

**2016 ANNUAL REPORT
TO THE NEBRASKA STATE LEGISLATURE
FROM THE
NEBRASKA COMMISSION ON UNIFORM STATE LAWS
(SUBMITTED DECEMBER 23, 2016)**

I. PREAMBLE

To the Honorable Pete Ricketts and members of the Nebraska Unicameral, the Nebraska Commissioners on Uniform State Laws respectfully submit this Annual Report for the 2016 calendar year.

II. OVERVIEW OF UNIFORM LAW COMMISSION

The Uniform Law Commission (ULC), also known as the National Conference of Commissioners on Uniform State Laws, has worked since 1892 for the uniformity of state laws where uniformity is desirable and practicable. It is comprised of state commissions on uniform laws from each state, the District of Columbia, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. Each jurisdiction determines the method of appointment and the number of commissioners appointed. Most jurisdictions provide for their commission by statute. The statutory authority governing Nebraska's uniform law commission can be found at Neb. Rev. Stat §§ 49-901 *et seq.*

There is only one fundamental requirement for the more than 300 uniform law commissioners: They must be members of the bar. While some commissioners serve as state legislators and other state officials, most are practitioners, judges and law professors. Uniform law commissioners serve for specific terms, and receive no salaries or fees for their work with the ULC.

Commissioners study and review the law of the states to determine which areas of law should be uniform. The commissioners promote the principle of uniformity by drafting and proposing specific statutes in areas of the law where uniformity between the states is desirable and practicable. The ULC can only propose – no uniform law is effective until a state legislature adopts it.

The ULC provides state legislatures with expertly drafted legislation on issues of common interest across the nation. The work of the ULC simplifies the legal life of businesses and individuals by providing rules and procedures that are consistent from state to state. Representing both state government and the legal profession, it is a genuine coalition of state interests. It has sought to bring uniformity to the divergent legal traditions of more than 50 sovereign jurisdictions, and has done so with significant success.

III. HISTORY

On August 24, 1892, representatives from seven states – Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey and Pennsylvania – met in Saratoga Springs, New York, to form what is now known as the ULC. By 1912, every state was participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commissioner in 1988.

Very early on, the ULC became known as a distinguished body of lawyers. The ULC has attracted some of the best of the profession. In 1901, Woodrow Wilson became a member. This, of course, was before his more notable political prominence and service as President of the United States. Several persons, later to become Justices of the Supreme Court of the United States, have been members: former Justices Brandeis, Rutledge, and Souter, and former Chief Justice Rehnquist. Legal scholars have served in large numbers, including Roscoe Pound from Nebraska and other notable academics such as Wigmore, Williston, and Bogert. Many other distinguished lawyers have served since 1892, though their names are not as well known in legal affairs and the affairs of the United States.

In each year of service, the ULC steadily increased its contribution to state law, but perhaps its most momentous decision came in 1940. In that year, the ULC made the significant decision to address major commercial problems with comprehensive legal solutions – a decision that set in motion the project to produce the Uniform Commercial Code (UCC). Working with the American Law Institute (ALI), the UCC took ten years to draft initially. It then took another 14 years before it was enacted across the country. Since then, the ULC and the ALI have continuously reviewed and updated the UCC. It remains the signature product of the ULC.

But the ULC has also been active in many other areas. It has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Other uniform acts include the Uniform Probate Code, Uniform Partnership Act, Uniform Limited Partnership Act, Uniform Anatomical Gift Act, Uniform Interstate Family Support Act, Uniform Child Custody Jurisdiction and Enforcement Act, and Uniform Prudent Management of Institutional Funds Act. As this list suggests, the ULC is recognized primarily for its work in commercial law, family law, the law of probate and estates, the law of business organizations, health law, and conflicts of law.

The ULC arose out of the concerns of state government for improvement of the law and better interstate relationships. Its sole purpose has been, and remains, service to state government and improvement of state law.

IV. DIVERSITY STATEMENT

Each member jurisdiction determines the number of uniform law commissioners it appoints to the ULC, the terms of uniform law commissioners, and the individuals who are appointed from the legal profession of that jurisdiction. The ULC encourages appointing authorities to consider diversity in making appointments to their respective uniform law commissions, including race, ethnic and gender diversity. The ULC is also attentive to these concerns internally. For example, the immediate past president of the organization and the current head of the Executive Committee are both women. The ULC does its best work when uniform law commissioners are drawn from diverse backgrounds and experiences.

V. PROCEDURES

The ULC is convened as a body once a year. It meets for a period of six or seven days, usually in July. In the interim period between these annual meetings, drafting committees composed of Commissioners meet to supply the working drafts that are considered at the annual meeting. These committees are assisted by reporters, who are usually non-commissioner academics, and by representatives from various interest groups. At each annual meeting, the work of the drafting committees is read and debated. Each Act must be considered over a substantial period of years. No Act becomes officially recognized as a Uniform Act until the ULC is satisfied that it is ready for consideration in the state legislatures. It is then put to a vote of the states, during which each state caucuses and votes as a unit.

The ULC Executive Committee is the main governing body of the ULC. It is composed of the officers of the organization, certain ex-officio members, and members appointed by the ULC President. Certain activities are conducted by the standing committees. For example, the Committee on Scope and Program considers all new subject areas for possible Uniform Acts. The Legislative Committee superintends the relationships of the ULC to the state legislatures. The Nebraska delegation currently has a member on both the Scope and Program Committee and on the Legislative Committee.

A small staff located in Chicago operates the national office of the ULC. The national office handles meeting arrangements, publications, legislative liaison, and general administration for the ULC.

The ULC maintains relations with several sister organizations. Official liaison is maintained with the American Bar Association, which provides advisors to all ULC drafting committees and many ULC study committees. Liaison is also maintained on an on-going basis with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the Conference of Chief Justices, and the National Center for State Courts. Liaison and activities are conducted with other organizations as interests and activities necessitate.

VI. ACTIVITIES OF THE NEBRASKA COMMISSION DURING 2016

A. Appointments

The Nebraska Commissioners are appointed for four-year terms by the Governor. After twenty years of service, Commissioners may become life members upon a positive vote by two-thirds of the ULC membership, which means that they can continue to serve the ULC without further appointment. Upon appointment as a life member, that member's position as a Commissioner becomes open for re-appointment.

The current Commissioners with their initial year of appointment and current duties are:

Hon. C. Arlen Beam (1979)(Life Member) – International Choice of Court Agreements Convention Implementation Act Committee

John P. Lenich (2015) – Newly appointed; not yet assigned to committee.

James E. O'Connor (2015) – Identity Management in Electronic Commerce Committee.

Joanne M. Pepperl (1980)(Life and Associate Member), Chair – Legislative Attorneys and Style Committees

Harvey S. Perlman (1987)(Life Member) – International Choice of Court Agreements Convention Implementation, International Legal Developments, and Public Information Committees; Study Committee for Proposed Uniform Anti-SLAPP Act.

Larry L. Ruth (1995)(Life Member) – Faithful Presidential Electors Act, Parliamentary Practice, and Legislative Committees

Steven L. Willborn (2007), Secretary – Scope and Program, Wage Garnishment, and American Indian Tribes and Nations Committees

B. Meetings

The Uniform Law Commission held its Annual Meeting on July 8-14, 2016, in Stowe, Vermont. It was attended by Commissioners Lenich, Pepperl, Perlman, Ruth, and Willborn. The Nebraska Commission decided to retain its current officers, Commissioner Pepperl as Chair and

Commissioner Willborn as Secretary. It also discussed its planned activities for the upcoming year.

C. Uniform Acts Approved by the ULC During the 2016 Annual Meeting

Uniform Employee and Student Online Privacy Protection Act

Today, most individuals have online accounts of some type. These include social media accounts, bank accounts, and email accounts, among others. Generally, when someone asks for access to the login information for, or content of, a personal online account, an individual is free to say no. But that is less true in the employment and educational contexts. Indeed, employers and educational institutions now sometimes ask current and/or prospective employees and students to grant the employer or school access to social media or other name and password protected accounts. The Uniform Employee and Student Online Privacy Protection Act addresses both employers' access to employees or prospective employees' social media and other online accounts accessed via username and password or other credentials of authentication as well as educational institutions' access to students' or prospective students' similar online accounts.

Uniform Family Law Arbitration Act

States' laws vary when it comes to arbitrating family law matters such as spousal support, division of property, child custody, and child support. The Uniform Family Law Arbitration Act standardizes the arbitration of family law. It is based in part on the Revised Uniform Arbitration Act, though it departs from the RUAA in areas in which family law arbitration differs from commercial arbitration, such as: standards for arbitration of child custody and child support; arbitrator qualifications and powers; protections for victims of domestic violence. This Act is intended to create a comprehensive family law arbitration system for the states. It is an overlay statute meant to work together with the state's existing choice-of-law rules and contractual arbitration law.

Revised Uniform Unclaimed Property Act

The ULC first drafted uniform state legislation on unclaimed property in 1954. Since then, revisions have been promulgated in 1981 and again in 1995. Many technological developments in recent years as well as new types of potential unclaimed property, such as gift cards, are not addressed in the most current uniform act. The Revised Uniform Unclaimed Property Act updates provisions on numerous issues, including escheat of gift cards and other stored-value cards, life insurance benefits, securities, dormancy periods, and use of contract auditors. The Revised Act provides a comprehensive and extensive set of revisions, including provisions related to: when property is presumed abandoned; which state has custody of property; the recovery of unclaimed property from states by owners; the powers and responsibilities granted to state unclaimed property administrators; and the rights of holders to seek administrative and judicial review of examinations conducted by administrators.

Uniform Unsworn Domestic Declarations Act

The Uniform Unsworn Domestic Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act, which covers unsworn declarations made *outside* the United States. This new Uniform Act permits the use of unsworn declarations made under penalty of perjury in state courts when the declaration was made *inside* the U.S. States that have already enacted the Uniform Unsworn Foreign Declarations Act (UUFDA) should enact this act.

Uniform Unsworn Declarations Act

The Uniform Unsworn Declarations Act builds upon the Uniform Unsworn Foreign Declarations Act (UUFDA), which covers unsworn declarations made outside the boundaries of the United States, and the Uniform Domestic Declarations Act (UDDA), which covers unsworn declarations made inside the U.S. States that have not enacted the Uniform Unsworn Foreign Declarations Act should enact this Act, which essentially combines both the UUFDA and the UDDA into one comprehensive Act.

Uniform Wage Garnishment Act

Currently, every state has a different wage garnishment law and process. This means that employers who do business across multiple states must know and abide by a different, and often complex, law for each jurisdiction. If employers make processing errors calculating garnishments, they may face civil penalties. The Uniform Wage Garnishment Act seeks to simplify and clarify wage garnishments for employers, creditors, and consumers by standardizing how the wage garnishment process works and offering plain-language notice and garnishment calculation forms. The UWGA creates a standard system for wage garnishments that is largely removed from the courts, operates efficiently thereby reducing costs, and provides employees with plain-language notification of their rights and obligations as well as providing them with other protections. The UWGA applies only to what is sometimes called a “debt garnishment,” meaning a garnishment by a creditor with a money judgment.

Revised Uniform Law on Notarial Acts: Amendment on Foreign Remote Notarization

The Amendment to the Revised Uniform Law on Notarial Acts authorizes notaries public to perform notarial acts in the state in which they are commissioned for individuals who are located outside the United States. The amendment is optional for the states. The amendment requires the use of audio- and video-technologies for real-time communication, and requires the notary to record the interaction. It authorizes the commissioning agency to regulate the technologies used. The act of the individual in making the statement or signing the record must not be prohibited in the foreign state in which the individual is physically located. The certificate affixed by the notary to the record must indicate that the notarial act took place while the individual was located in a foreign country.

D. Uniform Acts introduced in Nebraska During the 2016 Legislative Session

- LB 254 Adopt the Uniform Foreign Declarations Act. Carryover bill. Indefinitely postponed.
- LB 829 Adopt the Revised Uniform Fiduciary Access to Digital Assets Act. Passed and signed by the Governor on April 20, 2016.

E. Recommendations for Enactment During the 2017 Legislative Session

- TBD Adopt the Revised Uniform Unclaimed Property Act.
- TBD Adopt the Uniform Wage Garnishment Act

VII. ENACTMENT RECORD TO DATE

According to the records of the ULC, Nebraska has an outstanding record of enacting uniform and model acts prepared by the ULC. Adoption of these acts has improved the jurisprudence of the State of Nebraska at little cost because of the work done by the ULC in preparing the acts to a high level of technical competence.

List of Uniform and Model Acts Enacted in Nebraska

1. Acknowledgment * (1939)(1942): *Enacted 1943*
2. Adult Guardianship and Protective Proceedings Jurisdiction (2007): *Enacted 2011*
3. Anatomical Gift (1968): *Enacted 1971*
4. Revised Anatomical Gift (2006): *Enacted 2010*
5. Appointment of Commissioners, Act to Provide for (1944): *Enacted 1951*
6. Arbitration (1956): *Enacted 1986*
7. Athlete Agents (2000): *Enacted 2009*
8. Attendance of Witnesses from Without a State in Criminal Proceedings, Act to Secure (1936): *Enacted 1937*
9. Business Records as Evidence (1936): *Enacted 1951*
10. Child Abduction Prevention (2006): *Enacted 2007*
11. Child Custody Jurisdiction (1968): *Enacted 1979*
12. Child Custody Jurisdiction and Enforcement (1997): *Enacted 2003*
13. Choice of Forum (1968): *Enacted 1969*
14. Commercial Code (1951): *Enacted 1963*
15. Revised UCC Article 1 (2001): *Enacted 2005*
16. UCC Article 2A (1987)(1990): *Enacted 1991*
17. Revised UCC Articles 3 and 4 (1990): *Enacted 1991*
18. UCC Article 4A (1989): *Enacted 1991*
19. Revised UCC Article 5 (1995): *Enacted 1996*
20. Revised UCC Article 6 (Repeal) (1989): *Enacted 1991*

21. Revised UCC Article 7 (2003): *Enacted 2005*
22. Amendments to UCC Article 8 (1977): *Enacted 1989*
23. Revised UCC Article 8 (1994): *Enacted 1995*
24. Amendments to UCC Article 9 (1972): *Enacted 1980*
25. Revised UCC Article 9 (1998): *Enacted 1999*
26. Amendments to Revised UCC Article 9 (1999): *Enacted 2000*
27. Amendments to Revised UCC Article 9 (2010): *Enacted 2011*
28. Common Trust Fund (1938): *Enacted 1953*
29. Composite Reports as Evidence (1936): *Enacted 1951*
30. Condominium (1977)(1980): *Enacted 1983*
31. Conflict of Laws-Limitations (1982): *Enacted 2006*
32. Controlled Substances (1970): *Enacted 1971*
33. Criminal Extradition (1926): *Enacted 1935*
34. Revised Criminal Extradition (1936): *Enacted 1963*
35. Custodial Trust (1987): *Enacted 1997*
36. Deceptive Trade Practices (1964)(1966): *Enacted 1969*
37. Declaratory Judgments (1922): *Enacted 1929*
38. Deployed Parents Custody & Visitation Act (2012): *Enacted 2016.*
39. Determination of Death (1980): *Enacted 1992*
40. Disposition of Unclaimed Property (1966): *Enacted 1969*
41. Divorce Recognition (1947): *Enacted 1949*
42. Durable Power of Attorney (1979): *Enacted 1985*
43. Electronic Transaction (1999): *Enacted 2000*
44. Enforcement of Foreign Judgments (1948): *Enacted 1949*
45. Revised Enforcement of Foreign Judgments (1964): *Enacted 1993*
46. Environmental Covenants (2003): *Enacted 2005*
47. Evidence, Rules of * (1964): *Enacted 1975*
48. Faithful Presidential Electors Act (2010): *Enacted 2014*
49. Federal Lien Registration (1978)(1982): *Enacted 1988*
50. Federal Tax Lien Registration (1966): *Enacted 1969*
51. Revised Fiduciary Access to Digital Assets Act. *Enacted in 2016.*
52. Foreign Depositions (1920): *Enacted 1951*
53. Fraudulent Conveyance (1918): *Enacted 1980*
54. Fraudulent Transfer (1984): *Enacted 1989*
55. Gifts to Minors (1956): *Enacted 1957*
56. Revised Gifts to Minors (1965): *Enacted 1969*
57. Interstate Arbitration of Death Taxes (1943): *Enacted 1976*
58. Interstate Compromise of Death Taxes (1943): *Enacted 1976*
59. Interstate Enforcement of Domestic Violence Protection Orders (2000)(2002): *Enacted 2003*
60. Interstate and International Procedure (1962): *Enacted 1967*
61. Interstate Family Support (1992): *Enacted 1993*
62. Amendments to Interstate Family Support (1996): *Enacted 1997*
63. Amendments to Interstate Family Support (2001): *Enacted 2003*

64. Amendments to Interstate Family Support (2016): *Enacted 2016*
65. Intestacy, Wills and Donative Transfers (1991): *Enacted 1993*
66. Judicial Notice of Foreign Law (1936): *Enacted 1947*
67. Limited Cooperative Association (2007): *Enacted 2008*
68. Limited Liability Company (2006): *Enacted 2010*
69. Limited Partnership (1916): *Enacted 1939*
70. Revised Limited Partnership (1976): *Enacted 1981*
71. Management of Institutional Funds (1972): *Enacted 1996*
72. Mediation (2001): *Enacted 2003*
73. Military Justice, Code of * (1961): *Enacted 1969*
74. Multiple Person Accounts (1989): *Enacted 1993*
75. Narcotic Drug (1932): *Enacted 1935*
76. Negotiable Instruments Law (1896): *Enacted 1905*
77. Partnership * (1914): *Enacted 1943*
78. Revised Partnership (1994)(1996): *Enacted 1997*
79. Photographic Copies of Business and Public Records as Evidence (1949): *Enacted 1951*
80. Power of Attorney (2006): *Enacted 2012*
81. Premarital Agreement (1983): *Enacted 1994*
82. Principal and Income (1997): *Enacted 2001*
83. Amendments to Principal and Income (2008): *Enacted 2009*
84. Probate Code (1969): *Enacted 1974*
85. Property (1938): *Enacted 1941*
86. Prudent Investor (1994): *Enacted 1997*
87. Prudent Management of Institutional Funds (2006): *Enacted 2007*
88. Real Property Transfer on Death Act (2009): *Enacted 2012*
89. Reciprocal Enforcement of Support (1950): *Enacted 1951*
90. Amendments to Reciprocal Enforcement of Support (1952): *Enacted 1957*
91. Amendments to Reciprocal Enforcement of Support (1958): *Enacted 1965*
92. Revised Reciprocal Enforcement of Support (1968): *Enacted 1971*
93. Reciprocal Transfer Tax (1928): *Enacted 1945*
94. Recognition of Acknowledgments (1968): *Enacted 1969*
95. Rendition of Accused Persons (1967): *Enacted 1969*
96. Rendition of Prisoners as Witnesses in Criminal Proceedings (1957): *Enacted 1969*
97. Residential Landlord and Tenant (1972): *Enacted 1974*
98. Rights of the Terminally Ill (1985): *Enacted 1992*
99. Sales (1906): *Enacted 1921*
100. Securities * (1956)(1958): *Enacted 1967*
101. Simplification of Fiduciary Security Transfers (1958): *Enacted 1961*
102. Simultaneous Death (1940): *Enacted 1947*
103. Statutory Rule Against Perpetuities (1986): *Enacted 1989*
104. Stock Transfer (1909): *Enacted 1941*
105. Testamentary Additions to Trusts (1991): *Enacted 1999*
106. TOD Security Registration (1989): *Enacted 1993*
107. Traffic on Highways, Act Regulating * (1926): *Enacted 1931*

- 108. Transfers to Minors (1983)(1986): *Enacted 1992*
- 109. Trust Code (2000): *Enacted 2003*
- 110. Trust Receipts (1933): *Enacted 1949*
- 111. Veterans' Guardianship (1928): *Enacted 1929*
- 112. Revised Veterans' Guardianship (1942): *Enacted 1949*
- 113. Voting by New Residents in Presidential Elections (1962): *Enacted 1963*
- 114. Warehouse Receipts (1906): *Enacted 1909*
- 115. Wills Act, Foreign Executed (1910): *Enacted 1941*

The table below demonstrates that Nebraska's support of the ULC has also had a significant impact on state legislation throughout the United States. One of the main purposes of the ULC, as the name implies, is to draft and propose laws "to promote uniformity in the law among the several States where uniformity is desirable and practicable." Thus, enactment of these laws in other States also serves Nebraska's interest in aligning our laws with those of other States and, in so doing, improves comity between States and the overall efficiency of the legal system.

Number of Uniform and Model Acts Enacted in Each State

ALABAMA – 104	ALASKA - 104
ARIZONA – 115	ARKANSAS - 118
CALIFORNIA – 102	COLORADO - 126
CONNECTICUT – 109	DELAWARE - 102
DISTRICT OF COLUMBIA – 108	FLORIDA - 89
GEORGIA – 78	HAWAII - 139
IDAHO – 137	ILLINOIS - 115
INDIANA – 115	IOWA - 103
KANSAS – 115	KENTUCKY - 97
LOUISIANA – 87	MAINE - 104
MARYLAND – 118	MASSACHUSETTS - 92
MICHIGAN – 118	MINNESOTA - 142
MISSISSIPPI – 87	MISSOURI - 81
MONTANA – 151	NEBRASKA - 115
NEVADA – 142	NEW HAMPSHIRE - 96
NEW JERSEY – 91	NEW MEXICO - 151
NEW YORK – 78	NORTH CAROLINA - 101
NORTH DAKOTA – 170	OHIO - 84
OKLAHOMA – 135	OREGON - 120
PENNSYLVANIA – 110	PUERTO RICO - 30
RHODE ISLAND – 99	SOUTH CAROLINA - 88
SOUTH DAKOTA – 128	TENNESSEE - 101
TEXAS – 93	US VIRGIN ISLANDS - 82
UTAH – 134	VERMONT - 96
VIRGINIA – 109	WASHINGTON - 132
WEST VIRGINIA – 101	WISCONSIN - 140

WYOMING - 102

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