnitude could so quickly be absorbed into the political culture of a state. Unicameralism has solidly established itself in Nebraska's political system.

A portion of this broad support for the Nebraska Unicameral can be traced to periodic updating, after review and assessment, of certain of its features; these reviews can be, and are, done either piecemeal in the Legislature, or systematically by groups or individuals outside the Legislature. We will begin with the overall or comprehensive attempts that have been made to update the Unicameral.

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The most systematic assessment of state legislative effectiveness was conducted in the late 1960s by a national citizens group committed to strengthening all state legislatures. For the first time, each of the 50 state legislatures was examined, first hand, on the quality of its structure, procedures and practices. Then the states were ranked on the basis of these tangible indicators of legislative potential. To the evaluators, an effective legislature would be one that was small in size, simple in organization, open to public involvement, independent of executive officials and private group interests, equipped with modern facilities and resources, stable in membership and not unduly fettered with constitutional limits and restraints. When the study results were made public, Nebraska's Legislature was ranked ninth from the top for the entire country. More importantly, nearly all the states ranked higher than Nebraska were highly industrialized and had large populations. The ranking was, and is, a testimonial to the simplicity of structure and organization that unicameralism has brought to the legislative task in Nebraska. Apparently legislative proceedings in many states are conducted under conditions that complicate rather than facilitate public understanding and accountability. The evaluators did not find this to be the case in Nebraska, and much of their satisfaction is traceable to the unicameral system, which cuts down on structural duplication and overlapping, as well as organizational complexity. The high rating did not exempt Nebraska from all criticism, and some recommendations for improvement the citizens group made were similar to those made earlier by in-state reformers and critics.

Probably the most persistent criticism levied by both insiders and outsiders against the Nebraska Legislature is its non-partisan feature—which, again, originally was added to the unicameral proposal to win and keep Sen. Norris' support. The most fervent proponents of a return to partisanship in the election, organization and operation of the Unicameral have been the political party organizational leaders in Nebraska. These leaders receive occasional support from other quarters, including the citizen evaluators referred to above: Proponents are persuaded that parties, on balance, bring a measure of discipline to individual legislators, as well as general guidance to the electorate during political campaigns. As many as 15 attempts, some halfhearted, some concerted, have been made over the years to re-establish partisanship; the last such effort was in 1985. For a time, partisanship was promoted mostly by the majority party in Nebraska—the Republican—but in more recent years some Democratic leaders have assumed a similar position. The easiest way to achieve this goal, an amendment proposed by the Legislature, has been the strategy most often used, but after being spurned so many times by the legislators, party leaders twice have pursued the initiative petition route, but they were unable to collect the thousands of signatures necessary to achieve ballot listing. Although most legislators either are opposed to, or ambivalent about, a return to partisanship, bills on a couple of occasions came close to achieving the necessary level of legislative support (three-fifths) for proposing a constitutional amendment.

Since nearly all recent legislators have been nominal members of the major parties in the state—the number of sitting senators registered non-political (Independent) never has been more than two in the years since 1968—and a few are active in party affairs, one must conclude that, although cross-pressured, most legislators are satisfied with or prefer

the existing non-partisan feature. The public, for the most part, seems uninvolved with the non-partisan/partisan issue. On the one hand, they too overwhelmingly enroll in one of the parties when they register to vote—only 7 percent opt for the non-political/Independent choice—and seemingly agree with their leaders on the advisability of returning to a partisan system. Yet, the petition drive to accomplish this failed to get enough citizen signatures, and a number of widely scattered public opinion polls indicate that only about one quarter (slowly increasing) of the populace favors a return to partisanship in the Legislature. Thus, the importance of, and reaction to, the issue varies considerably among the segments of the political system: Both parties' leaders oppose non-partisanship; the bulk of the public is supportive of it, while the legislators gravitate between these two poles, but are tipped toward the public's position.

Those from outside the state, who out of interest or intrigue study the Unicameral's operation and/or come to observe it in action, seem surprised or perplexed when they learn of the non-partisan feature, and some wrongly assume that unicameralism and non-partisanship are one and the same. This, of course, is not true; Minnesota, for example, had a statutory non-partisan bicameral legislature for about 50 years, but in the early 1970s its legislature switched back to a partisan bicameral arrangement.⁷

In Nebraska, it seems safe to say that the partisan/non-partisan issue will not recede into the background, if only because the proponents of partisanship periodically rekindle the controversy.

A more general criticism of the Nebraska Legislature is that the body increasingly is unable to handle the workload of the chamber in an effective and efficient manner. And despite the high capability rating the Legislature earlier received, the number and volume of complaints about the Unicameral's inefficiency are at least steady, and probably growing. A simple response to this criticism is that, as society becomes more industrialized, technical and complex, the issues confronting the Legislature also will increase in number and complexity. Still, legislatures, if they are to hold their own with rivals and competitors, must be able to satisfy the public's expectations and retain its support. This need for institutional efficiency falls generally on the members, but more specifically on the legislative leaders, such as the speaker, who have been given the responsibility for directing legislative operations. In the Nebraska Legislature, however, the leaders lack command powers, and must rely, for the most part, on skills of persuasion to keep legislative business running smoothly. In view of all of this, it is not surprising that numerous proposals have been considered for improving the legislative process in the Unicameral, but only a few have proven to be adoptable, and some of the major ones in the adopted category now will be recounted.

Facilities and Staff—One of the most tangible changes that has taken place in the Unicameral has been the acquisition of private office facilities for each senator, and they have given themselves, through the Executive Board, the authority to hire their own office staff.⁸

Resource support such as this was unnecessary prior to the 1970s, since the members during a two-year cycle were only at the Legislature for six to eight months, and then gone for as much as the next year and a half. With the introduction of annual sessions, and a rapid increase in the use of intersession study committees, senators are now much more likely to be in the Capitol or on call for interim responsibilities.

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Senators first were allowed to hire a clerical aide, and more recently, a research aide. Some senators do not avail themselves of their full quota of staff, or they share staffers with other senators, or they reduce the complement once the regular session ends.

From the start, the Unicameral has had a variety of professional research and technical staffs available for such tasks as bill drafting, record maintenance, etc. These staffs are arranged in divisional units and their size has remained relatively the same over the years; these divisional staff have been joined by some newer staff personnel—the ombudsman, who reviews citizen complaints; and the fiscal analyst staff, which is a resource arm for the Appropriations Committee. Between the divisional and individual senator staffs is an intermediate level of staff assigned to the standing committees. Committees only recently have acquired permanent staff; each committee has at least two staffers, (one clerical, one legal), and some of the more active or important committees (Judiciary, for example) have more than this. This expansion of professional staff is adjudged, by reformers and legislators alike, to be necessary if a legislature is to be independently informed, but recent controversy over staff cost vs. value could mean that the future will see a leveling off, or perhaps even a reversal, in the rate of its growth.

Socioeconomic Background of Senators—For some time, the vast majority of Nebraska senators came from either farming/ranching or business/commercial occupations and were middle-aged or older men. In recent times, a steady change in occupational, age and gender characteristics of legislators has been taking place. While teachers and blue-collar workers, for example, are now present in small numbers, they are not yet commonplace in the Nebraska Legislature. Still, there is a much wider variety of occupational backgrounds represented than was the case say a generation ago. Recent sessions typically have had a sprinkling (three to six) of members in their 30s, or even 20s, and this has reduced the average age of senators to just below 50.

And, finally, the number of female senators has grown, but in spurts, not steadily. In the early 1970s, there was but a single woman in the chamber; by 1987 there were nine, and the districts they represent are about equally distributed across the state. No reform group has ever argued that a Legislature must absolutely duplicate the socioeconomic traits present in the political community it represents, but it stands to reason that a body with broad occupational backgrounds and orientations will be better prepared to deal with the challenges and decisions it faces than one that is narrowly composed.

Committees—A number of improvements and changes in the standing committee structure and process have occurred in recent years in the Unicameral. Given the growing influence of these bodies, it is well that monitoring of their performance has resulted in certain changes to make them more effective. One such step came in 1975, when the system for selecting committee chairs was changed to election on the floor from selection by the Committee on Committees. Whatever the intention of the proponents of this change, and it is somewhat unclear, the practical effect has been to strengthen the committee system because it has led to greater member continuity and higher stability in these bodies. Apparently, prospective committee chairs, in appealing to their colleagues for support under the current election system, need to be able to point to at least minimal previous experience on the committee they seek to lead; and a similar pattern is evident for incumbent committee chairs who increasingly are

re-elected, often uncontested. If an opening occurs, it is nearly always someone on the committee who "moves up." In earlier times, carry-over of committee leadership was much less likely to occur since both committee chairs and members moved around, at much higher rates, in the committee system. Now most members stay on their committees for longer periods. This increased stability of committee membership has not resulted in any increase in stability in the entire chamber because turnover in the Unicameral has been and remains high. Typically, 40 percent of the senators are in their first term and only a handful stay more than three terms; a rate of turnover this high is adjudged by evaluators to be excessive.

Another example of increased committee status was the rule change (1975) that further enhances committees by reinforcing their decisions on bills they have rejected; earlier, any 25 members could overrule a committee decision such as this, but now it takes 30 votes. The effect of this change, as evidenced by the fact that committees are overruled only once or twice a session, yet they defeat or hold hundreds of bills each session, has been to assure committees that their assessment of a bill's appropriateness is now more likely to be final.

Lastly, there has been a recent reshuffling of about half the committees in regard to their assigned area of policy jurisdiction. For 30 years, the existing committee structure had gone essentially unchanged, although two committees (Urban Affairs; Constitutional Revision) were added in recent years. In 1986, however, all committee workloads were analyzed and, in the end, one committee was abolished (Constitutional Revision), another was split (Public Works into Transportation and Natural Resources), two others were retitled (Health and Human Services; General Affairs), and most other committees were adjusted in jurisdiction. The Legislature's goal was to even out the committees' workloads as they review the dozens of bills they are assigned each session. Periodic restructuring such as this, although always controversial since it reallocates potential influence within the body, is essential if the legislative task is to be accomplished with efficiency and effectiveness. State programs are ever-changing and these legislative policy-making bodies (committees) must similarly change lest they become irrelevant to citizen needs.

Unicameralism in the Years Ahead

Other States—Given the fact that no other state actually has adopted the unicameral system in the years since its adoption in Nebraska, one ought to be doubtful about the prospects changing for the better. Yet widespread interest, mixed with curiosity, results in numerous inquiries about unicameralism by citizens, civic leaders, and sitting politicians from other states.⁹

The closest the reform recently has come to being adopted elsewhere was in Montana, where a constitutional amendment garnered 45 percent approval, and in Alaska where a favorable advisory vote of the populace on the unicameral approach occurred, but when the Legislature subsequently reviewed a tangible proposal the measure became stalemated. Unicameral proponents in California, Michigan, Florida and Hawaii have been more than curious—attempts by civic groups or individual leaders to implement the reform have resulted in amendments being

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considered in the legislature, in constitutional conventions, or as popular initiatives. Not one has, as yet, had enough support to make it to a popular vote. The greatest drawback often is the one that frustrated the original unicameral proponents in Nebraska: The Legislature itself is the prescribed starting place for constitutional amendments; however, legislators are disinclined to approve proposals that would alter substantially the body in which they serve. Unicameralism is much more likely to be pursued, and perhaps adopted, in those 14 states that allow the citizenry to initiate constitutional amendments. Proponents in these states can ignore the Legislature and appear directly to the populace—a more difficult task to undertake given the petition requirements, but one that should find a more responsive audience—the concerned citizenry.

If the picture seems dim, perhaps bleak, for unicameralism in other states, the reverse is true in Nebraska. One analyst noted that unicameralism here now has tradition—a factor that earlier worked heavily against it—on its side and that this nearly assures it of continued support in the state of its origin. Public attitudes in Nebraska, to the extent they are expressed in opinion polls, support this contention. At the most, about one quarter of Nebraska poll respondents express negative attitudes regarding the Unicameral as an institution. This bodes well for the days ahead and even if one assumes only satisfactory performance on the part of future legislatures, its continuation seems solidly assured. The challenge more likely to face Nebraskans is that the periodic reassessments so necessary to keep political institutions responsive to changing public needs and demands, will not be pursued with the same persistence and vigor that the original unicameral proponents displayed; they maintained the struggle from 1913, the year of their first defeat, until 1934, the year of their stunning victory.

Hopefully, this abbreviated account of the first 50 years of the Nebraska Unicameral's operation can serve as both an admonition and an incentive to reform-minded groups and individuals: Be aware of proposed political innovations, and if they prove sound enough to become implemented, remain open to their need for continued evaluation and possible updating. This attitude in the Nebraska citizenry, past and present, has allowed the Unicameral to move from a novel idea to a widely successful political institution in Nebraska.

End Notes

Vermont retained its unicameral state legislature from statehood (1791) until the 1830s; earlier, three colonies (Delaware, Georgia and Pennsylvania) carried over, for brief periods after independence, their single-house legislatures.

Unicameral measures that were officially proposed to the voters but failed of adoption occurred in Arizona, Oklahoma and Oregon in the early 1900s. In a number of other states the reform was considered but rejected by either the state legislature or at state constitutional conventions or both.

The Legislature on one occasion did technically extend itself for a single day in order to facilitate final enactment of some legislation adjudged to have flaws that needed correction.

Nebraska governors have not assigned "their" lieutenant governors full-time executive duties for a number of reasons; an important one is that they are nominated separately in the primaries; this does not ensure compatibility for the "team" that is forged for the general election.

The procedure for electing officers in the Legislature reflects the non-partisan feature. Any member may run; nominations require no second; balloting is secret; a simple majority is required for election; if no one achieves a majority on the first ballot, the one with the fewest votes is eliminated and balloting continues.

Any ruling by a speaker can be overturned by the members; however, the majority required to do this is high (three-fifths). Thus, the speaker has considerable potential to set and maintain the direction of business on the floor.

Apparently there was considerable unofficial partisanship in Minnesota legislative elections and operations during the period of official non-partisanship. The scheme worked to the advantage of the Republicans and once the Democrats were in control of both the legislative and executive branches, they reinstated a partisan system. See G. Theodore Mitau, *Politics in Minnesota*, University of Minnesota Press, 1990.

Office staff for individual legislators is no longer a rarity in state legislatures, but it is still uncommon; about 10 states allow all legislators to have personal staff. The leaders—floor, party and committee—in all states have had for some time clerical and/or research staff assistance.

One thing that helps to keep unicameralism on the reform agenda has been its advocacy by a national citizens forum on self-government (National Municipal League). The NML has been steadfast in its support through the years and recommends it in its study guide (*Model State Constitution*), a document prepared for civic groups, constitutional convention delegates and others interested in improving governmental institutions. Given political realities, the Model also provides for a bicameral "alternative."

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Fifty Years Without a Conference Committee

Nebraska embarked on a legislative experiment in 1937 that has become a tradition there after half a century, but so far no other state has copied it.

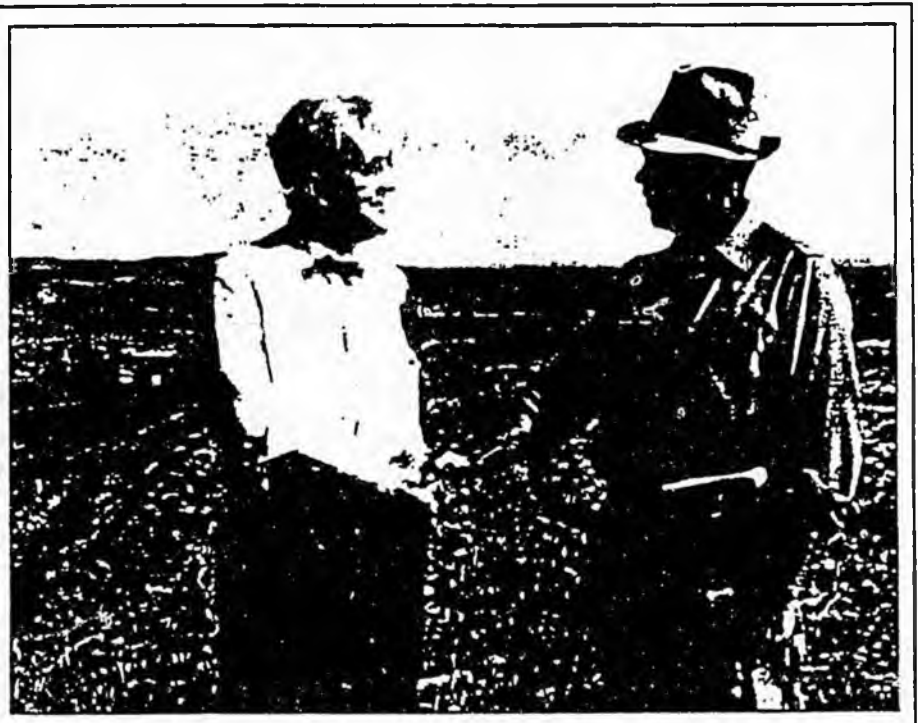
By Pat Wunnicke

Times were tough in Nebraska in 1934, drought and Depression taking their toll, the Legislature doing nothing effective about either. An appealing aspect of one proposal for the November ballot was the promise that a new one-house legislature would be cheaper to operate than two, and might be more effective.

The idea of a unicameral legislature, like the idea of non-partisanship and citizen initiative, grew out of the Progressive movement at the turn of the century, and had been kicking around in Nebraska as well as other states in the Midwest and northern plains for a good many years. In fact, the proposal had been defeated by only one vote in the Nebraska constitutional convention of 1920, after being repeatedly quashed early in the century by legislators perhaps understandably reluctant to sacrifice their own seats.

But now the proposal had the backing of beloved George Norris, long-time U.S. senator and Nebraska hero. First elected to the U.S. House of Representatives in 1902, Norris spent 40 illustrious years in the Congress before he died at 83. The summer and fall of 1934, however, he spent traveling the dusty back roads of Nebraska — "wore out two sets of tires and two windshields," recalled his widow three decades later — speaking at every opportunity on the evils of the bicameral system ("illogical and clumsy"), extoll-

Photos: Nebraska State Historical Society



U.S. Senator George Norris spent the summer of 1934 traveling Nebraska, expounding on the evils of the bicameral system and extolling the virtues of unicameralism.

ing the virtues of unicameralism and pleading with the voters to support it.

A one-house legislative body was not unheard of. It had been adopted, in various guises, by almost all cities and counties, and in modified form was (and still is) a feature of Canadian provincial governments. During Revolutionary times, Georgia, Pennsylvania and Vermont experimented with a type of unicameralism, but abandoned it early, Georgia and Pennsylvania before the turn of the 19th century, and Vermont in 1836. For a century thereafter, the two-house state

legislature prevailed throughout the United States. (Among the territories, Guam and the Virgin Islands use the unicameral system.)

But years of legislative experience had convinced Norris that the conference committee, inevitable with two bodies, was an unmitigated evil, distorting or even thwarting legislation that had been approved by a majority. In addition, he disapprovingly traced the two-house method of organization back to the English class system that produced the House of Commons and the House of Lords. He said, "... in

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this country we have no such classes and the constitutions of our various states are built upon the idea that there is but one class. If this be true, there is no sense or reason in having the same thing done twice, especially if it is to be done by two bodies of men elected in the same way and having the same jurisdiction."

Norris was ahead of his time. His comments were on firmer ground 30 years later, after the reapportionment decisions did ensure that both bodies of a legislature were "elected in the same way and (have) the same jurisdiction."

The question of one house or two and the merits of each had been discussed at length 150 years before. Madison wrote worriedly (in *The Federalist*, #38) of the Confederation's "Congress, a single body of men, . . . the sole depository of all the federal powers." Salvaging the Constitutional Convention in 1787, the Great Compromise setting up a two-house legislature put to rest the fears of the delegates from the smaller states that their interests would be overlooked by a national legislature dominated by representatives from the large states.

Although low on the list of national priorities, unicameralism is still being debated. At an Eagleton Institute of Politics conference for state legislators in the 1960s, the late Jess Unruh, fabled California politician and sometime speaker of the

California Assembly, called unicameralism "the wave of the future," asking rhetorically, "Does any corporation have two boards of directors?" He called the two-house system "a costly and inefficient anachronism" and said, "I do not believe that increased salaries, new facilities and professional staff will be more than temporary palliatives for the ills that it is hoped they will cure. These reforms in themselves only make a more efficient horse and buggy. I take little comfort from the fact that legislatures can be the fastest horse and buggy in the jet age."

Unruh's disciples have kept the discussion going in California, but it has yet to make its way to the ballot box. In recent years, several other states have looked at the unicameral option with more than curiosity: Hawaii and Mississippi have considered it in constitutional conventions, and petition efforts were made but failed to gain enough signatures in Michigan and Montana. Alaska voters, invited by the Legislature in 1976 to cast an "advisory vote" on whether an amendment to the state constitution should be offered future voters, obliged with 58,782 yeas and 55,204 nays, but the following years' sessions ignored the advice.

Minnesota Speaker David Jennings proposed a unicameral setup in 1985 as a way of dealing with conference-committee problems, but the Minnesota Citizens League disagreed. Its report, "Power to the Process," published in September 1985, found "no compelling evidence that the unicameral structure is superior to the two-house model." The report, while admitting that the two-house arrangement requires additional work and extra staff, suggests that it brings the advantages of different ideas and policy approaches to the policymaking process, and introduces "a major check into the legislative process."

However, a report in the University of Minnesota's Humphrey Institute *Future of the State Legislature* series, published in March 1986, takes a more positive view of the unicameral option, although it stops short of explicitly advocating the change.

Robert Sittig, professor of political science at the University of Nebraska (Lincoln), and author of *The Nebraska Unicameral After Fifty Years*, believes that only in the 14 states with the initiative has the system much of a chance. He points out that "the greatest

drawback often is the one which frustrated the original unicameral proponents in Nebraska: The legislature itself is the prescribed starting place for constitutional amendments; however, legislators are disinclined to approve proposals which would alter substantially the body in which they serve."

Norris and his cohorts in 1934 used that powerful new tool, the initiative, which had been adopted by Nebraska 22 years before. He and John P. Senning, professor of political science at the University of Nebraska, drafted the language of the initiative that was to amend the state constitution that fall. It would save time, talk and money, they said. (It did save money. The cost of the first unicameral session in 1937 was about half that of the last bicameral in 1935.)

The battle might have been easier if Norris had not insisted that the members of the new body be nominated and elected on a non-partisan ticket. That feature earned the proposal the enthusiastic opposition of both political parties and most of the state's newspapers. Even among ardent supporters of the unicameral idea, feelings were, and still are, mixed about the question of allowing partisan representation. Nevertheless, nearly twice the needed number of voter signatures were collected that summer, and with the issue on the ballot, the proposal was handily approved in November of 1934 by a vote of 286,086 to 193,152.

Senator Jerome Warner, who has served in the Nebraska "Unicam" for 25 years, as speaker and most recently as chair of the Appropriations Committee, says that "non-partisan-



Norris, stumping for a unicameral legislature, thought two houses 'illogical.'



The beloved senator used his influence to persuade thousands of voters.

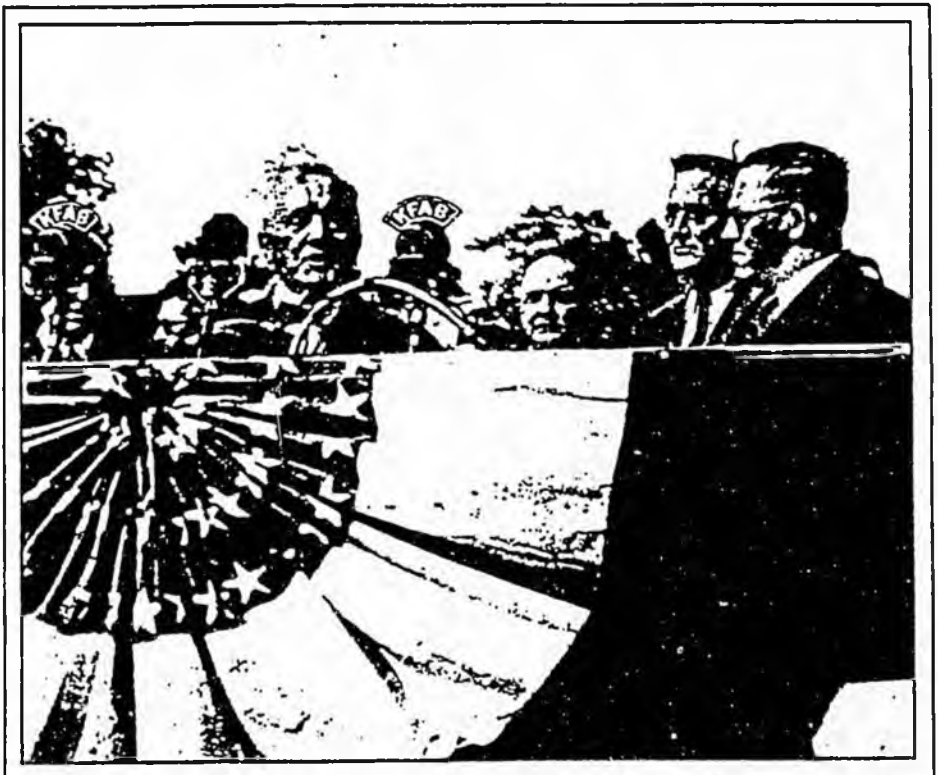
ship wasn't all that strange" to Nebraskans, who had a long history of support for the idea. A Non-Partisan League was active in the state at the turn of the century, and a number of offices at the local level were stripped of party labels. Historically, says Warner, as in many other states there was "a far stronger geographic division in alignments than partisan division, even when it was a two-house legisla-

ture. It was whether you were north or south of the Platte [River]."

Commenting on the fateful 1934 election, Warner notes that there were two other proposals on the ballot with the initiative, one to allow pari-mutuel horse racing and another to repeal Prohibition. "The advertising was to vote yes on all three," says Warner, "and there are those who think that may have been a factor."

But it may have been simply the force of George Norris' personality that got the thing passed 3-2 in the face of powerful opposition. Bob Sittig thinks so. "It was George Norris. He deserves nearly all the credit for pushing it over the top, after people had been working on it for 20 years." After it passed, Norris went back to Washington and Professor Senning, soon to be officially named consultant to the Legislature on the unicameral, began drawing redistricting maps. The last bicameral legislature in 1935 looked over, and quarreled over, nearly three dozen different maps before finally passing one on the last night of the session.

The amendment called for between 30 and 50 members, to be designated senators; the 1935 session settled on 43; there are now 49. And it provided that "the aggregate salaries of all the members shall be \$37,500 per annum, divided equally among the members..." Considering that sessions



Senator Norris and President Franklin Delano Roosevelt at a campaign stop, 1936.



Norris and his friend, University of Nebraska Professor John P. Senning (above), together drafted the language of the unicameral initiative. Later, Senning was named official consultant to the Legislature on the unicameral. Left, Norris at home in McCook after 1944.



were biennial, and lasted for only about 100 days, that wasn't too bad a wage with bread at a dime a loaf.

The voters of Nebraska thought it was plenty for 23 years. In 1960 they finally approved a raise to \$2,400 a year per member. Today it is \$4,800 plus per diem, for annual sessions that run 90 days in odd-numbered years, or in the even numbered, unless extended by a four-fifths vote of the members. Nebraska is one of the few states whose constitution specifies a salary amount for legislators.

Three-quarters of the members of that first unicameral in 1937 were the same partisans, now under a non-partisan banner, who had previously served in the traditional legislature. Jerome Warner's father, Charles J. Warner, was the first speaker under the new regime that began Jan. 5, 1937. First elected to the statehouse in 1900, the year after he graduated from the University of Nebraska, he spent 26

years, off and on, as a member. "We're a political family," says the younger Warner, who adds that, although an active Republican, he wouldn't change the Nebraska system. He said that the lack of party requirements leaves members free to oppose or support both legislation and people for leadership positions, and he believes that it is an advantage, not a detriment. "Like any other legislator," he confesses, "I suppose I like the system because I'm used to it."

Who does lead in a non-partisan body? With whom does a governor, or a lobbyist, deal? Jerome Warner says it's a "one-on-one" situation. Professor Sittig says, "If there's one thing I'm


critical of: it is the rather ill-defined areas of authority that result from non-partisanship. Power seems to drift toward the speaker, and though there has been some strengthening of the standing committees, basically it's a fairly unstructured, collegial sort of operation." Collegial wasn't what Nebraska Governor Roy Cochran called it more than 40 years ago. He said, "There is no formal leadership. It's just like a Mexican army, all generals."

"The lobbyists like it," said Sittig, "and that makes me a little uneasy." He went on to say that the Unicam, as it has come to be called, gets good media coverage, and since fully a third to a half of the first half of the session is devoted to open committee hearings, any citizen who's interested can participate.

Although there are rural-urban and geographic splits without partisanship, "there's a lot less acrimony and animosity," says Dick Hargesheimer, director of the Nebraska Legislative Research Division. "With only 49 members, they get to know each other pretty well." He contends that although lobbyists have fewer people to deal with, without formal political caucuses and with fluid coalitions that change frequently, "it's harder for them to get a handle on it." Interestingly, Minnesota had a non-partisan bicameral legislature up through the late 1960s, but that is another story.

Non-partisanship is only a feature of the Nebraska system, not its essence. Says one-time Wyoming treasurer Shirley Wittler, a Nebraska native and former president of the Lincoln League of Wyoming Voters, "I grew up with the [one-house] system, so it didn't strike me as unusual until I started looking at [other states]. For the citizen, it's much easier to track legislation, and the processes are methodical and unhurried. There are open sessions every morning, and committee hearings in the afternoon, with times and subjects published in advance."

It has also been suggested that access to a single chamber is easier for the unsophisticated lay person, while the sophisticated find it impossible to play the kinds of games between the bodies that is possible in the other 49 states.

But if Nebraska's legislative system, now an established tradition there, is the wave of the future for other states, it's a mighty slow-moving wave. 

Source: NEBRASKA HISTORY, vol.59, no.1,
Spring 1978

INNOVATION IN STATE GOVERNMENT: ORIGIN AND DEVELOPMENT OF THE NEBRASKA NONPARTISAN UNICAMERAL LEGISLATURE

By Adam C. Breckenridge

One of the most obvious features of government in the United States is the separation of powers among the legislative, executive and judicial branches. Among them, the legislative branch represents a paradox in our political arrangement. It is the branch that presumably is the closest to the people—legislators generally represent fewer people and are more accessible to them than either executives or judges, and citizen influence of legislators is generally considered more legitimate. But it is the most continually criticized. Indeed, legislatures come under heavy attack for being inept, unresponsive to the needs of the people, and subject to partisan special interests. And, notwithstanding concerted efforts to do their business in public view, critics abound who are positive that decisions are made elsewhere.

These allegations, true or not, throughout our history have encouraged efforts to reform the legislative process. Occasionally, these endeavors come from the legislature itself; more often, however, they are generated by outside forces. One such reform—perhaps one of the more significant in the recent history of the United States—was the establishment in 1934 of a one-house (unicameral) nonpartisan legislature in Nebraska.¹ The origin and development of this change is important for understanding the one-house legislature, its operation, and its contemporary role.

The Constitution of Nebraska provides that "laws may be enacted and constitutional amendments adopted by the people independently of the Legislature. The power may be invoked by petition wherein the proposed measure shall be set forth at length. . .and if the petition be for the amendment of the Constitution, the petition therefore shall be signed by ten percent of the electors."²

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These allegations, true or not, throughout our history have encouraged efforts to reform the legislative process. Occasionally, these endeavors come from the legislature itself; more often, however, they are generated by outside forces. One such reform—perhaps one of the more significant in the recent history of the United States—was the establishment in 1934 of a one-house (unicameral) nonpartisan legislature in Nebraska.¹ The origin and development of this change is important for understanding the one-house legislature, its operation, and its contemporary role.

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Perhaps because of a very narrow defeat in the convention, advocates of the plan were determined to pursue it. A very influential ally joined in support. He was US Senator George W. Norris of Nebraska.

Norris had served earlier in the US House of Representatives and had been a Senator since 1912. Although he was a

legislative support for a legislature consisting of a "House of Representatives only." It reached final reading, but failed to receive the required majority.¹⁰

In little more than a decade after his *New York Times* article, Senator Norris was touring the state of Nebraska in support of a unicameral legislature. He gave it his unlimited endorsement. In

Oklahoma, and Arizona, but the proposals were all defeated.⁵
In Nebraska the 1913 session of the Legislature created a joint committee to consider legislative reforms. In its report to the 1915 session there was included for possible future action a

stated, than for one house to pass a bill and have members who voted for it to urge the other house to defeat it, or for a small group in one house to hold up legislation from the other house until they extort from it what they demand. The report also noted

Source: NEBRASKA HISTORY, Vol.45, No.1,
December 1964

GEORGE W. NORRIS: THE UNICAMERAL
LEGISLATURE AND THE
PROGRESSIVE IDEAL

ROBERT F. WESSER

RECENTLY, historians have undertaken a re-evaluation of the decade of the 1920's in America. They have sought to emphasize the period's relationship to the progressive movement, on the one hand, and the New Deal, on the other hand, thus shifting the historical focus of the "Jazz Age" from its bizarre qualities to its continuities with past and future developments. Often cited as illustrating the bridge between early twentieth-century progressivism and New Deal liberalism is the career of Nebraska's renowned United State Senator George W. Norris, and specifically Norris's lonely fight to "save" federal government properties at Muscle Shoals, Alabama, from the outstretched hands of private power companies.¹ Within this context, the Muscle Shoals controversy resolved itself into a debate over public water power policy, conservation, and federal-state relationships, and throughout the decade, served as a haunting reminder of the languishing spirit of progressivism. There

¹ Perhaps the best statement of Norris' role as a representative of the Progressive tradition in the 1920's is Arthur S. Link, *The American Epoch: A History of the United States Since the 1890's* (New York, 1955), Ch. 12, especially pp. 268-272. See also Arthur M. Schlesinger, Jr., *The Age of Roosevelt: The Crisis of the Old Order, 1919-1933* (Boston, 1957), pp. 117-124; William E. Leuchtenberg, *The Perils of Prosperity: 1914-1932* (Chicago, 1958), pp. 130, 138.

Professor Wesser is the Director of the American Studies Program at the State University of New York in Buffalo.

was another phase of Norris' work in these years — his efforts in behalf of establishing a unicameral legislature in Nebraska — which harked back to earlier twentieth-century reformism, its political and governmental ideals.

To the progressive mind, one of the chief wrongs in American life was the growth, in the latter nineteenth century, of the large corporation and the inevitable, if regrettable, consequences of the vast accumulations of capital. Men of wealth could and often did ally themselves with politicians in order to secure for their businesses legislative favors and preferred treatment. The progressive response to this phenomenon was simple and direct, calling for some form of societal control and regulation, particularly of private utilities engaged in the public service, and, simultaneously, for the re-establishment of political responsibility among governmental officials. In various ways, such responsibility was to be restored, each in turn rendering local, state and even federal officeholders more directly accountable to the people whom they presumably served. So there were the direct primary; the initiative, referendum, and recall; the short ballot; the direct election of senators; and others. Also in these years the idea of a unicameral legislature took hold in a number of states, though in no single instance was the change effected during the progressive era.

Senator Norris' own interest in reforming what to him was the "illogical" bicameral system went back well beyond the progressive period — to the 1880's, when as a young lawyer in Beaver City he had several opportunities to run for the Nebraska state legislature. However, the low pay of the lawmaker and the fact that legislative sessions coincided with his busiest legal season — both characteristic weaknesses of the conventional system he later argued — compelled him to refuse nominations.² It was not until 1923 that Norris, now with twenty years of Congressional experience behind him, publicly confessed his determina-

² George W. Norris, *Fighting Liberal: The Autobiography of George W. Norris* (New York, 1945), p. 345.

tion to reform "the machinery of government", as well as the law.³ Specifically, he mentioned the Nebraska legislature, and even expressed a desire to retire from national politics the next year in order to devote most of his time to the "great fight" that lay ahead. When, indeed, his avid supporters virtually compelled him to seek re-election to the Senate, Norris grieved over his inability, as he put it, "to follow my own inclinations in this matter."⁴ Often frustrated and despondent in these conservative years, the sensitive liberal resolved that before he died he would perform one outstanding service for his home state — "the replacement of the unwieldy and inefficient two-chamber Legislature by one compact body."⁵

With Norris the idea of a unicameral legislature became a passion, albeit a latent passion through the 1920's. Too busy with his determined battle to save Muscle Shoals, he scarcely had time for this, his other pet project. Strangely enough, the history of these two significant aspects of his career has striking parallels. In principle, they reflected different features of the progressive ideal. Moreover, just as Norris learned early in the Muscle Shoals imbroglio that the fruition of his dream for the Tennessee River Valley lay in the future, so he came to understand that the realization of his unicameral reform awaited a resurgence of liberalism. In the meantime, he sought to keep his idea alive by writing newspaper and magazine articles emphasizing the advantages of the one-house system over that "anachronism" — the bicameral system.

Norris' first literary endeavor in behalf of his reform, entitled "A Model State Legislature", appeared in 1923 in the *New York Times*.⁶ This article contained all of the basic arguments that were used over and over again right

³ *New York Times*, May 24, 1934.

⁴ Norris to Otto Mutz, February 10, 1924, George W. Norris MSS., Library of Congress.

⁵ *Newsweek*, IV (November 17, 1934), 10.

⁶ January 28, 1923, VIII, 12. For a later discussion, see Norris' "The One-House Legislature," *Annals of the American Academy of Political and Social Science*, CLXXXI (September, 1935), 50-58.

up to the successful conclusion of his campaign in 1934. Taking as his point of departure the progressive notion of re-establishing political responsibility among public servants, Norris candidly put forth the case for the unicameral legislature — proposing a small lawmaking body elected on a non-partisan basis in place of the large, unwieldy, often violently partisan conventional arrangement.

The Nebraska Senator in typical fashion began his discussion by citing criticism⁶ after criticism of the existing framework. He concentrated his attack upon the "un-democratic" conference committee which meets when bills passed in both houses vary in content. This process, Norris maintained, grants arbitrary power to the few men who are chosen to put legislation in final form. Making matters worse, he added, is the fact that this "third house", often meeting behind closed doors, is a haven for lobbyists who usually need to influence only two or three legislators. When, finally, the conference report reaches the separate houses, Norris went on, individual lawmakers find it difficult to express opposition to any specific provision that the bill in revised form contains. In turn, the conscientious citizen cannot properly evaluate the efforts of his representative. The end result is a travesty of the democratic process.⁷

The unicameral legislature, small in size, Norris continued, would be free of the evils characteristic of the two-house system. Conceding that in theory a larger body is supposed to be more representative of the citizenry, he argued that in practice each man loses his individual rights. Committees must determine procedure; by special rules there is a deprivation of the right to offer amendments; and there is less time for deliberation. Writing much later on the same thought, Norris asserted that professional lobbyists had told him that the easiest situation to handle was the large legislative body. Here only two or three leaders need be controlled, while in a small body "every

⁷ *New York Times*, January 28, 1923.

member has all the rights of every other member . . . and is much more difficult to control."⁸

The Senator's final proposal, and the one nearest his heart, was the election of representatives on a non-partisan basis. Since his later years as a Congressman, Norris had himself been free of blind party loyalty. To him, the Republican party was subject to the same influences that dominated the Democratic party; both "were machine controlled, and the Democratic and Republican machines [the Muscle Shoals fight had taught him] . . . worked in perfect harmony and brotherly love."⁹ The removal of this stumbling block to good legislation Norris thus attached to his unicameral reform.

Hollow as these proposals may have sounded in the Harding-Coolidge era, the unicameral idea was an old one in America. The first constitutions of Pennsylvania, Vermont and Georgia provided for single-house legislatures, although in each case a board of censors was established and in effect operated as a second house. Of these states, Vermont kept the arrangement longest — until 1836. Approximately seventy years elapsed before the idea again took hold, when during the progressive period, Governors of six different states recommended to constitutional conventions revision along unicameral lines. In New York and Ohio the reform was considered but not acted upon; in Oregon, Oklahoma and Arizona the people themselves turned down efforts to institute the single deliberative assembly. A joint legislative committee of Nebraska studied the possibility and filed a favorable report, but little was done until six years later, in 1919, when a motion before the constitutional convention providing for a unicameral body was defeated by a close vote.¹⁰

While one feature of the composite Norris plan had thus become familiar to Nebraskans, the foundation had been

⁸ Norris to John M. Paul, February 3, 1934, Norris MSS.

⁹ *Fighting Liberal*, p. 98.

¹⁰ *Time*, XXIX (January 11, 1937), 18-18; *Congressional Digest*, XVI (August-September, 1937), 197-224.

laid for another. Back in 1909, partisanship had been abolished in elections all the way from local boards of education to State Superintendent and in the judiciary from the lower courts to the supreme bench. Yet these moves were insignificant next to Norris' proposed governmental change, and the very radical nature of his program contributed to the ten-year delay in his campaign.

There were, of course, compelling reasons why to Senator Norris and to others 1933 loomed as a good year in which to launch the fight in Nebraska for the unicameral legislature. The depression itself bred much discontent with existing institutions, and once again Americans appeared willing to implement new and challenging ideas. Furthermore, the Democratic landslide of 1932 brought in its wake a Nebraska legislature sporting inexperienced lawmakers whose first efforts proved unimaginative and fruitless.¹¹ Finally, there was Senator Norris himself, now a towering figure not only in his home state but across the nation as well. The "fighting liberal's" brilliant record in Washington and the promise of further achievement gave him a measure of prestige and influence which few politicians can boast in their lifetime. Indeed, by the time the unicameral campaign was begun, Norris had lived down his reputation as a member of that "little group of willful men" who attempted to sabotage President Wilson's preparedness efforts in 1917. People had come to know the Senator as the man who had labored incessantly for the "farm bloc" throughout the 1920's and had been remarkably successful in securing a national labor anti-injunction law in 1930, acceptance by Congress of his proposed "lame-duck" amendment to the United States Constitution in 1932, and, finally, enactment of his Tennessee River Valley plan in 1933. He was rapidly on his way to gaining the reputation later described by the once-critical *New York Times* as "a contemporary Founding Father . . . always remote from the scramble of politics . . . a thinker and a philosopher."¹²

¹¹ *New York Times*, January 7, 1934; John P. Senning, *The One-House Legislature* (New York, 1937), p. 51.

¹² January 6, 1937.

Busy as Norris was in Washington in 1933, he never lost sight of his earlier declarations on the unicameral experiment. To be sure he was no longer interested in retiring from national politics to devote all of his time to the one-house campaign, but he was willing more than ever to plunge himself into such a movement. To a friend he optimistically announced that his reform "could be brought about if we would organize and make the right kind of a fight."¹³ Hard on the heels of this—and other similar statements—came letters of support and encouragement from people all over Nebraska. So enthusiastic was this response that Colonel John G. Maher, long one of the Senator's close associates and a pillar in the single-house movement, called a public meeting in Lincoln on February 22, 1934. Appropriately, Norris was invited to deliver the main address in behalf of the unicameral reform, and the campaign was under way.

Senator Norris took full advantage of his appearance in Lincoln, Nebraska to tie his reform proposal to his long-held progressive philosophy.¹⁴ He traced the origins of the democratic ideal in America, asserting that the history of our civilization has been basically a contest between the rulers and the ruled. The Constitution, he insisted, was designed in accordance with the theory that the "common people . . . were not sufficiently civilized and sufficiently educated to govern themselves." But, he continued, history has seen inevitable advances toward the achievement of democracy. Already, we have repudiated at least one of the old conservative features—the election of Senators by state legislatures. Others will follow in due course, Norris added, implying that the success of his unicameral plan in Nebraska would spur other states to adopt it.

Following Norris' impassioned speech, the enthusiastic throng of eight hundred adopted a resolution commissioning Colonel Maher to organize a committee to circulate petitions in compliance with the state constitution. Since

¹³ Norris to Dan Horrigan, November 13, 1933, Norris MSS.

¹⁴ *Congressional Record*, 73 Cong., 2 sess., 3276-3280.

preliminary details had been ironed out well before the Lincoln meeting, it was announced that 57,000 signatures were necessary to submit the question to a referendum in the November elections. Already, a careful observer, confident of the Nebraska Senator's widespread influence, had predicted that this task would be an easy one for such "an organization as the friends of Norris are prepared to perfect. . . ."¹⁵

Yet the early stages of the unicameral campaign transpired less smoothly than was anticipated. The Model Legislative Committee itself ran into difficulty when it attempted to revise the Senator's tentative proposals. Individual members were especially reluctant to include the non-partisanship feature, which, although acceptable in principle, would, they believed, endanger the rest of the amendment. Trouble had been foreshadowed when Arthur F. Mullen, leader of the Democratic party in Nebraska, was refused a compromise by Norris in which the controversial provision was to be dropped in return for Democratic support.¹⁶ Furthermore, the determined Norris refused even to listen to another committee criticism that the election of a Governor on a partisan ballot would lead to complications.¹⁷ Only on one matter—the number of representatives in the new single-house deliberative body—would the Senator compromise. Here, the issue was pure and simple. Nebraska's farmers, long the core of Norris' strength, apparently felt that fewer legislators would result in city domination of the state government, a condition which they naturally feared and abhorred. So he capitulated and acquiesced in an increase of membership to from thirty to fifty representatives, the final number to be determined by the 1935-1937 Legislature.¹⁸ With these difficulties thus ironed out, the committee drew up a set of proposals calling for: a unicameral body with members elected in single districts on a non-partisan basis; the right of a lawmaker to

introduce bills at any time during a legislative session, the only reservation being that no bill could become a law in less than five days; and, finally, salaries of \$1771 per member for two years' work together with transportation expenses to Lincoln once each session.¹⁹ In essence, the details of the unicameral plan followed closely Norris' general principles.

In the meantime, petitioners busied themselves throughout the state in an effort to obtain the required number of signatures. Here, too, obstacles were met. The chief difficulty stemmed from a provision of the state constitution stipulating that each petition could offer only twenty names and had to contain an affidavit verifying that the circulator personally witnessed every signature. Furthermore, the names had to be distributed among at least sixty-two of the ninety-three counties, burdening the unicameral organization with the task of finding petitioners in each locality. At first, volunteers were not readily available, and the committee sought funds with which to pay circulators. This effort proved futile, however, as the proposed reform engendered little enthusiasm among substantial citizens. So desperate did the situation become at one point that campaign chairman Donald Gallagher wrote discouragingly to Senator Norris in Washington suggesting the possibility of postponing the campaign for two years.²⁰ Alarmed over the drop in morale of his group, Norris generously enclosed a personal check to Gallagher for one thousand dollars to help defray mounting expenses.²¹ Fortunately, as the unicameral movement gained impetus, more and more volunteers poured into the Lincoln headquarters, and little additional money was needed.

The final and most crucial stage of the unicameral campaign came in the fall of 1934, with Senator Norris himself assuming the greatest burden. Already in September, his

¹⁵ *New York Times*, January 7, 1934.

¹⁶ *Fighting Liberal*, pp. 346, 348.

¹⁷ Senning, *The One-House Legislature*, p. 55.

¹⁸ Norris to Dan V. Stephens, November 30, 1934, Norris MSS.; *New York Times*, September 23, 1934.

¹⁹ *Congressional Digest*, XVI (August-September, 1937), 203-204; Roscoe Fleming, "Senator Norris's Legislature," *Nation*, CXLIV (January 9, 1937), 43-44.

²⁰ *Fighting Liberal*, p. 347.

²¹ *Ibid.*, p. 348.

secretary had set up quarters in the state capital, and he followed along the next month. Norris knew that the task ahead was still a difficult one, for, in spite of the work of his cohorts, the amendment had not had the advantage of being proposed in any recent session of the legislature, or recommended in a Gubernatorial message, or, for that matter, even intelligently discussed in the state press.²² Yet the determined Senator despaired not, and instead, plunged wholeheartedly into the campaign.

Senator Norris commenced his whirlwind state tour in Hastings where he humbly confessed his irritation at statements impugning his motives. People often asked, he admitted: "What does Norris get out of it?" To him, public service, not personal gain, had always been his chief inspiration.²³ In subsequent speeches he used all of the arguments at his disposal against the inefficiency and corruptibility of the traditional two-house system. Norris often cited the case in the Nebraska legislature where a majority favored a bill permitting certain municipal plants to extend lines outside the municipality just as private utilities had done.²⁴ However, as a result of clever manipulation of the conference committee, the private interests not only blocked the legislation but caused so much confusion in the process that the electorate remained totally ignorant of the issues at stake. When the air finally cleared, he added, a referendum was held and the measure received overwhelming popular support. To this illustration, Norris usually appended a quip directed at his opponents. "In every two-house Legislature," he once remarked sardonically, "if we post the checks and the balances after the end of the session we shall find that the politicians have the checks and the interests have the balances."²⁵

²² Senning, *The One-House Legislature*, p. 51; Bernice S. Engle, "Nebraska's New Unicameral Legislature," *Scholastic*, XXV (January 5, 1935), 15-16; Claudius O. Johnson, "George William Norris," in J. T. Salter (ed.), *The American Politician* (Chapel Hill, 1938), p. 100.

²³ Alfred Lief, *Democracy's Norris: The Biography of a Lonely Crusade* (New York, 1939), p. 443.

²⁴ *Literary Digest*, CXVIII (October 13, 1934), 8.

²⁵ *Time*, XXIX (January 11, 1937), 17.

Needless to say, Norris' opposition — composed largely of newspaper editors, the leaders of both parties, and a vast majority of present and past legislators—was not silent.²⁶ They literally cringed at such an irreverent attack upon the time-honored system, and cited the great authorities—Alexander Hamilton, James Kent, and Joseph Story—whose arguments in behalf of the bicameral legislature rested on a defense of property rights. As if to modernize this old version, several anti-unicameral speakers and writers emphasized the importance of maintaining two houses for checking sectional interests. It is still true, wrote Walter Dodd, "that one house does check the other to some extent."²⁷ Anticipating this objection, Norris could only reply in terms of his own experience as a member of the House of Representatives and the United States Senate. "With very few exceptions," he said, "it makes . . . little difference whether a representative lives in a rural community, or whether he comes from the heart of a large city. . . ."²⁸ He himself had always been sympathetic to labor's plight though his particular community and state were essentially rural. Norris did concede, however, that states with large urban centers should strive to attain sectional balance in an experimental unicameral legislature.

As the unicameral campaign drew to a close in early November, the Norris organization was confident that their reform would "receive a larger vote than people expected."²⁹ Certainly, its fate captured national attention in the period immediately before and shortly after its enactment. *Collier's* had early come out strongly against the idea on the ground that a one-house legislature of so few members "is a plea for authority more centralized."³⁰ The Representative Government Association concurred, and in a pamphlet added that the proposed "un-American change

²⁶ John P. Robertson to William J. Froelich, November 21, 1934, Norris MSS.; Roscoe Fleming, "Senator Norris's Legislature," *Nation*, CXLIV (January 9, 1937), 43-44; Senning, *The One-House Legislature*, pp. 58-59.

²⁷ *Congressional Digest*, XVI (August-September, 1937), 221.

²⁸ Norris to Andrew R. Shottky, March 30, 1934, Norris MSS.

²⁹ *Fighting Liberal*, p. 350.

³⁰ "One Man Can Do It," *Collier's* XCI (March 25, 1933), 50.

. . . would break down the hold which the people had over their representatives."³¹ Even the *Christian Science Monitor* cited the desire for "centralization and authority", but looked at the proposal in a more favorable light,³² while the *Saturday Evening Post* insisted that there was no justification whatever for a state bicameral legislature. Originally, they added, senators "were expected to be of superior wealth and social standing", and property qualifications were required of electors of the upper house. In recent times, however, aside from manner and size of apportionment, the only difference in the two houses has been that senators serve longer terms.³³ Finally, the American Legislators' Association conducted a survey of segments of the population and concluded that fifty-nine percent of those polled opposed the Nebraska experiment.³⁴ Significantly, state and federal legislators rejected it by a vote of approximately three to one, while professors of government and others engaged in research along these lines favored it four to one.

The result of the Nebraska unicameral campaign in November, 1934 was, indeed, decisive. The proposed amendment carried the state by a plurality of over ninety thousand votes. Only eight counties out of ninety-three, Norris happily noted, turned down his idea.³⁵ For him, the triumph was a rich reward following a more vigorous campaign than he had ever waged as a candidate for an elective office. But in his customarily modest way, the Senator took little personal credit for the victory, applauding, instead, the stellar efforts of his organization and the enlightened state of the Nebraska electorate.³⁶

³¹ Senning, *The One-House Legislature*, p. 58.

³² November 14, 1934.

³³ "A More Perfect Democracy," *Saturday Evening Post*, CCVII (August 4, 1934), 22.

³⁴ "Two Houses — Or One?" *State Government*, VII (October, 1934), 207-208.

³⁵ *Fighting Liberal*, p. 350.

³⁶ John P. Robertson to Charles M. Kearney, November 27, 1934; Robertson to William J. Froelich, November 21, 1934; Norris to William Jurgensen, November 30, 1934, Norris MSS.; *Fighting Liberal*, p. 350.

It was another two years before the unicameral reform actually went into effect in Nebraska, and in the meantime, Norris returned to his desk in Washington.³⁷ His work, however, was not forgotten. When in January, 1937, the one-house legislature commenced its deliberations, the aging Senator was invited to deliver the first message. Proudly standing before his peers, he took this momentous occasion to appeal once again in behalf of the progressive cause. Sensitive to the role that unicameralism might play in improving democratic government, Norris asked for the cooperation of all, and warned that lobbyists, politicians "and every representative of greed and monopoly. . . [are] hoping and praying your work will be a failure."³⁸ Upon completing his remarks, Norris received a standing ovation and was escorted from the platform by several prominent Nebraska leaders.

Undoubtedly, Senator Norris' victory in his home state, in 1934, resulted from a renewed spirit of liberalism and experimentalism which swept across the nation in the depression years together with his own personal dedication and determination. The "gentle knight of American progressive ideals", as President Franklin D. Roosevelt so aptly called him, had again succeeded in achieving a specific objective within a tradition of reform which had guided his political career for over a quarter of a century. If today the Norris formula for the perfection of representative government and the realization of the democratic ideal appears too simple and perhaps somewhat naive, it is because simplicity and perhaps even naivete were characteristics of the progressive impulse as it sprang out of nineteenth-century America. George Norris was a product of that America, and her inherent belief in the perfectibility of human institutions.

³⁷ There were again rumors that Norris would retire from the Senate and run for Governor of Nebraska, thus to help initiate the new system. See *New York Times*, November 9, 1934.

³⁸ *Ibid.*, January 8, 1937.

Nebraska Still Alone On 1-House System

By Rick Atkinson

The Washington Post

Lincoln — When the gavel came down Monday to end this year's session of the Nebraska Legislature, lawmakers had pondered the usual sublime-to-ridiculous array of issues facing every state. Here these include school financing, drugs, abortion and whether to honor the founder of the National Liars Hall of Fame in Dannebrog.

Unlike in the 49 other states, in Nebraska the gavel fell only once. For more than half a century, this state has remained proudly and uniquely unicameral — the sole state legislature with only one house.

"There's so very little that's really different among the 50 state governments, but this is something that really is different," said Robert Sittig, a professor of political science at the University of Nebraska. "And people in Nebraska are anywhere from very to wildly supportive of it."

Interest From Others

Delegations from other states regularly troop through Lincoln to study the virtues of unicameralism. California, North Dakota and Montana flirted with the idea in the 1970s; Mississippi, Minnesota and Florida considered it more recently. But all remain resolutely bicameral.

"It's sort of a lost cause," said Dale Olsen, a unicameral enthusiast and chairman of the political science department at the University of Minnesota in Duluth. "It's just not catching on because, if you're a state legislator, switching from a bicameral system can mean voting yourself out of a job."

Nebraska also is unique in that its legislature is non-partisan and relatively small — 49 members, each called "senator." Although all but one senator are registered as Republicans or Democrats, party affiliation counts for virtually nothing within the 400-foot state capitol.

Coalitions congeal and crumble around particular issues such as water development or education reform rather than at the direction of partisan caucuses. The 13 standing-committee chairmanships are selected by secret ballot of the full Legislature; although registered Republicans hold a 29-to-19 edge, Democrats occupy several important chairs.

"It's much easier to accomplish things there," said Rep. Doug Bereuter, R-Neb., who served in the Nebraska Legislature before being elected to Congress in 1978. "You are much more likely, in my opinion, to have your ideas judged on the merits. I still have a very difficult time coping with the rather extraordinary degree of partisanship in the Congress."

On the other hand, Bereuter said, "one of the defects is that there is a lack of leadership structure with which to advance matters of statewide influence. . . . Members tend to be more parochial — representing their little fiefdoms — to an extent greater than in most legislative bodies."

'Third House'

The animating spirit behind the switch to unicameralism in the mid-1800s was Nebraska's great populist Sen. George W. Norris. A maverick Republican, Norris detested the secrecy and lack of accountability in what he called the "third house" found in most bicameral systems: the "conference committee" appointed to resolve differences between House and Senate versions of a bill.

At Norris' urging, Nebraska voters agreed to abolish their bicameral, 133-member legislature and replace it with "the Unicam" that first met in January 1937. Apparently in a reforming mood, the state also approved on the same ballot panmuetuel horse racing and sale of beer. Not least among selling points in the Great Depression was a recognition that one house would be cheaper.

To compensate for the missing check-and-balance brake provided by a second house, Nebraska requires three votes on proposed laws and public hearings on most bills. Filibusters also are possible, and the Legislature this year endured a shorter version of the abortion-bill filibuster that recently paralyzed the Maryland Senate.

Non-partisan unicameralism has its critics. Nebraska governors routinely complain of difficulty in finding the kind of political leadership that can cut deals and expedite legislation.

"The Unicameral also is very subject to being influenced by outside interests," Bereuter said. "It's a happy hunting ground for lobbyists. Because you have only one house and only one set of informal leadership, it's noticeably more influenced by lobbying interests than is the Congress."

Higher Pay

For many years, the Legislature here was considered "an end rather than a beginning for political careers," said State Sen. Dennis Baack, 43, a wheat farmer from Kimball.

Very few legislators, such as Bereuter, made the leap to statewide or national offices, in part because the \$4,800 annual salary tended to dissuade the young and ambitious from service in the Unicameral. The pay recently was raised to \$12,000, which is expected to lure younger candidates.

Dick Hertman, editorial-page editor of the Lincoln Journal and a statehouse observer since the early 1960s, said, "The changes that I see include more young members, more ambitious members, a greater reliance on staff, larger staffs, a move toward 'caseworking' instead of public-policy issues. They've become small congressmen. They are far less citizen legislators than they were 15 or 20 years ago. They're much more professionalized, much more attuned to the exploitative potential of television."

Great Compromise

The bicameralism so stubbornly maintained elsewhere in the Union reflects the nearly universal municy in state capitals of the Great Compromise that broke the deadlock between large and small states at the Constitutional Convention in 1787.

There, the U.S. Congress was made bicameral, with equal representation in the Senate — thus protecting the interests of smaller states — and proportionate representation in the House, guaranteeing the political clout of large states.

A one-house, popularly elected legislature was considered by many to be potentially radical and unpredictable, and thus a threat to the propertied class.

But in Nebraska, at least, there appears to be widespread concurrence with the political theory recalled not long ago by a lawyer writing in the Mississippi Law Journal. There is no need, he noted, to have "two sets of fools arguing over what to do" when one set can do the job just fine.

Nebraska's great experiment now beginning its 50th year

The experiment is 50 years old.

Nebraska's unicameral legislature launches its golden anniversary year this morning at 10 a.m. when it convenes in an extraordinary regular session at the Capitol.

Special sessions used to be extraordinary — but they're the ones that are more regular now.

Nebraska's grand experiment in government began on Jan. 5, 1937, when the one-house legislature set out on its maiden voyage.

Its father, George Norris, Nebraska's legendary U.S. senator from McCook, was on hand to see his child off. Norris spearheaded the successful effort in 1934 to win citizen approval of an initiative proposal to move to one house.

"Norris on Rostrum as his Lawmaking Dream Is Realized," a headline in *The Lincoln Star* trumpeted.

"The largest crowd ever to greet a new legislative session in Nebraska jammed the former House chamber Tuesday noon, packed the aisles and all available floor space at the rear and sides, as well as the galleries, and thronged behind and around every doorway," the *Lincoln Journal* reported somewhat breathlessly.

"Long before the big clock marked the historic moment of noon, legislative fans and followers were in their seats. Nothing quite like this reception was ever seen before in a Nebraska Capitol."

IN A brief address, Norris challenged senators to make the new system work.

"Upon you, and your work, will be focused the eyes of all students of government all over the nation.

"Every professional lobbyist, every professional politician and every representative of greed and monopoly is hoping and praying that your work will be a failure."

Norris wasn't exactly a great admirer of the lobby.

He had long argued that the greatest evil of the two-house system was the conference committee where representatives from each house hammered out the final version of legislation behind closed doors. That's an environment, he said, where lobbyists usually have their way.

But two houses are needed to provide checks and balances, critics contended.

Yeah, Norris retorted, "the politicians get the checks and the special interests get the balance."

NORRIS, who won his last term in the Senate as an independent in 1934, was no admirer of party politics



Nebraska State Historical Society

Nebraska Unicameral is called into session on Jan. 5, 1937.



Don Walton

either.

"You are members of the first legislature of Nebraska to hold your positions without any partisan political obligation to any machine, to any boss, or to any alleged political leader," he told the brand new non-partisan Unicameral 50 years ago.

"We expect an economical and efficient administration and, above all, an honest administration free from any partisan bias, political prejudice, or improper motives.

"You have an opportunity to render a service to your fellow citizens that no other Legislature has ever had." Has the Unicameral worked? To perfection, no.

What instrument that relies on human behavior does?

But, in substance, yes. Certainly in terms of providing the openness that Norris wanted. No other legislature in the land is more naked to public view.

And in a body in which there are only 49 members to track, no legislator can avoid accountability or hide unnoticed in the shadows — as

today's new senators will quickly discover.

Although its non-partisan aspect may continue to be the subject of occasional debate, Nebraska's one-house Legislature is alive and well at 50. And clearly destined for a long life.

But it's likely to remain unique, too.

THE UNICAMERAL is like the bearded lady in the sideshow, its longtime clerk, Hugo Srb, used to say. Everyone wants to see her; but nobody wants to take her to lunch.

A look back at those newspapers now 50 years old is instructive.

The headline in the Jan. 7, 1937 edition of the *Lincoln Journal* essentially may be duplicated in tomorrow's editions.

"No new taxes says Cochran," the bannerline announced.

Kay Orr may deliver the same gubernatorial message when she is inaugurated Thursday.

Fifty years ago, the first Unicameral elected a man from Waverly as its speaker: Charles Warner, its senior member in years of legislative service.

Today his son, Jerry, will be re-elected chairman of the Legislature's Appropriations Committee. He has been speaker, too. And he's the senior member of the Unicameral now.

Times change — but not that much. And there are threads always connecting us with our past.

Apprise or Dissent

Unicameralism lives up to promise

By William Barrett

Speaker, Nebraska Legislature

In scrapping the conventional practice of legislative bicameralism 50 years ago, the framers of the Unicameral sought to expand the horizons of democratic government in Nebraska.

Unicameralism, they knew, would eliminate the "conference committee," a device common to two-house legislatures in which a small, select group meets, often in secret, to resolve differences between the two houses.

Unicameralism, they believed, would simplify the legislative process, and make it easier for the media to cover and the populace to understand by reducing the number of hurdles a proposed policy would have to clear. Unicameralism, they envisioned, would help focus more clearly the responsibility for actions and inactions of elected representatives.

Framers of the Unicameral recognized that a legislature in a democratic society is something more than just making laws. It is more than an education policy, tax policy or health policy. Above all, a legislature is a process — a process by which conflict is managed, consensus built and problems peacefully resolved. The framers of the Unicameral sought to house the legislative process in an eminently open and democratic framework.

By nearly all accounts, the Unicameral experiment has been true to its founders' intentions. As a nationwide citizens' study concluded a while back, no other state legislature is more naked to public view, more responsive to the consent of the governed or freer from the influence of political machines than Nebraska's. Every step in the

legislative process, from the introduction of bills to their debate and disposal, is open to public participation and scrutiny.

In our system, the Legislature is the ONLY political institution that can, and does, debate matters openly and publicly. This is an obvious but often overlooked and underappreciated point. Pundits tend to scorn the messiness and untidiness of the legislative process. But the messiness and untidiness — and, yes, occasional chaos and disorder — that appear on the surface of the legislative arena are signs of the success, not the failure, of the democratic process.

Characteristic of Nebraska's people, the Unicameral is a lively, independent, immensely democratic institution. That's not the case in a lot of other state legislatures.

To be sure, the Unicameral is not without its shortcomings. But they are largely shortcomings of human nature, not of the democratic process.

Moreover, representative government in Nebraska is a bargain. It costs just \$4.23 per person per year. By comparison, the bicameral legislature in Michigan costs \$6.18.

Fifty years ago, unicameralism was a daring experiment. Today, it's a time-honed and honored tradition in Nebraska, reflecting the resilient democratic character of our people. In no other way, or in any other place, can citizens make their voices heard and their wishes known in such an open, accessible and peaceful fashion. The surprise, if any, is that the process works as well as it does.

While it's not without its faults, the Unicameral is well worth nurturing and nourishing for another 50 years.

lawmaking

The lawmaking process in Nebraska officially begins when a senator introduces a bill into the Legislature. But the process actually begins much earlier, when a senator first begins to formulate ideas for new laws. An idea for a new law may be proposed by anyone: concerned citizens, special interest groups, state agencies, or the governor. But it must be introduced by a senator in order for it to be formally considered.

Extra care is taken to ensure that bills are thoroughly considered before they are passed into law because, unlike the other 49 states, the Nebraska Legislature has only one house. The full Legislature has an opportunity to debate each bill at least two times before its final passage, and may propose amendments to alter the bill at each stage of debate. Committees also debate and propose amendments to bills.

Here are the steps a bill must take before becoming a Nebraska state law.

Research

First, a senator and his or her staff research the problem and possible legislative remedies. As a result of this research, a senator may introduce a bill to create a new law, or to repeal or change an existing law.

In addition to the senators' individual and committee research staffs, the Legislature has a central research division which assists senators with their research projects.

Much of the research is done during the period between sessions, when legislative committees study a variety of issues outlined in interim study resolutions passed by the Legislature.

Drafting

A senator brings his or her idea for a new law to a bill drafter, who works with the senator to transform the idea into the proper legal form for a bill. Unlike some states, bills introduced in Nebraska may contain only one subject.

Introduction

Most bills are introduced during the first 10 days of the legislative session, which begins each January. Legislative committees are limited in the number of bills they may introduce each session.

In order to introduce a bill, a senator files it with the clerk of the Legislature, who reads the title of the bill into the record, assigns it a number, and prints copies of it for public and legislative use.

Fiscal Note

The Legislative Fiscal Office prepares budget statements known as fiscal notes for each bill introduced. The fiscal note contains three estimates of the monetary impact each bill would have if it became

law. One estimate is calculated by the fiscal office staff. Another is prepared by the governor's budget office, and a third is prepared by the appropriate state agency.

In addition, the fiscal office prepares appropriation bills ("A" bills), which must be voted on separately, to accompany most bills which would have a fiscal impact.

Committee Hearing

With the exception of a few technical bills, most bills introduced into the Legislature must receive a public hearing by a legislative committee. The nine-member Reference Committee determines which bills will be heard by each of the 14 standing committees.

General File

General File is the first time the full Legislature has the opportunity to debate and vote on bills. At this stage, senators consider amendments, which may be proposed both by committees and by individual senators. General File is considered by many to be the most crucial stage of the legislative process because it is where most compromises are worked out through debate and amendment. Also, this initial vote may reflect the level of support a measure has.

As with most legislative business, it takes a vote of a majority of the Legislature (25 votes) to adopt most amendments, and to move a bill from General File to the next stage of consideration.

Enrollment and Review

Commonly referred to as "E & R", enrollment and review is a process by which amendments previously adopted are incorporated into the bill, and the entire bill is checked for technical and grammatical accuracy.

Select File

Select File is the second debating and voting stage. This step allows another opportunity for amendment, compromise, and reflection. Bills on Select File may be indefinitely postponed or advanced to the next stage.

After Select File, bills are sent to E & R again to be rechecked. Bills then are reprinted for Final Reading.

Final Reading

The Nebraska Constitution requires that, before final passage, all bills be read aloud in their entirety by the clerk of the Legislature. Senators are required to be in their seats in the legislative chamber during Final Reading.

Bills may not be amended or debated on Final Reading, but they may be returned to Select File for a specific amendment. Bills may not be voted on for final passage until at least five legislative days after the bill is introduced, and two legislative days after it is placed on the Final Reading file. Printed copies of the bill in its final form must have been available to senators for at least one legislative day before final reading.



Governor

After the Legislature passes a bill on Final Reading, it goes to the governor for consideration. The governor has five days, excluding Sundays, to decide what to do with a bill.

If the governor signs a bill, or declines to act on it, the bill becomes a state law. If the governor vetoes it, the bill is returned to the Legislature with objections. A vote of three-fifths (30 members) of the Legislature will override a governor's veto.

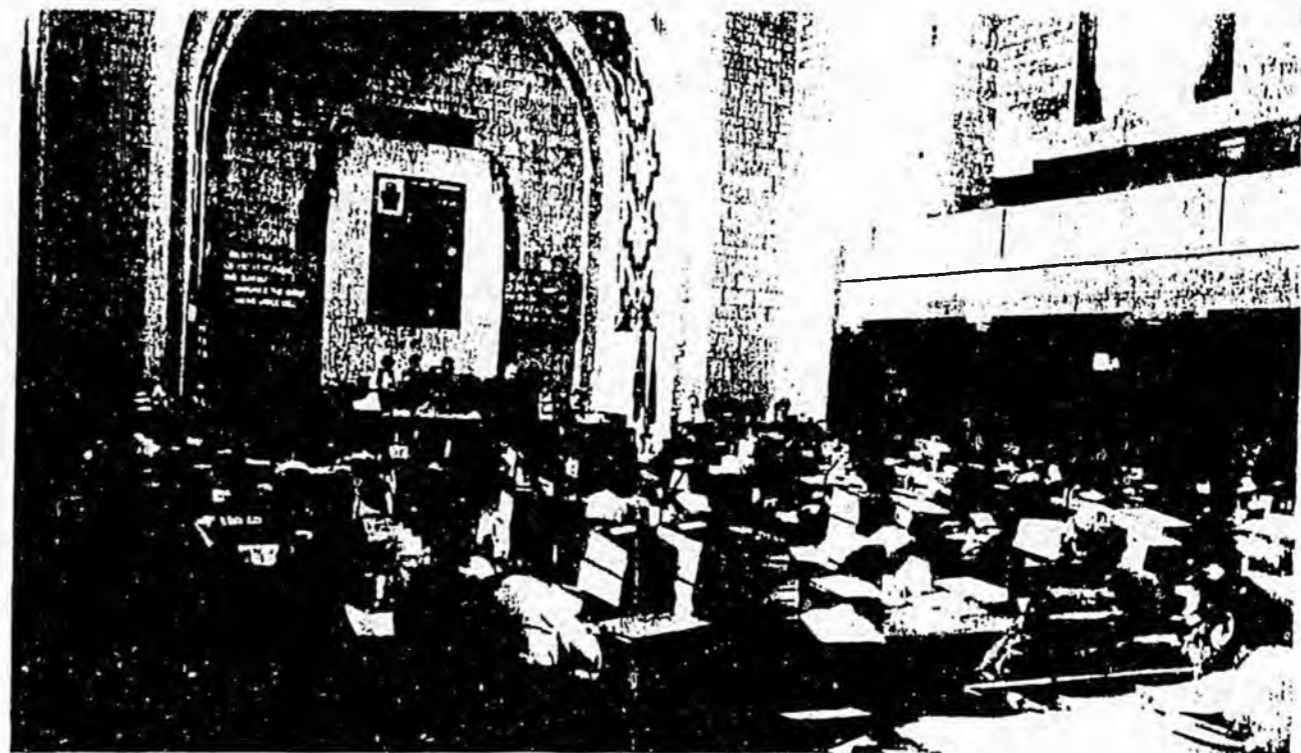
The governor also has the right to disapprove or make specific reductions of figures on state budget bills.



These are known as line-item vetoes or reductions. The Legislature also may override these.

Effective Date

Most bills which are passed and approved by the governor become law three calendar months after the Legislature adjourns. However, bills may take effect prior to that date if they contain the emergency clause. It takes a vote of two-thirds (33 members) of the Legislature to pass a bill with the emergency clause.



information

clerk of the legislature

Patrick J. O'Donnell
Clerk of the Legislature
Room 2018, State Capitol
(402) 471-2271

The clerk's office publishes a roster listing names, phone numbers, committee assignments, and other information about state senators. Also available during the legislative session is information regarding weekly hearing schedules, the daily agenda, and daily worksheets showing the status of all bills.

Subscriptions to the Unicameral Update, a weekly newsletter summarizing legislative activities, as well as copies of bills, daily journals, and transcripts of legislative proceedings also are available from the clerk's office.

hotline

Hotline
(402) 471-2709 (Lincoln)
(800) 742-7456 (All other areas)

The clerk's office also operates a toll-free hotline which interested persons may call for information on bills. The hotline is in operation 8 a.m. to 5 p.m. Monday through Friday during the legislative session, except on state holidays.

public counsel

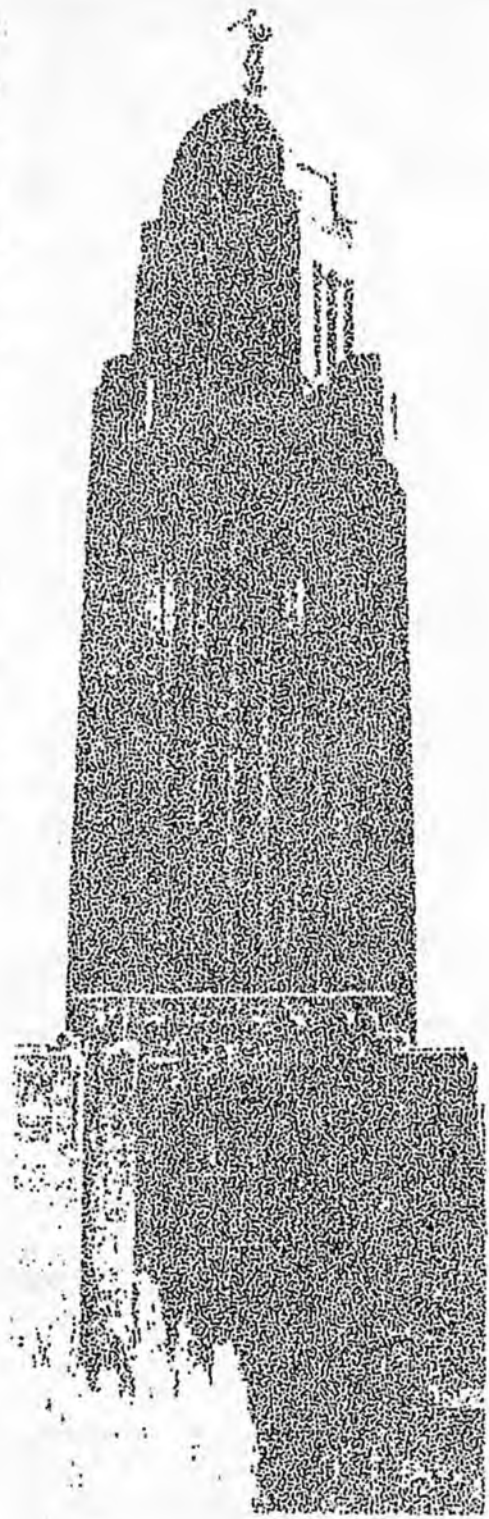
Public Counsel
Room 807, State Capitol
(402) 471-2035
(800) 742-7690

The office of Public Counsel, also known as the state ombudsman, was established by the Legislature in 1969 to provide a means by which citizen complaints against state agencies could be investigated. If an investigation shows that a mistaken, unfair, or arbitrary action has taken place, the ombudsman may work with the agency to rectify the problem. The public counsel works independently of any other branch of state government, and where appropriate, information gathered by the public counsel is kept confidential. The ombudsman's office also will answer questions relating to government.

Published by the Clerk of the Legislature, April, 1990.

Cover photo by Bobbi Hahder.

the nebraska legislature



history

The one-house, nonpartisan Legislature is a system of state government unique to Nebraska. The other 49 states have two-chamber legislatures organized along political party lines, as Nebraska once did. From the days when Nebraska was a territory until 1937, the state had a two-house Legislature, modeled after the U.S. Congress and the British Parliament.

For years, a United States Senator from Nebraska, George Norris, had been advocating the merits of a one-house, nonpartisan legislature. The two-house system, he argued, was outdated and unnecessary. He saw it as a custom based on the British class system, which he believed had no place in a democratic society. Norris and his supporters were also critical of another feature of the two-house legislature known as the conference committee. This committee consists of a group of senators and representatives who meet in closed session to work out the differences in similar bills passed by both houses. Norris said the conference committee was contrary to democratic government, and led to private negotiation and compromise.

The nonpartisan aspect of the amendment was just as crucial to Norris as the unicameral plan. Norris believed that partisanship was a barrier that stood between elected representatives and the people, and that it must be eliminated in order for government to become truly representative.

Aside from the philosophical issues, Nebraskans also saw that paring down the legislative branch of government would save the state money; an important consideration during the Depression years.

In the face of much editorial opposition, Norris in 1934 began his initiative petition drive to place the issue on the general election ballot. His efforts paid off, and in that year's election a majority of voters in 84 of the state's 93 counties approved the unicameral amendment, thus embarking upon what was called a "great experiment" in government. Nebraska's first Unicameral Legislature met in January, 1937.

The Unicameral Legislature, which was ridiculed and doomed to failure by its early critics, has proven itself to be an efficient and accountable representative of the people. In fact, an independent study of the 50 state legislatures ranked Nebraska first in accountability and ninth in overall structure and organization.

Contributing to the high marks are Nebraska's single-member legislative districts, open meetings, accessible records, and relatively uncomplicated procedures.

After more than 50 years in action, the Unicameral Legislature no longer is an experiment. It is a responsible system of government that works for Nebraska.

citizen participation

The state senators are your elected representatives, the Nebraska Legislature, which meets each January in the State Capitol in Lincoln. Each legislature exists for two years. In odd-numbered years, a session meets for 90 days; in even-numbered years, the session is 60 days long. Each of Nebraska's 49 state legislators, elected from districts throughout the state, represents about 30,000 people. Your views, therefore, are important to your senator.

There are several ways in which concerned citizens can communicate effectively with their senator in an attempt to suggest or influence legislation. They include:

Personal Contact

Most senators agree that they are most impressed with direct personal contact from constituents in the legislative districts. When you talk to a senator, it is important to be well informed about the issue you are discussing. You can become an important source of information for your senator on the issues which concern you.

Letters

Letters are most effective when they are personal and informative. Form letters, telegrams, and postcards generally get less attention and are less effective than personal letters.

Phone Calls

Phone calls can be an effective way to establish initial contact with a senator, but since details of conversation can be easily forgotten, it is generally a good idea to follow up a phone call with a letter.

Committee Testimony

A public hearing is required on virtually all bills which are introduced in the Legislature. At public hearings, citizens have an opportunity to make their views known to the committee, and have them incorporated into the official committee record.

Your presentation should be factual, well-organized and concise, and you should be prepared to answer questions put to you by committee members.

Continued Contact

If you are interested in a particular bill, you can be most effective by monitoring it throughout the entire legislative process. This means keeping in contact with senators who are likely to vote for your proposal, and trying to persuade others to vote your way. You also should make sure that the governor is aware of the issue and your position on it.

HJR

84

HOUSE COMMITTEE REPORT

(7)
 Date Referred: April 21, 1992 FURTHER REFERRALS: Finance

Date of Committee Action: 4-28-92

The JUDICIARY Committee considered: HJR 84

HOUSE JOINT RESOLUTION NO. 84 CONFIRMATION OF INSURANCE DIRECTOR

Proposing an amendment to the Constitution of the State of Alaska relating to the duties, appointment, confirmation, and removal of the head of the agency that regulates the business of insurance.

- RECOMMENDATIONS: the same title
 be replaced with _____ a new title
- have attached amendments(s)
 do pass
 do not pass
 no recommendations
 individual recommendations
 additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal impact _____ fiscal note(s) Elections (4.21.92)

zero fiscal note _____ zero fiscal note(s) _____

SIGNING DO-PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Donch Duley</i>	✓	<i>Mike Miller</i>		✓	
<i>Ed Ellis</i>	X	<i>Mark Stanley</i>		X	
<i>Bob Kennedy</i>	-	<i>Larry Martin</i>	✓		
		<i>Robert Post-Purcell</i>		✓	

Donch Duley

 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

BILL NO. HJR 84

Revision Dates: _____
 Title: Amendment to the Constitution Re: Voting
Appointment, Confirmation and Removal of the Head of the
Agency that Regulates the Business of Insurance.
 Sponsors: HOUSE JUDICIARY COMMITTEE
 Requestor: HOUSE LABOR & COMMERCE COMMITTEE

Department Affected: Office of the Governor-Elections
 BRU: Division of Elections
 Components: II-Primary and General Elections

COMPONENT SERIAL NO.

1	0	2	2
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	2.2*	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER FUND SOURCE	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.10, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.6.

Prepared by: LAUREN A. BISHOP, Principal Coordinator
 Division: Elections

Phone: 465-4611
 Date: 04/16/92

Approved by Commissioner: _____
 Agency: Office of the Governor

Date: _____

Distribution (by preparer): Leg. Fin., Legislative Sponsor, Requestor, OMB/DAS, Gov. Legis. Ofc., & Impacted Agency(ies).

Rev 11/07/91
 HJR84.FNB

Page 1 of 1

Alaska State Legislature




House of Representatives House Judiciary Committee

P. O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4990
(907) 465-4712

MEMORANDUM

To: Members of the House Judiciary Committee

From: Representative Dave Donley 
Chair, House Judiciary Committee

Re: HJR 84, A resolution relating to the confirmation of the
Insurance Director

Date: April 27, 1992

The House Judiciary Committee introduced HJR 84 in recognition of the extensive powers given by statute to the Director of the Division of Insurance. Although Alaska's Constitution requires legislative confirmation of appointments to regulatory agencies, the founders of our constitution did not anticipate the types of powers given to the Director of Insurance and therefore did not specifically provide for legislative confirmation of this appointee.

The Director of the Division of Insurance has broad quasi-judicial and regulatory powers and statutory authority to operate independently of the Commissioner of Commerce and Economic Development. This appointee has significant impact on the lives of all Alaskans (15% of the average household budget is spent on insurance). As a result of the constitutional limitation on the legislature's involvement in the confirmation process, Alaskans are left without adequate safeguards against unqualified persons being appointed to fill this important policy-making position.

It is clear the the founders of our constitution believed confirmation authority was a critically important and appropriate tool to assure public accountability of appointees to public agencies. HJR 84 is an extension of that wisdom, and I urge your support for the measure.

DD/jmn

(7)

HOUSE COMMITTEE REPORT

Date Referred: March 27, 1992

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4-16-92

The LABOR AND COMMERCE Committee considered:

HJR 84

HOUSE JOINT RESOLUTION NO. 84

CONFIRMATION OF INSURANCE DIRECTOR

Proposing an amendment to the Constitution of the State of Alaska relating to the duties, appointment, confirmation, and removal of the head of the agency that regulates the business of insurance.

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

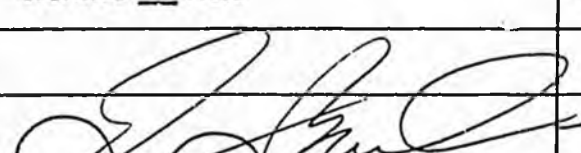
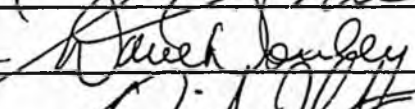
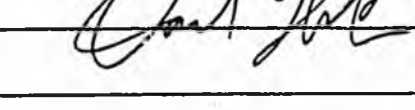
APPROVES PREVIOUS: (Dept/Date)

fiscal impact Division of Elections

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
		Adair T. Taylor		X	
	✓				
	✓				


CHAIRMAN'S SIGNATURE

Roller & Associates
Insurance Consultants

316 California Avenue, Suite 718
Reno, Nevada 89509

Telephone Pager
1-800-759-8255
PIN 5213217#

April 17, 1992

The Honorable Dave Donley
State Representative
State Capitol Building
Juneau, Alaska

Re: Should the Insurance Director
be confirmed by the Legislature

Dear Representative Donley:

You have requested my comments as a former insurance director on the advisability of having the legislature confirm the appointment of Alaska's insurance director. My response is an unequivocal yes.

The insurance commissioner is a far more powerful official than most people outside the insurance industry realize. Perhaps no other official has as much influence over a major industry. In Alaska, the industry writes nearly one billion dollars in premium annually. The insurance division is either the third or fourth largest revenue producing division in the state.

Strong regulation is imperative due to the unequal knowledge and bargaining power between consumers and insurance carriers. Moreover, strong regulation furthers a state's interest in increasing the availability and affordability of insurance. In my opinion it is far better that the risks and attendant losses we all experience in our lives be managed through private transactions rather than the state underwriting the losses.

At present, there is increasing criticism that, "[t]he small departments are ill-equipped to provide anything approaching effective regulation."

The Honorable Dave Donley
April 17, 1992
Page 2

The small states have reacted in various ways to strengthen the office of the commissioner to place that individual on a more equal footing with what is in truth and in fact one of the most powerful industries in the world. Twelve states provide that the insurance commissioner is an elected statewide official. Many of the states choosing this alternative are the smaller rural states, e.g. North Dakota, Montana, North Carolina, Louisiana, etc. In most of the remainder of the states the commissioner is a cabinet-level officer.

Alaska is one of the anomalous states. From a statutory basis, the division of insurance has departmental powers. For example, the division of insurance is the only division which can promulgate regulations -- a power reserved to the departments. For historical and administrative reasons, the division of insurance is under the Department of Commerce and Economic Development. Hence, Alaska has an insurance director and not a commissioner.

There is a de facto pecking order amongst insurance regulators. Elected insurance commissioners are at the top. Commissioners subject to confirmation are in the middle and appointed directors are on the bottom. I had a firsthand and painful experience in my struggle with an elected insurance commissioner when trying to assert Alaska's interests in the Pacific Marine receivership. It was not a fair fight and Alaska lost.

Lastly, it should be remembered that in the early days of statehood, it was not uncommon for the insurance director to contact an insurer which would purchase an entire state bond issue. Presently, insurance carriers have invested several billion dollars in Alaska governmental obligations. In times of declining revenue, the state may be called upon again to use the insurance director position for this purpose. It would be a wise and prudent thing to give that individual the appropriate mantle of authority, especially where he or she is expected to speak for the state.

By all means, the insurance director should be confirmed by the legislature. The title of commissioner should be added as well for the reasons stated above.

Thank you for the opportunity to address this issue.

Very truly yours,



Paul Roller

PR:jv

HJR

86

HOUSE COMMITTEE REPORT

(7)

Date Referred: 6/16/92

FURTHER REFERRALS:

Date of Committee Action: 5/17/92

The JUDICIARY Committee considered:

HJR 86

HOUSE JOINT RESOLUTION NO. 86

CONST. AMDT: SUBSISTENCE PREFERENCE

Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of fish and wildlife by residents, and establishing an effective date for the amendment.

RECOMMENDATIONS: CS HJR 86 (STA) the same title
 be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) GOV

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Max L. Gundersen</i>	-	<i>Mike Miller</i>	✓		
<i>John Elvik</i>	X	<i>Mark G. Hopkins</i>	X		
<i>William D. Powell</i>	✓	<i>Terry Martin</i>	X		
		<i>Walter J. Jolley</i>		X	

Walter J. Jolley

 CHAIRMAN'S SIGNATURE

HOUSE COMMITTEE REPORT

Referred: June 15, 1992

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 6/17/92

By STATE AFFAIRS Committee considered:

HJR 86

HOUSE JOINT RESOLUTION NO. 86

CONST. AMDT: SUBSISTENCE PREFERENCE

Proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of fish and wildlife by residents, and establishing an effective date for the amendment.

RECOMMENDATIONS:

to be replaced with CS HJR 86 (STA) the same title a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Gov - Div of Elections

fiscal note(s) _____

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eugene G. Kukhina</i>	X	<i>[Signature]</i>	✓		
<i>[Signature]</i>	X	<i>[Signature]</i>	✓		
<i>[Signature]</i>					

Eugene G. Kukhina
CHAIRMAN'S SIGNATURE

CONTENTS OF BILL PACKETS

- 1) HJR 86
- 2) Sectional Analysis
- 3) Memo from Dept. of Law on Constitutional Amendments
- 4) Transcript of House Work Session on Subsistence regarding the Constitution
- 5) Backup - Letters of Support, etc.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

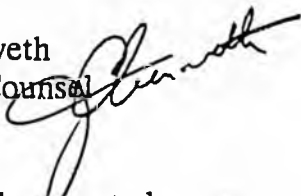
240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

June 16, 1992

SUBJECT: HJR 86, proposing an amendment to the Constitution of the State of Alaska relating to subsistence uses of fish and wildlife by residents, and establishing an effective date for the amendment.

TO: Representative Georgianna Lincoln

FROM: Jack Chenoweth
Legislative Counsel 

You have introduced HJR 86 and requested a summary of its provisions.

Section 1 of the resolution adds a new section to article VIII of the Alaska Constitution. The new section, relating to subsistence use of fish and wildlife, would require the legislature to grant a preference to residents and among residents to take fish and wildlife for subsistence use based on one or more of the following factors: customary and traditional use; cultural tradition; direct dependence; local residence; or the availability of alternative resources. A preference granted under this section of the constitution must be consistent with the sustained yield principle.

Section 2 of the resolution gives the change proposed in the preceding section an immediate effective date upon certification of the election results by the lieutenant governor.

Section 3 of the resolution provides that the two constitutional amendments proposed in the resolution shall be placed on the ballot at the next general election.

JBC:mi
92-102.mai

HOFFMAN/LINCOLN CONSTITUTIONAL AMENDMENT

1. The Problem a Constitutional Amendment Is Needed to Solve.

Section 805(d) of title VIII of ANILCA requires the State to enact and implement laws of general applicability that, among other requirements, establish a priority for "subsistence uses" of fish and game which is limited to "rural" Alaska residents. In 1986 the Legislature enacted a subsistence statute that satisfied the "rural" resident priority requirement.

In 1989 in McDowell v. State the Alaska Supreme Court held that three sections of article VIII of the Alaska Constitution prohibit the Legislature from allocating subsistence hunting and fishing opportunities among Alaska residents using "rural residency" as a criterion for doing so. The decision invalidated the 1986 Alaska statute whose enactment had brought the State into compliance with the requirements of title VIII.

2. The Hoffman/Lincoln Amendment Solution.

The Hoffman/Lincoln constitutional amendment grants the Legislature authority to enact a statute that allocates subsistence hunting and fishing opportunities among Alaska residents using any or all of the following criteria as the basis for doing so: (1) customary and traditional use; (2) cultural tradition; (3) direct dependence; (4) local residence; (5) availability of alternative resources.

Using those criteria the Legislature may determine that rural residents are the Alaska residents who are most directly dependent upon subsistence hunting and fishing, have the least access to alternative resources, and reside most locally proximate to fish and game, etc. Using such legislative findings as the legal underpinning, the Legislature would then be empowered to enact a statute that reestablishes the Alaska rural resident subsistence priority and, by doing so, bring the State back into compliance with title VIII of ANILCA and return fish and game management to exclusive State control.

In addition, the Hoffman/Lincoln amendment provides the Legislature flexibility to explore other approaches for allocating subsistence hunting and fishing opportunities among Alaska residents, using customary and traditional use and cultural tradition as bases for doing so.

Finally, the Hoffman/Lincoln amendment imposes a nondiscretionary duty on the Legislature to enact and maintain a statute that creates a subsistence priority.

House Work Session on Subsistence

June 20-21, 1990

Anchorage

Transcript section on the
Constitution

resent being told that I am considered....I'm doing this in bad faith, or that it's a political move on my part -whatever way I vote - that there is only one solution, no others and if I don't vote that way, I'm somehow a bad person, that I'm continuing a tradition of prejudice, if you will. I have not ever in my life been a person who has been prejudice against anyone, and I resent the implication that I am or that I somehow have to bend over very far backwards in the other direction in order to make up for something that happened a hundred years ago. I resent that. I have to represent a large body of people, most or all of my district is considered urban rather than rural, and anyway you know, you're going to distant franchise some of those people. So I just wanted to put my two cents worth into the discussion.

Navarre:

Thank you Rep. Davis. Okay, thank you Mr. Walleri, I'm sure we'll be discussing this with you further _____ next week or so. Thank you.

Navarre:

Next on the agenda we have a historical perspective and I'd like to invite Judge Stewart and George Rogers to join us.

Rogers:

We got a call, I guess it was yesterday, inviting us to come up here and put this subsistence thing in something of a historical perspective. I don't know whether that's necessary or not, but we were asked to do it and so we'll do our best. Both Tom and I have been somewhat involved with the issue for many, many years. Tom and I served on the constitutional convention. Tom was the Secretary of the Convention, I was the consultant and a staff member.

Navarre:

Mr. Rogers, I just want to make sure you identify yourself.

Rogers; Oh, I'm sorry, I just assumed that everybody knows us. O.K., I'm George Rogers and I an economist. I'm retired and I won't go into my entire background. I've practiced my trade here in Alaska since 1945 and I think that's enough.

Stewart: My name is Tom Stewart. I'm a retired judge of the Superior Court. I'm a lifetime Alaskan I live in a home that my father built before I was born in Juneau and have been involved in legislative matters since..vicariously since I was a child, and actively since I served in the house in 1955, and in the first State Senate in 1959 and '60. For the last 20 years...25 years I've been involved with the Judiciary. I did have some background in the resource issues because I took a particular interest in that when I was in the House in 1955 and secured the passage with the help of George Rogers who was an advisor then of the Resource Development Board, I won't go into the detail of that at the moment, but as your interested in historical background, I can tell you something of what prompted that and also some of the circumstances involved in the writing of Article 8 of the constitution.

Rogers: This, of course, I don't need to tell you this is a charged issue and discussed in legal terms, traditional terms, traditional use. I'd like to, as much as possible, focus on the necessary and practical aspects of subsistence. And in order to get that into perspective simply, my resort is always to go to demographic figures historically and look at them and see what the trends are, and then try to pinpoint what caused the changes. I won't go through all the figures here, but in the beginning, subsistence was it. It was the game, the only game in town. The original inhabitants of Alaska lived on the resources of the territory. Primarily the fish and the game and the marine mammals. I don't have to tell you that, this is obvious when you look at the map

of distribution of the native population was primarily along the coast and along the river systems. The big item was, of course, salmon which provided the basic support of the population all the way from Ketchikan to Barrow and then into the interior. And then you had various combinations of game, marine mammals..whale, walrus, other mammals that were hunted and fished. And this was the basis of which each of the societies geographically were built. The best estimates we have of the native population at the time of the first contact was about 62,000 people, as I say primarily along the coast and on the river systems. They were broken down into various sub-groups. The Eskimo, interior and coastal, the Aleut, the Athapaskan, primarily interior and then later on the Tlingit in southeast part of Alaska. The first contact with the west was followed immediately by attempts to commercialize the resources of Alaska. This had a dramatic and disastrous impact upon subsistence, the economy and the way of life. The Russians were primarily interested in one or two fur items. The sea otter and the fur seal. They needed hunters, and so they took the hunters, using force. The impact upon the Aleuts was to reduce their numbers from an estimated 15,000 in two generations to a little over 2,000. Now this may sound like a shocking figure that was made up by somebody, but it based upon the Russian's own records. The first impact was one of complete lawlessness, there was not government, with the hunters and the rival companies, it wasn't until you had the church and the navy coming in to restore some order that you began to get things civilized. That was the first encounter and a dreadful one. It impacted the subsistence because, although they did not live on sea otters, the providers of the subsistence were taken forcibly from the villages. The villages, the remaining population was left to starve. The next impact had nothing to do with the Russians. It was a smallpox epidemic that struck from the claims of the

separate part of the United States through the Columbia River then by means of the trade between the Columbia River Indians and the Southeast Indians on into the interior. This reduced the population of the Southeast natives and the Athapaskan by about 30%. That was something that would have happened in any case. But, from the 19 century on, other things happened. First was in the invasion of the Bering Sea and the Arctic Ocean by yankee whalers. This almost wiped out the subsistence base of the coastal Eskimo. Combined with this was the traders brought in the rum trade which had another devastating effect. So, between about 1839, the last good Russian census and 1880 the Eskimo was estimated by about 15%. The other one was more insidious. And that was the expansion of canned salmon. The canned salmon industry moved from California up the coast and it was a migratory thing as it wiped out the resources in the Southeast virgin territory. It was unregulated for most of the turn of the century. It wasn't until the 1920's that we began to impose some sort of a conservation management to the resource. But the effect upon the native population again was devastating. And this was all pervasive. You had the people in the interior who in the beginning didn't even know what was happening. The indians in the Copper River, for example, were used to living off the salmon. Suddenly the salmon stopped coming or in numbers that could support their population. It was because, at the mouth, a number of canneries were built. It took most of the run. The population continued to drop and the population....I'm not going to go into details, but remained at less than it was about 60% below the aboriginal levels for most of the century, up to the mid-century point. Since then the native population has recovered and the 1980 census shows a figure that is a couple of thousand over the original estimate of the native population as of the first contact. Now that was the first disastrous impact upon the subsistence base. The

taking commercially of the majority of resources that had supported these people. They made adjustments. Some of them became involved in the commercial fishing. Particularly in Southeast Alaska. So they did make adjustments to this, but they couldn't make enough adjustments and in time, and therefore, people actually died during this period. The other big impact is one that we're living with now, and that's the urbanization of Alaska. And I want to touch on that very briefly. The 1939 census which was just before the onset of WWII in Alaska, ...urban, by the way, I'm not going to sweat the definition. The U.S. Bureau of the Census defined it as places that are 2,500 people or more, so we'll use that as our benchmark and we can argue about things later if you have time. But using the census definition, 32% of Alaskans lived in urban places. Of the 1970 census 81% of Alaskans lived in urban places. Not only did the number of urban dwellers increase in development terms, but, of course in absolute terms. The 1986 estimates, give it a 79%. Alaska lost a few people as you recall right after the oil price dropped. Interestingly enough, what we would then call the people that are left over, also increased. In other words the rural population didn't go away. There was persistence. If you look at the native villages, although the native urban population increased, the native villages were pretty stable. They didn't go away for the most part, some of them did, but for the most part they stayed there. Furthermore, in recent years there has been a growth. In 1939 Census, about 50,000 Alaskans lived in rural places. Those were the day when we had 72,000 people in the state total. In the 1986 estimate, 110,000 lived in rural places. In part, this is a growth of native population, recovery of native population. In part it's an option that non-natives also have exercised of living in rural places. Now how do these people survive? Again, if we go to the census data,

economic data, and this gets back to Tom's mention of 1955 legislation that we both worked on. The then Commissioner of Labor, Henry Bellamy, came to my office right after the census and said George, we've got something here we've got to take care of. He showed me and it was something I should have looked at myself, the report of the cash income received by census division in the rural areas. These were substantially below, these levels were below what the census considered the poverty level. Now, these cash incomes included welfare, social security, aid to dependent children, all those sort of things as well as earned income. The difference had to be made up by something because these people were surviving. Sometimes not too well, sometimes quite well. There had to beand we used this a rough measure of the importance of subsistence. Comparing the actual cash income received in these areas with the poverty level, gave us a very significant value for what the people must have been harvesting from the land. So, the survival of the rural population was dependent upon the continuation of subsistence practices. Now they were on a cash economy, there was some employment, there were transfer payments and so on. But still in all, this required the continuation of a subsistence harvest for the survival of these people. Today the same thing applies. If you look at the U.S. Department of Commerce personal income estimates for census division, which is done every year, again you will see that the per capita income level is extremely low for those areas. Which means, again, that subsistence still plays a practical role in keeping these people alive and giving them the option of living some place other than urban areas. As I say, with the increase of the rural population between '39 and '86 indicates that there is more than just traditional forces at work here. There's a choice actually going on. So, I'm going to stop talking. I could talk....

(Noise interference on tape makes speaker inaudible)

...ways of doing this. The chairman says you have three minutes. This time I wasn't given that whistle. They blew the whistle instead, so I'll stop. I just wanted to get those points over.

(tape has empty section, then begins again with someone speaking in mid-sentence)

_____: ...the equal access provision in there. The basis of it, what were some of the criterias. I think we just heard Dr. Rogers speak about one of the measurements was the cash value in rural vs. urban Alaska and that was useful, so if you can continue along those lines.

_____: I knew, Judge Stewart, I knew he was a delegate to the constitutional convention.

_____: This is Barrow, we can't hear you.

JoAnne: This is JoAnne in Juneau, and I think Anchorage is experiencing technical difficulties at this time. If we could all standby, I'm sure they're working on it.

Koponen: Juneau, I see that there is....this is Niilo Koponen in Fairbanks in the McDowell case I see that Judge Cutler has issued a memorandum of decisions severing unconstitutional portions of the statue. In otherwords, the words "rural" and areas abutting "rural". Could we have legislative/legal look at that decision and give us a reading on the

applicability on the remaining portion of the statute? I don't mean immediately, but obviously we'll need that by the time we get down there.

Navarre: Yes ~~Niilo~~, this is Rep. Navarre, Department of Fish and Game and Department of Law are working on that as we speak and they may be back this afternoon. And they may have a preliminary discussion available for this afternoon and, if so, we'll go through that this afternoon and it will be available in Juneau.

Koponen: Yeah, okay, I prefer to read...I read much faster than I listen and some of this is interminable.

Navarre: Okay, thank you. Judge Stewart I think our technical difficulties are solved.

_____: (inaudible speaker)

Koponen: Well, that's a solution.

_____: (inaudible speaker)

JoAnn (?): I'm sorry, you're cutting off, would you please speak to the mike.

Judge Stewart: _____ to discuss how the resource development should occur. That section was passed, but I don't think that it ever worked in terms of the heads of the department sitting down and doing that. So when we came to the convention, in ..at the end of that year, there was not really a pattern of coordinated approach to the use of the development of the natural resources. At the convention, the committee, and I can't remember for sure who the Chairman of the committee was, my father was c the

committee. He was the Commission of Mines and had been for 30 years, from 1919 until 1949. Brook Riley was on the committee, Truman Endberg a fisherman from Dillingham was on the committee, Beau Smith, a commercial fisherman on a Troller from Ketchikan was on the committee. I believe one of the people from the F-P company in Fairbanks was on the committee and a couple of others that I can't remember for sure who they were. And when they sat down to write that article, they had real problems to know how to make an approach. There was no other state that they could look to as a pattern that had an article that dealt in an overall view of how to use and develop the resources. They had the use of an consultant and you may wish to make some contact with this gentlemen, I'm still in touch with him, his name is Vincent Ostrom. And Vince Ostrom was a professor from one of the western universities, he's now in Ohio and was the consultant to that committee. They met a lot of frustration on how to draft the article. Late in the time of the convention, one Sunday, they went to a church basement in Fairbanks, and Vince got a big blackboard and with all the members of the committees speaking, they outlined each of the topics that ought to be dealt with. They made an outline of the topics that should be dealt with and the approach that should be taken to them. And I think the basic thing was that these resources should be available to all of the people of Alaska, and that's where you find the equal access language. It was something that....I shouldn't say that they "dreamed" up, but it did not come from a pattern from other states. It was not language that had court interpretation from other state court's for example. It was new language that they thought up and that expressed their philosophies as to how the resources should be used. Subsistence, per se, I don't think was a matter on which they focused. Because it was accepted. It was the pattern that existed in the free territory of Alaska and in