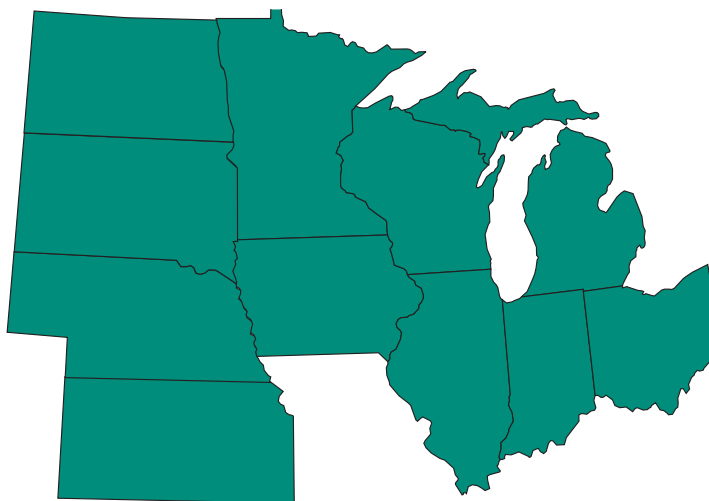


# Only in the Midwest

THE MIDWESTERN OFFICE OF THE COUNCIL OF STATE GOVERNMENTS



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**Only in the Midwest** is a series of articles that appeared in the publication *Stateline Midwest* between 2011 and 2013. The articles highlight a unique aspect of state legislatures or governments in the Midwest. They were written by Mike McCabe, director of the CSG Midwest Office. He can be reached at [mmccabe@csg.org](mailto:mmccabe@csg.org).



# ILLINOIS' METHOD OF CHOOSING SUPREME COURT JUDGES:

*State employs unique mix of partisan selection and retention procedures for justices*

**A**lthough judicial elections have long been a mainstay of the electoral landscape in many states, they have seldom attracted the same level of attention routinely paid to partisan contests for legislative seats or constitutional offices.

In recent years, however, a number of high-profile supreme court races have called attention to the means by which judicial officers are chosen.

Nationwide, states employ a variety of methods in selecting and retaining supreme court justices. Most rely on popular elections or some form of merit selection, but in a few states, justices are selected by other means, including legislative election.

In the Midwest, most states have opted to keep politics out of the selection process — at least in theory — with five states (Indiana, Iowa, Kansas, Nebraska and South Dakota) employing merit selection systems for their high courts and three more (Minnesota, North Dakota and Wisconsin) selecting justices by means of nonpartisan elections.

In Michigan and Ohio, candidates for the states' highest courts are identified through partisan processes (by nomination in Michigan and by primary election in Ohio) but are ultimately selected through general elections that are technically nonpartisan.

Illinois, however, stands alone among Midwestern states in embracing both a fully partisan judicial election process and a unique combination of selection and retention procedures that separates it from all other states across the region.

## Merit selection or popular election?

Only in Illinois do candidates for the state Supreme Court run in a partisan general election in which their party affiliation is indicated on the ballot. And unlike the other five Midwestern states in which justices are elected, Illinois justices are subject only to uncontested retention elections (as opposed to contested reelections) following their initial 10-year terms of office.

Illinois is also the only state in the region in which justices are elected

by district instead of at large, although justices in two of the region's merit-selection states (Nebraska and South Dakota) are also appointed by district.

In 2004, two candidates for a Downstate Illinois seat on the court raised a record \$9.3 million, making it a more expensive race than 18 of the 34 U.S. Senate elections that year. Then in 2010, Chief Justice Thomas Kilbride raised

\$2.8 million in his successful bid to retain his seat, which, according to one study, was more than the total amount raised by all candidates in all other judicial retention elections nationally between 2000 and 2009.

Is a partisan electoral process and all that goes with it really a best practice in judicial selection? Given the range of state approaches on this issue, the jury still appears to be out. According to the Institute for the Advancement of The American Legal System, "the extent to which judges are able to interpret and apply the law impartially depends upon their ability to remain free from undue political pressure."

Matthew Streb, associate professor and chair of political science at Northern Illinois University, agrees.

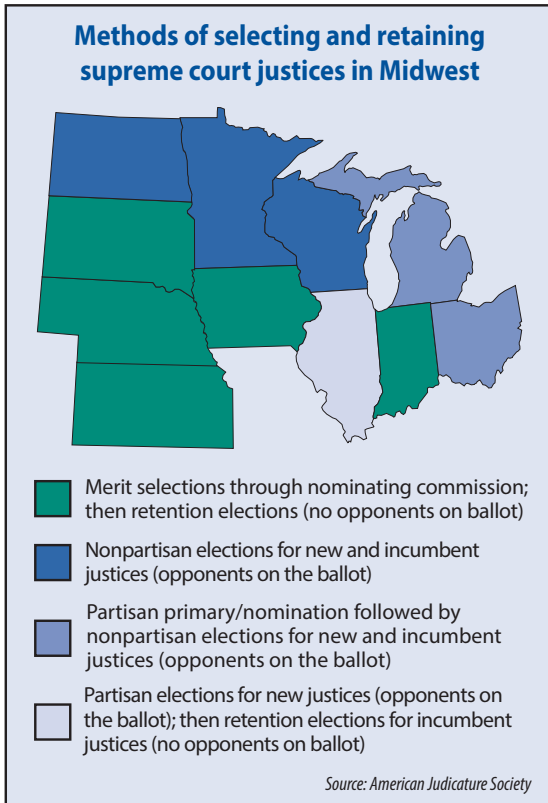
"Judges are not politicians in robes," he says. "You don't want them running on divisive partisan issues."

Illinois is not the only state in which questions have been raised about judicial elections; concerns about the growing partisanship and costs of such races have also surfaced in Michigan and Ohio.

Advocates of judicial elections contend that judges are public officials and that elections serve a useful purpose by holding them more accountable to voters.

But K.O. Myers, director of research and programs at the American Judicature Society, says that voter accountability isn't necessarily preferable to maintaining an independent and unbiased judiciary. Myers argues that Illinois' partisan election model "puts judges in the position of having to run political campaigns for jobs that are supposed to be nonpartisan and unbiased."

Despite these concerns, there have been recent attempts in merit-selection states to provide for the election of judges — an indication that the debate over judicial selection is likely to continue. ★





## POWERS, DUTIES OF INDIANA'S LIEUTENANT GOVERNOR: *State's second-in-command has 46 different statutory and constitutional duties*

[Editor's note: This article was written when Becky Skillman was Indiana's lieutenant governor. The current lieutenant governor is Sue Ellspermann.]

Shortly after setting her sights on her current office, Indiana Lt. Gov. Becky Skillman recalls being gently warned about what lay ahead by a legislative colleague.

"Any time the legislature has a great idea and doesn't know what to do with it," the colleague said, "they give it to the lieutenant governor."

Undeterred, Skillman was elected to the post in 2004, and seven years into her tenure, she calls it "the greatest job in the world."

That is because the office of lieutenant governor in Indiana carries with it an array of responsibilities and duties that is unmatched in the Midwest. In fact, with 46 separate constitutional and statutory duties, the office is arguably one of the most demanding and influential among lieutenant governorships nationwide.

According to Julia Hurst, executive director of the National Lieutenant Governors Association, the one duty common to all lieutenant governors in the 43 states that have them is gubernatorial succession. After that, the range of responsibilities varies considerably from state to state.

Just over half of the nation's lieutenant governors, including five of the 11 in the Midwest (Indiana, Michigan, Nebraska, North Dakota and South Dakota) also serve as presiding officers in their state senates.

But in Indiana, it is the executive branch duties given to the lieutenant governor that distinguish the office from its counterparts across the Midwest. Although other lieutenant governors are empowered to head up select agencies or commissions, none have the breadth of authority exercised by Indiana's second-in-command.

### Duties range from agriculture to counter-terrorism

Thanks to various constitutional and statutory provisions, including a

### The office is arguably one of the most demanding and influential among lieutenant governorships nationwide.

2005 reform effort abolishing the Indiana Department of Commerce and reassigning some of its core functions, Indiana's lieutenant governor serves as the secretary of agriculture and rural affairs. Indiana's lieutenant governor also oversees the Office of Tourism Development and serves as chair of the state's Counter-Terrorism and Security Council.

With an executive staff of just 14, Skillman relies heavily on the appointed directors of the agencies that she oversees. Together, these directors constitute a "lieutenant governor's cabinet," with whom she meets regularly to discuss strategy.

Skillman says the Indiana model works well, in part, because it requires the governor and lieutenant governor to work closely together.

This, in turn, helps to ensure the smooth continuity of government operations in the event of an unexpected succession in leadership, as the state experienced firsthand upon the death of Gov. Frank O'Bannon in 2003 and his succession by the lieutenant governor at the time, Joseph Kernan.

Like most other lieutenant governors (including all in the Midwest),

Indiana's is elected jointly on a single ticket with the governor.

In addition to her constitutional and statutory duties, Skillman, a former state senator, has served as the point person for Republican Gov. Mitch Daniels' legislative agenda and led several international state trade missions.

Skillman loves the job and all that it entails.

But there are at least two lessons she has learned about the office that any prospective candidate would want to know: be sure you have "a lot of stamina," and be ready to manage your time wisely. ★

#### Lieutenant governor's role in legislature





# ROAD TO THE WHITE HOUSE BEGINS IN IOWA:

## The candidates and process leave lasting impact on state politics and legislators

For most presidential candidates, the road to the White House begins in Iowa. Since the 1970s, the state's presidential caucuses have served as the nation's first real test of voter interest in competing candidates, and have launched the successful campaigns of presidents from Jimmy Carter to Barack Obama.

As important as they are to the candidates themselves, the Iowa caucuses are significant in other ways as well.

Rep. Linda Upmeyer, who serves as Iowa House majority leader, says the precinct caucus system — which features local meetings of neighbors in each of Iowa's 1,774 election precincts — shapes the way voters think about politics and participate in the process.

"The people of Iowa are used to meeting the candidates," she says. "They like being able to ask questions and not just listen to stump speeches."

David Yepsen, a long-time observer of the Iowa caucuses during a 34-year career as a writer, editor and columnist at *The Des Moines Register*, agrees that the caucuses inspire "citizen activism."

And, he says, more than a few members of the state Legislature and other noteworthy public officials got their start in politics by working on presidential campaigns at the local level.

"They get inspired, and they get the itch," says Yepsen, who recalls first meeting Tom Vilsack, the future Iowa governor and U.S. secretary of agriculture, on a street corner in Des Moines when Vilsack was working on Joe Biden's presidential campaign in 1987.

### 'Health two-party competition in Iowa'

Yepsen, now director of the Paul Simon Public Policy Institute at Southern Illinois University, says the caucuses have had a significant impact on party politics across the state.

"The caucuses have built a healthy two-party competition in Iowa,"

he says. "They produce a great list of activists and donors in every precinct that gets refreshed every four years."

The attention and the intense competition that characterize Iowa's caucus system also impact the state Legislature in ways that are unmatched in other states.

Yepsen points to the money that often flows from presidential candidates to state legislative campaigns, as well as the willingness of presidential contenders to get actively involved in local races.

"Legislators expect to see [presidential] candidates in their districts," he says.

Upmeyer, a member of the Iowa House since 2003, notes that the benefits flow both ways; presidential candidates are eager to come into the state, and local legislators are eager to share the attention they receive.

Yepsen adds that the nature of Iowa's legislative campaigns is also affected by the presidential race, which "tends to raise public awareness of national issues," especially during the caucus season.

More than in most states, national issues can shape and determine local races.

"If you haven't got rock-star [legislative] candidates," Upmeyer says, "issues can still make the difference."

Upmeyer says the state's unique caucus system has been good for the state. It engages people in a meaningful way, she says, and can be a lot of fun too.

"The spirit of the process is enduring

— the idea that input at the grass-roots level can really make a difference," she says.

Yepsen concurs, though he cautions that if Iowans want to preserve their first-in-the-nation status, they'll have to work to ensure that the Iowa caucuses continue to provide "a good, fair, honest hearing" for the presidential contenders.

"Constant improvement and quality control are the keys," Yepsen says. ★

Nature of presidential primaries in Midwest (as of 2012)*	
State	Process used by parties
Illinois	Semi-closed primary, both parties
Indiana	Open primary, both parties
Iowa	Closed caucus, both parties
Kansas	Closed local unit conventions, Democrat; closed caucus, Republican
Michigan	Open primary, both parties
Minnesota	Open precinct caucuses, Democrat; open precinct caucuses/straw poll, Republican
Nebraska	Semi-closed primary, both parties
North Dakota	Open legislative district caucus, Democrat; closed caucus, Republican
Ohio	Closed primary, both parties
South Dakota	Open primary, Democrat; closed primary, Republican
Wisconsin	Open primary, both parties

\* In an open system, voters of any affiliation may vote in the primaries of any party they choose. In a closed system, only voters registered with a given party can vote in that party's primary. In a semi-closed system, unaffiliated voters may choose which party primary to vote in, while voters registered with a party may only vote in that party's primary.

Source: The Center for Voting and Democracy



## KANSAS' ADJUSTMENTS TO U.S. CENSUS DATA:

*State differs from most on how to count college students and military personnel*

**W**hen the 2012 session of the Kansas Legislature adjourned, lawmakers left one important piece of business unfinished.

Their inability to come to closure on the politically charged issue of redistricting left Kansas alone among the 50 states without a new set of maps going into the year's congressional and legislative elections, and eventually forced a panel of federal district court judges to finish the job.

This stalemate in 2012 may have been unprecedented in the Sunflower State, but Kansas' redistricting process is unique among Midwestern states in other ways as well.

Like all other states, Kansas relies on U.S. Census Bureau data as a starting point in the decennial process of drawing new district lines.

But the Kansas Constitution requires that the population data provided by the federal government be adjusted before maps are drawn.

### Some students, military personnel not counted

Under Article 10, Section 1, nonresident military personnel and nonresident students attending Kansas colleges and universities are not counted.

In addition, military personnel and students who are residents of the state are counted in the districts of their permanent residence rather than where they are stationed or attending school.

This adjustment to the federal data is a throwback to an earlier era when Kansas conducted its own census and relied exclusively on its own data during the redistricting process.

From 1918 through 1979, Kansas counties collected population figures and submitted them to the state Department of Agriculture, which provided the statewide data used in redistricting.

The residency rules used in the "Ag Census" required both the exclusion of nonresidents and the inclusion of residents at the place of their permanent residence.

The residency adjustments built into the Ag Census were actually broader than those that are used today. In addition to military personnel and students, the Ag Census attempted to account for the

permanent residency of prisoners, nursing home residents and others.

Under a constitutional provision approved by voters in 1974, redistricting in Kansas became an end-of-the-decade process beginning in 1979 — the final year the Ag Census was used.

Ten years later, the redistricting process was based on a state census conducted by the secretary of state in 1988. The residency rules used that year were similar to those applied in the old Ag Census, which meant that adjustments were made to reflect the permanent residency of the population.

The current constitutional language, which paved the way for Kansas to begin using federal census data, was approved by voters in 1988 and used for the first time in 1992.

### Census adjustment now standard operating procedure

By retaining the customary residency requirements for military personnel and students, Kansas became the only state in the Midwest, and one of just a handful nationally, to require federal census data to be adjusted before redistricting begins.

In New York and Maryland, federal census data are adjusted to exclude nonresident prisoners and to reflect the permanent residence of inmates who resided in the state before being incarcerated.

According to Corey Carnahan, principal analyst with the Kansas Legislative Research Department, the practical effect of the required adjustments in Kansas is a net reduction in the state's total population for redistricting purposes and a redistribution of that total within the state.

Districts with large college campuses, for example, tend to see their population numbers decline; other areas where college students and military personnel reside permanently when not otherwise away on campus or on military duty tend to see their numbers increase.

Since its inception, the census adjustment has become standard operating procedure in Kansas. Carnahan says that efforts to modify or repeal the requirement have surfaced from time to time, but none has ever been approved by the Legislature. ★

**This adjustment to the federal data is a throwback to an earlier era when Kansas conducted its own census and relied exclusively on its own data during the redistricting process.**



## MICHIGAN'S LIFETIME BAN ON LEGISLATIVE SERVICE: *Under term limits law, legislators must leave after 14 years — and never return*

When voters in California, Colorado and Oklahoma approved the nation's first state legislative term limits in 1992, they triggered a wave of similar reforms that eventually produced term limit laws in more than 20 states. A decade later, the wave had crested, and it's now been more than 10 years since such a measure has been approved.

A reversal in momentum has seen term limits repealed by legislatures or thrown out by courts in six of the 21 states that previously approved them. But they continue to shape the legislative environment in 15 states — including four in the Midwest (Michigan, Nebraska, Ohio and South Dakota).

The impact of term limits remains the subject of much debate. But most policymakers can agree on this: In states that have adopted them, term limits represent one of the most significant institutional changes in legislative history.

All four of the states in the Midwest that have term limits initially adopted their laws in 1992, at the height of the term limits wave. (Nebraska's provision was later struck down by the state Supreme Court — a pattern that would be repeated two more times before Nebraska voters approved a measure in 2000 that still stands today.)

These voter-initiated constitutional amendments were similar in many ways, but Michigan's provision ultimately stood out from the pack.

Alone among the Midwestern states, Michigan is one of just six states nationwide to impose a lifetime limit on legislative service, as opposed to a limit on consecutive years of service. And its restriction on service in the state House of Representatives (three two-year terms) is the shortest limit in the region.

The first election to be affected by Michigan's term limits occurred in 1998, when 64 of the state's 110 representatives (58 percent of the total) were prohibited from seeking reelection.

Since then, turnover in both of the state's legislative chambers has remained high, and the legislative landscape in Lansing has changed.

According to House Speaker Jase Bolger, term limits are now just a fact of life in Michigan, and he doesn't buy into the idea that they should be blamed for what some see as occasional dysfunction in state government.

"It's our job to get the job done with the framework we have in place," Bolger says.

Bolger admits that term limits have changed the operational dynamics in Michigan, but he points with pride to numerous legislative successes achieved with term limits in place, adding, "It's possible to get the job done in any era."

### A 'sense of urgency' to make your legislative mark

Term limits have increasingly come under fire in recent years from critics citing numerous concerns, such as an erosion in the balance of power between the branches of government, legislative inefficiencies due to the loss of institutional memory, the inexperience of members and the constant turnover of leaders. But they remain extremely popular among voters.

A 2010 Michigan study found that 78 percent of respondents favored legislative term limits. And efforts to alter or repeal enacted term limits — in Michigan and other states — have repeatedly stalled in recent years.

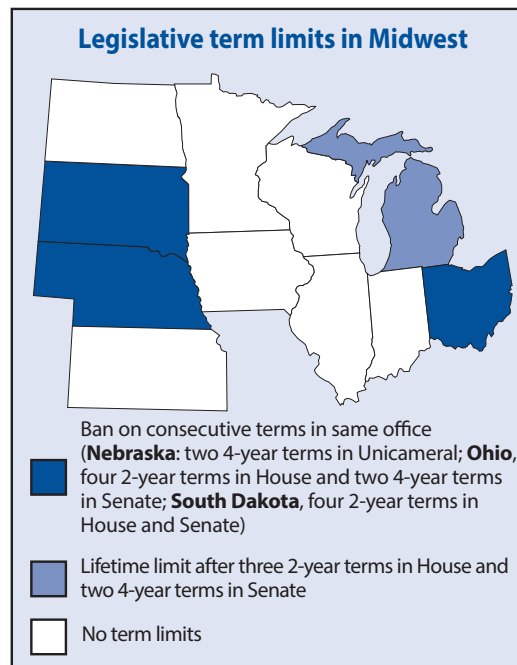
Statutory term limits have been legislatively repealed in two states (Idaho and Utah), but to date, no constitutional term limits have been overturned by voters.

A report on the effects of term limits in Michigan (prepared by the Michigan Society of Association Executives) concluded that while there is little evidence to indicate that term limits have improved the legislative process, their impact is difficult to quantify.

Bolger does point to one impact: the pressure on term-limited lawmakers to

make their marks quickly.

"There's a sense of urgency that comes with term limits," he says. But when legislators are dealing with urgent issues, he says, that can be beneficial in many ways. ★





## SIZING UP THE MINNESOTA LEGISLATURE:

*Midwest's largest Legislative body poses unique policy challenges for its members*

*[Editor's note: Since the writing of this article, Professor Alan Rosenthal passed away. Through his academic scholarship, teaching and work with legislatures, Professor Rosenthal made extensive contributions to the study and practice of state government. In 2013, the Midwestern Legislative Conference (of which CSG Midwest provides staffing services) adopted a resolution in honor of those contributions.]*

**H**igh above the main entrance to the Minnesota State Capitol building, the Quadriga, a striking gold-leafed copper sculpture of a four-horse chariot and figures, keeps steady watch over the grounds that surround it.

But it's what is inside the historic, 107-year-old landmark that really sets the Minnesota Capitol apart from others in the Midwest.

The building is home to the region's largest legislature — 134 members in the House, 67 in the Senate.

"We feel large," Minnesota Rep. Alice Hausman, an officer of the Midwestern Legislative Conference, says of the 201-member Legislature.

### Size of legislatures in Midwest varies widely

In comparison, the Midwest's second-largest legislative body, Illinois, has 177 members and its smallest, Nebraska, has only 49. The national average is just under 148 members.

"The larger the body, the easier it is for members to be invisible — never a good thing," says Hausman, who once sponsored a bill to replace Minnesota's bicameral legislature with a unicameral system similar to Nebraska's.

"The smaller the body, the easier it is for everybody to be actively engaged in the process."

And in an era of limited state resources, smaller might always seem better. However, Rutgers University professor Alan Rosenthal sees some important advantages to having larger legislative bodies.

"The thing legislatures do best is represent distinct constituencies," says Rosenthal, who has spent most of his career studying state legislatures.

Larger bodies with smaller legislative districts, he says, tend to be more representative of the diverse populations they serve.

Patrick McCormack, director of the Minnesota House Research Department, points to having members from "all walks of life" as a plus to having such a large body, but there are also some unique challenges.

For example, there is a regular influx of new legislators who must be oriented to the process, often when the Legislature is already in session.

### The 'one-third' rule and why larger legislatures may help

But as members come and go, Rosenthal says, larger legislatures have an advantage under what he calls a "one-third rule" that can be applied to any organization: "One third [of the members] are really good, one third aren't so good, and one third are in the middle."

"To do lawmaking well, you have to have good people, and you have to have good leaders," he says. "The more people you have, the more likely you are to find good people."

Former Minnesota Sen. Roger Moe, who served as majority leader of the nation's largest state senate for more than 20 years, also sees the body's larger size as an asset.

"As policy issues become more complex, you can't ever have enough talent," he says.

Moe also contends that the Minnesota Legislature's size helps ensure that its members are accessible to constituents.

Still, as McCormack points out, larger legislatures come with larger budgets that are more likely to get noticed when resources are scarce.

But are smaller bodies necessarily more efficient?

Rosenthal does not think so, and as evidence, he points to differences in how state houses of representatives and senates operate across the country.

"Houses are usually better organized because they have to be," he says. "In a larger body, you see more specialization, more deliberation and more effective division of labor than in a smaller body."

According to Rosenthal, though smaller bodies may be more democratic in some ways, the legislative process benefits from the more hierarchical structure that is typical of larger bodies. ★

**The Minnesota House has 134 members and the Senate has 67 members, for a total of 201 — a number that exceeds any other Midwestern state by 24. Nebraska has the smallest number of state legislators, 49.**



## NEBRASKA'S ONE-OF-A-KIND LEGISLATURE:

*Experiment with nonpartisan, one-house legislative body has stood the test of time*

A senate, a house of representatives, majority and minority caucuses and partisanship leadership structures — these are some of the common features of state legislatures across the country. From coast to coast and in almost every state, bicameral legislatures are the American norm, with one noteworthy exception here in the Midwest.

Nebraska long ago chose a different model, a nonpartisan, single-chamber legislature that remains unlike any other in the United States.

But it wasn't always so.

In choosing a single-chamber legislature, the citizens of Nebraska actually voted to eliminate the state's then 68-year-old house of representatives, a remarkable example of government downsizing that has never been matched elsewhere.

A reflection of the Progressive Movement that fueled a wave of government reforms early last century, Nebraska's decision to establish a unicameral legislature was anything but sudden.

Almost 20 years after the idea first surfaced, and after several previous attempts to implement it had failed, Nebraskans voted in 1934 to amend the state Constitution and establish the nation's first unicameral legislature.

The historic change was driven in part by the relentless advocacy of U.S. Sen. George Norris, a Progressive Republican who believed that states were ill-served by the usual bicameral legislative model. Another factor was growing concern over the rising cost of government in the midst of the Great Depression. A single chamber, proponents argued, would be more efficient and less expensive than the familiar two-house legislature.

Norris and others also believed that a one-house legislature would be more transparent, that its members would be more accountable to voters for their actions, and that it would cure a significant flaw in bicameral systems by eliminating the need for conference committees, which too often acted in secret and without sufficient checks on their power.

Critics of the unicameral option argued, among other things, that a two-house system ensures more careful deliberation of proposed legislation and that the single-chamber model would sacrifice desirable checks and balances within the legislative process.

Those arguments, though, were countered by proponents who said a mix of internal legislative procedures, such as a requirement that a proposal be considered and approved multiple times before final passage, and checks

from the other branches of government were sufficient.

Following voter approval of the proposed constitutional amendment, the legislature was reorganized in 1935, and when the new Unicameral met for the first time in 1937, Nebraska had a very different legislative institution. The total number of legislators had been slashed from 133 to just 43, a reduction of almost 70 percent, and the number of legislative committees dropped from 61 to just 18.

The Unicameral's first session was shorter and almost 50 percent less expensive than the final session of the state's old bicameral legislature. Lawmakers also considered half as many bills in 1937 as they did two years earlier, but they actually approved a few more by the time the session ended.

Today, the Nebraska Unicameral includes 49 members, which makes it the nation's smallest state legislature. But that isn't all that makes it unique.

As a result of the same reform that marked the end of bicameralism in Nebraska, the Unicameral became the nation's only nonpartisan legislature

as well. This, too, was a reflection of Norris' advocacy; he believed that national party politics were a detriment to the workings of state-level legislatures.

### **No party affiliations on ballot, no partisan caucuses**

Of course, partisan politics inevitably influence the lawmaking process, even in a body that is officially bipartisan, but according to Patrick J. O'Donnell, long-time clerk of the Unicameral Legislature, the nonpartisan nature of the state's legislative body remains apparent in several meaningful ways.

Candidates run in open primaries without party affiliations listed on the ballot. Legislative officers and committee chairs are elected by members instead of appointed by partisan caucus leaders, and minority-party members sometimes get elected to serve as committee chairs.

O'Donnell says that policy debates frequently tend to be less partisan in tone because of the unique nature of the Nebraska Unicameral and that final decisions are usually made on the merits of an issue rather than on the basis of political considerations alone.

Other states have frequently visited Nebraska over the years to study the workings of the Unicameral, but so far at least, no other state has followed Nebraska's lead. ★

**The move to a unicameral legislature was seen as a way to lower costs and improve openness and transparency**





## UNIQUE RULES OF THE NORTH DAKOTA LEGISLATURE:

*In sessions that occur only once every two years, every introduced bill gets a vote on the floor*

[Editor's note: Dave Nething, quoted in this article, has since retired from the North Dakota Senate.]

Across the country, no two legislatures go about the business of lawmaking in exactly the same way. Still, for the most part, the basic procedures used in most capitols are similar enough that a visiting legislator would quickly recognize key features of the process in almost any state.

Here in the Midwest, however, one legislature stands apart from the rest, thanks to a unique combination of traditions, operating authority, customized rules and subtle nuances that make it unlike any other in the region.

The North Dakota Legislative Assembly is different from other Midwestern legislatures in many ways.

For starters, it is the only legislative body in the region — and one of just four nationally (Montana, Nevada and Texas are the others) — that still meets only every other year.

That could change some day. Nationally, the number of states with biennial legislative sessions has slowly dwindled in recent years, and over time, North Dakota has seen its share of proposals to move to annual sessions.

But according to Jim Smith, director of the North Dakota Legislative Council, support for the existing system remains high.

### 'Openness key to effective government'

The state's lawmaking process itself is also unique. In most states, for example, there are numerous opportunities to derail or kill a bill long before it ever reaches the floor of the legislature.

Not so in North Dakota, where every introduced bill is guaranteed both a hearing in committee and a final vote on the floor of the full House or Senate.

Elected officials in other states, where legislative committees can

and frequently do prevent proposed bills from advancing, often find this feature of North Dakota's lawmaking process surprising.

But the dean of the North Dakota Senate, Republican Sen. Dave Nething, says his state's process reflects both a progressive populist history and a traditional commitment to transparency in government.

Nething points out that legislative caucus meetings and committee hearings are all open to the public in North Dakota.

Until the early 1970s, committees were permitted to hold executive sessions in order to vote on proposals behind closed doors, but since 1973, all committee votes have been required to be taken in open committee session.

Nething says these rules help citizens to better understand the lawmaking process and, he adds, "raise the level of discussion among legislators."

A 45-year veteran of the legislature, Nething also points out that the inability of committees to kill proposed legislation "tends to prevent the introduction of less serious proposals that might otherwise be introduced only to please a constituent."

As in other legislatures, North Dakota committees can recommend that bills be passed by the full body once they reach floor, but even proposals that fail to win committee approval continue to advance.

Smith says that most bills come to the floor with a "do pass" or a "do not pass" committee recommendation attached, but occasionally, they arrive without any committee recommendation at all.

Regardless, every introduced bill eventually receives a roll call vote on the floor of the full chamber in which it was proposed. This, too, reflects the state's commitment to transparency in lawmaking.

"Our openness really is the key to effective government," Nething says. ★

### State rules governing length of legislative session

State	Statutory or constitutional limits in place
Illinois	No limit
Indiana	April 29 (odd-numbered years); March 14 (even-numbered years)
Iowa	Not specified, but calendar usually set to adjourn when per diem ends
Kansas	None in odd-numbered years; 90 calendar days in even-numbered years
Michigan	No limit
Minnesota	120 legislative days per biennium (or first Monday after third Sunday in May)
Nebraska	90 days in odd-numbered years; 60 days in even-numbered years
North Dakota	80 legislative days; meets once every two years (only state in Midwest where legislature does not meet annually)
Ohio	No limit
South Dakota	40 legislative days
Wisconsin	No limit

Source: CSG Midwest



# FOR OHIO'S STATE SENATORS, A LOT OF HANDS TO SHAKE:

## Senate districts have more than 300,000 people, making them the largest in the Midwest

**A**cross the Midwest, the average state representative serves just over 58,000 constituents, while the average state senator represents almost 122,000. Both of these numbers are slightly lower than the corresponding national averages, and state-specific figures vary significantly, depending on population size and the number of seats in each legislative chamber.

In North Dakota, for example, each legislator represents just over 14,000 constituents (each of the state's 47 districts includes two representatives and one senator), the smallest such number among senate constituencies nationwide.

At the other end of the spectrum, Ohio stands out as the state with the region's largest legislative districts. The Midwest's second-most populous state, Ohio is governed by one of the region's smallest legislatures.

That means its 132 members typically represent much larger constituencies than do their counterparts in other states. An average house district encompasses 116,530 residents, which ranks fifth nationally among lower legislative chambers.

With almost 350,000 constituents, the Buckeye State's 33 Senate districts are fourth-largest in the country. (California's are the largest; at more than 931,000, they have more people than an average U.S. congressional district.)

Ohio's current legislative structure, in which each Senate district encompasses three contiguous House districts, was adopted by constitutional amendment in 1967. According to former Senate President Stan Aronoff, who served in the Ohio General Assembly for 36 years before retiring in 1996, the amendment was part of a wave of reforms designed to implement the "one man, one vote" principle established by the U.S. Supreme Court during the early 1960s.

Legislative districts in Ohio had tended to vary considerably in size, effectively diluting the influence of voters in underrepresented areas. Aronoff says the current system has served the state well, and

has "led to a greater focus on constituent services."

### Legislators count on staff, help from local officials

The significance of Ohio's relatively large constituencies appears to vary by chamber and by district. Sen. Peggy Lehner, who has served in both houses of the General Assembly and currently represents a district in southwest Ohio, says the large size of her constituency isn't always as apparent as it would be in a more rural area.

"I don't feel it the way some of my colleagues do," she says.

"Nothing in my district is more than 15 minutes away."

Lehner's district lies entirely within one county, and compared to other districts in Ohio, it tends to be more demographically homogenous. She also benefits from the extra support that senators receive with constituency outreach.

"I have really good staff," Lehner says, "and a lot more help than I had in the House."

Sen. Cliff Hite, who has also served in both chambers, agrees that the additional staff is a plus. Still, he says there is no substitute for getting out and meeting constituents, a challenge for him in a northwest Ohio district that encompasses parts or all of 11 counties.

"I'm dependent on local officials in my district to keep me informed," he says.

Representing parts of 11 counties means needing to know and work with 11 sets of county officials. And, Hite

quips, "It means you have to be willing to go to 11 county fairs; at five elephant ears per county fair, I eat a lot of bad food."

Hite says that personal contact is essential, regardless of district size. "If you are not willing to network and communicate, then having a large district could be a detriment," he says.

"You have to make it work, or you work your way out. If you're not a people person, you shouldn't be doing this." ★

Population of state legislative districts				
State	Senate		House	
	# of seats	Constituents per district	# of seats	Constituents per district
Illinois	59	217,468	118	108,734
Indiana	50	129,676	100	64,838
Iowa	50	60,927	100	30,464
Kansas	40	71,328	125	22,825
Michigan	38	260,096	110	89,851
Minnesota	67	79,163	134	39,582
Nebraska	49	37,272	—	—
North Dakota	47	14,310	94*	14,310
Ohio	33	349,591	99	116,530
South Dakota	35	23,262	70*	23,262
Wisconsin	33	172,333	99	57,444
<i>U.S. average</i>	<i>1,971</i>	<i>156,339</i>	<i>5,413</i>	<i>59,626</i>

\* All House districts are two-member districts  
Sources: U.S. Census Bureau, Ballotpedia and CSG



# SOUTH DAKOTA'S UNIQUE REVENUE STREAM:

## State has no individual income tax, and instead relies heavily on sales tax

Nationwide, state taxes on individual income generate about one-third of total tax revenues (33.5 percent in fiscal year 2010). Just ahead of general sales taxes, which produce 31.9 percent of total revenues, personal income taxes are, in the aggregate, the leading source of state revenues across the country.

The picture is similar here in the Midwest, where income taxes account for the lion's share of total state revenues in seven of the region's 11 states. And in three of the remaining four, levies on individual income produce significant shares of total tax dollars.

Not so, however, in South Dakota, which, alone among Midwestern states, imposes no tax on personal income.

Like six other states across the country (Alaska, Florida, Nevada, Texas, Washington and Wyoming), South Dakota relies much more heavily on other revenue streams in lieu of income taxes. It also enjoys a national reputation as a low-tax state, with combined state and local levies consuming just 7.6 percent of total state income (a regional low and third-lowest total in the nation).

But it wasn't always so. South Dakota, like most other states, adopted a statewide tax on personal income early in the last century — only to abandon it during World War II, when sales tax revenues soared nationwide.

A measure approved by the Legislature in 1943 repealed the income tax, retroactive to the end of 1942.

Subsequent efforts to reinstate the levy failed, most notably in the early 1970s, when a measure supported by former Gov. Richard Kneip was approved by the House of Representatives. The proposal was eventually defeated, however, when Lt. Gov. William Dougherty cast a decisive vote against the bill in the evenly divided Senate.

The cards were later stacked against any similar efforts by a pair of constitutional amendments adopted in 1978 and 1996.

Together, these provisions prohibit both the imposition of any

### The personal income tax was repealed more than 60 years ago, and subsequent efforts to reinstate it have failed.

new taxes and the increase of any existing tax rates except by means of a voter initiative or by a two-thirds vote of all members in each house of the legislature.

### State tax base differs from most other states'

As a result, South Dakota continues to rely more heavily on sales tax revenue than does any other Midwestern state. Elsewhere around the region, general sales tax levies generate between 23.9 percent (North

Dakota) and 40.1 percent (Indiana) of total state taxes, but in South Dakota, the figure is 55.7 percent.

When selective excise taxes are factored in, South Dakota's reliance on taxes derived from sales climbs to 80 percent of total tax revenue, second only to Florida among all U.S. states.

The state also continues to benefit from a substantial additional revenue stream in the form of video lottery revenues of more than \$100 million per year, all of which is earmarked for the support of education.

South Dakota's sales tax rate is currently 4 percent; recent ballot proposals to raise that rate have been rejected by the state's voters. Its sales tax base is, however, much

broader than many other states' because it captures many services and business-to-business transactions.

The state's current tax structure is distinctive for other reasons as well.

With the exception of a limited levy on financial institutions, South Dakota imposes no corporate income tax either. The state also refrains from taxing personal property, business inventories and (since 2001) inheritances. ★

State tax collections by source						
State	Property	Sales	Excise taxes	Individual income	Corporate income	Other
Illinois	.02%	21.1%	16.9%	42.7%	11.5%	7.6%
Indiana	0.0%	40.1%	20.7%	29.4%	4.6%	5.1%
Iowa	No tax	30.1%	13.0%	41.0%	5.1%	10.7%
Kansas	1.0%	38.0%	11.1%	38.8%	5.0%	6.0%
Michigan	7.8%	33.6%	15.3%	32.8%	3.6%	6.9%
Minnesota	3.9%	23.8%	15.6%	42.6%	6.5%	7.6%
Nebraska	0.0%	35.4%	11.2%	44.5%	5.8%	3.0%
North Dakota	0.1%	23.9%	9.3%	12.1%	4.3%	50.3%
Ohio	No tax	28.3%	18.3%	36.1%	1.0%	13.0%
South Dakota	No tax	55.7%	24.4%	No tax	2.4%	17.5%
Wisconsin	0.9%	26.7%	16.2%	43.7%	5.8%	6.7%

Source: Federation of Tax Administrators (U.S. Census Bureau data)



## WISCONSIN'S POWERFUL JOINT COMMITTEE ON FINANCE:

*16-member group has broad statutory authority in establishing, overseeing state budget*

*[Editor's note: Mark Miller was Senate minority leader at the time this article was written. He remains a member of the Senate, but is no longer minority leader. Wisconsin Rep. Robin Vos is no longer co-chair of the Joint Committee on Finance, but remains in the state Assembly.]*

In 1911, lawmakers in Wisconsin approved a flurry of sweeping and innovative proposals that distinguish that year's legislative session, even a century later, as one of the most significant in the state's history.

Among the measures enacted that year were the nation's first state income tax law, the first state worker's compensation law, a minimum-wage requirement for women, a bill regulating child labor and another establishing a new Industrial Commission.

But one of the most enduring legacies of the 1911 session was a measure that established a new joint legislative committee charged with overseeing the state budget process. It was vested with broad authority to consider all bills related to expenditures, revenue or taxation prior to their passage by the legislature.

One hundred years later, Wisconsin remains the only U.S. state to have assigned such broad statutory authority to a single joint committee. (Most other states distribute responsibilities on revenue and spending measures to multiple committees or between two legislative chambers.)

As a result, the Wisconsin Joint Committee on Finance is arguably one of the most powerful state legislative committees in the country.

Its principal function is to conduct a detailed review of the governor's biennial budget recommendations and, ultimately, to play the lead role in crafting the Legislature's budget bill. The committee is also empowered to:

- review all other revenue and spending bills;
- permit the legislative consideration of fiscal measures prior to the passage of the biennial budget (by attaching an emergency clause to them);

- supplement agency appropriations following passage of the budget;
- transfer funds between appropriations and programs; and
- adjust the number of authorized staff positions for state agencies.

For the past three decades, the committee has had 16 members: eight representatives and eight senators, with co-chairs designated by the Assembly speaker and Senate majority leader.

Despite the even number of committee members, as well as rules that require the committee's co-chairs to agree before any bill may be considered, the committee process works well in practice: The Joint Committee has never failed to produce a budget recommendation for the Legislature's consideration, even when the Assembly and Senate have been controlled by different parties.

### Power of committee depends on ability to work together

According to Bob Lang, director of the Wisconsin Legislative Fiscal Bureau (which provides staff support to the Joint Committee on Finance), the committee's co-chairs understand that "their power depends on their ability to work together," a factor that tends to foster compromise. Republican Rep. Robin Vos, a former co-chair of the committee, concurs.

"[It] requires compromise and consensus much earlier in the process than in other states with more traditional models," he says.

Sen. Mark Miller, another former co-chair of the committee, agrees that the panel's composition tends to promote cooperation between

members, although he notes that this dynamic doesn't always translate to the full Legislature.

Miller credits the Legislative Fiscal Bureau for the committee's track record of success in Wisconsin. Reliance upon a nonpartisan professional fiscal staff, he says, is "the key reason [the process] works as well as it does." ★

**Wisconsin remains the only U.S. state to have assigned such broad statutory authority to a single joint committee. Most other states distribute responsibilities on revenue and spending measures to multiple committees or between two legislative chambers.**