Best known today for its use in the U.S. Senate, the filibuster is a legislative tactic that dates back centuries — even to the days of ancient Rome. But for most legislators serving in the 11-state Midwest, this maneuver to stall debate or block a bill’s passage is much more a curiosity than a legislative reality or obstacle.

The one exception is Nebraska, home to perhaps the most unique legislative branch among the 50 U.S. state governments. In that state, where 49 senators serve in a one-house, nonpartisan chamber, the filibuster — or the threat of it — is a common occurrence.

“We operate more like a senate here rather than like a house in that we give the members great latitude to discuss, debate, cajole their colleagues,” says Patrick O’Donnell, clerk of the Nebraska Unicameral Legislature.

This difference in tradition makes sense in a legislature with only 49 members, and without another chamber to stand in the way of a bill getting passed. Even in Nebraska, though, the greater leeway granted to individual lawmakers does come with some limits.

In fact, on their face, Nebraska’s rules governing floor debate appear fairly restrictive when compared to other legislative bodies. For “any one question” being deliberated during the legislative day, each member can speak up to three times, and for no more than five minutes on each occasion.

But as it is interpreted by the Legislature, that “any one question” includes any amendment or motion tied to the measure.

“So if I have a bill with 15 amendments,” O’Donnell says, “an individual could theoretically speak 45 times on it, three times for each amendment.”

In most other states, the vote of a simple majority of senators or representatives can cut off debate and thus prevent use of the filibuster. Nebraska, on the other hand, is one of only 10 U.S. states that requires more than a simple or absolute majority, according to a national study done in 2009 by the Connecticut General Assembly.

Under Nebraska’s cloture rule, any attempt to end legislative debate requires approval of two-thirds of the members. When this rule was first adopted, in 1992, the Legislature required that eight hours of debate pass before a cloture motion be made to end the filibuster. This eight-hour rule was removed in 2002, but the tradition of allowing ample time for debate has still been honored.

“I think members by and large are comfortable with it,” O’Donnell says of the state’s filibuster and cloture rules. “They may not always like it, but they understand why we do it. Everyone is small ‘d’ democratic. Everybody is equal; everybody gets to debate as long as they like.”

He estimates that about one-third of attempted cloture votes are successful each year. In other cases, legislative filibusters have effectively stopped some of the state’s highest-profile bills from getting passed. For example, a concealed-carry gun measure was filibustered for 10 years before the bill’s proponents finally mustered the 33 necessary votes for cloture in 2006.

Likewise, repeal of Nebraska’s capital punishment law was successfully filibustered in past legislative sessions. This year, a bill to replace the death penalty with life imprisonment without possibility of parole finally got through the Nebraska Legislature. Cloture on debate was successfully invoked two times this session, and the legislation received final passage with a veto-proof majority.


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