

**2022 ANNUAL REPORT
TO THE NEBRASKA STATE LEGISLATURE
FROM THE
NEBRASKA COMMISSION ON UNIFORM STATE LAWS
(AS OF DECEMBER 31, 2022)**

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 2022 calendar year.

II. OVERVIEW OF NEBRASKA AND UNIFORM LAW COMMISSIONS

The statutory authority governing Nebraska's Uniform Law Commission can be found at Neb. Rev. Stat §§ 49-901 *et seq.* Members of the Nebraska Uniform Law Commission serve as Nebraska's representatives to the Uniform Law Commission (ULC).

The Uniform Law Commission, 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.

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. Obviously, 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, 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 the organization's founding in 1892.

In each year of service, the ULC steadily increases its contributions 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 desire 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, five of the eleven members of the Executive Council are women, including the person on track to be a future President of the ULC. The ULC does its best work when uniform law commissioners are drawn from diverse backgrounds and experiences.

V. PROCEDURES

The ULC is usually convened as a body once a year, for a period of six or seven days in July or August. 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. At each annual meeting, the work of the drafting committees is read and debated. Each Act is generally considered over a period of two years. No Act becomes officially recognized as a Uniform Act until the Uniform Law Commission 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 governing body is the ULC Executive Committee, and is composed of the officers, certain ex-officio members, and members appointed by the ULC President. Certain activities are conducted by other standing committees. For example, the Committee on Scope and Program considers new subject areas for possible Uniform Acts, and the Legislative Committee superintends the relationships of the ULC to the state legislatures.

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 ULC drafting committees and ULC study committees. Liaison is also maintained with the American Law Institute, the Council of State Governments, the National Conference of State Legislatures, the National Association of Secretaries of State, the National Association

of Attorneys General, the Conference of Chief Justices, and the National Center for State Courts on an on-going and as-needed basis. Liaison and activities are conducted with other organizations as interests and activities necessitate.

VI. ACTIVITIES OF THE NEBRASKA COMMISSION DURING 2022

A. *Appointments*

The Nebraska Commissioners consist of those individuals appointed for four-year terms by the Governor, the Revisor of Statutes and those Nebraska Commissioners who are elected as life members of the ULC. After 20 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 may become open for appointment by the Governor.

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

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

(b) Marcia M. McClurg (2021) – Legislative Attorneys Committee

(c) James E. O'Connor (2015) – Secretary of the Nebraska ULC; Cybercrime committee; Automated Technology Liability Committee. Term ends August 11, 2023.

(d) Joanne M. Pepperl (1980) (Life member) - Chair of the Nebraska ULC; Style Committee.

(e) Harvey S. Perlman (1987) (Life Member) – Automated Technology Liability Committee; International Choice of Court Agreements Convention Implementation Act Committee.

(f) Larry L. Ruth (1995) (Life Member) – Determination of Death Committee; Parliamentary Practice Committee.

(g) Donald L. Swanson (2022) – Assignment for Benefit of Creditors Committee; Legislative Council. Term ends August 11, 2023.

(h) Steven L. Willborn (2007) (served as Interim Executive Director of the Uniform Law Commission from 2018-2022) - Antitrust Committee; International Legal Developments Committee; Legislative Counsel; Patent Rights in Employment Committee; Review ULC Acts Committee; Scope and Program; Style Committee. Term ends August 11, 2023.

B. Meetings

The Nebraska Commission on Uniform State Laws held its Annual Meeting in person on July 11, 2022 in Philadelphia (at the same place as the Annual Meeting of the Uniform Law Commission). The meeting was called to order at 1:30 pm. It was attended by Commissioners, McClurg, O'Connor, Ruth, Swanson and Willborn. It decided to retain Commissioner Pepperl as Chair and Commissioner O'Connor as Secretary.

C. Uniform Acts Approved by the ULC During the 2022 Annual Meeting

UNIFORM ALCOHOL DIRECT-SHIPPING COMPLIANCE ACT

The Uniform Alcohol Direct-Shipping Compliance Act enhances an enacting state's capability to detect and stop unlawful direct-to-consumer ("DTC") shipments of alcoholic beverages to the state's residents. The Act integrates with existing state law as to whether DTC shipping is allowed, and for which types of alcoholic beverages. The Act does not create new or additional authorization burdens to ship alcoholic beverages directly to a consumer. Instead, the Act creates new tools for state regulators to use to ensure that existing state laws regarding DTC shipping are obeyed. For instance, the Act provides state regulators a mechanism for distinguishing between DTC shipments originating from shippers licensed under the state's existing law and DTC shipments originating from non-licensed shippers.

UNIFORM ELECTRONIC ESTATE PLANNING DOCUMENTS ACT

The Uniform Electronic Estate Planning Documents Act will fill a gap in the law regarding the execution of certain estate planning documents, including trusts and powers of attorney. The Uniform Electronic Transactions Act (UETA) authorizes the electronic execution of bilateral contracts if the parties to a transaction agree. The Uniform Electronic Wills Act (UEWA) authorizes the testator of a will and witnesses to execute a will in electronic form. However, trusts, powers of attorney, and some other types of estate planning documents fell into a legal grey area where the law governing electronic execution was ambiguous. The Uniform Electronic Estate Planning Documents Act clarifies that these documents may also be executed in electronic form. The new act was drafted to complement UEWA and could be adopted by a state simultaneously with that act to comprehensively authorize the electronic execution of wills, trusts, powers of attorney, and several other types of common estate planning documents.

MODEL PUBLIC MEETINGS DURING EMERGENCIES ACT

The Covid-19 pandemic has highlighted the need for public bodies to meet when disasters and other emergencies make in-person meetings of public bodies either impossible or inadvisable. The Model Public Meetings During Emergencies Act is intended to provide a process to ensure that important public meetings can go forward when these events occur consistent with protecting public access to meetings. The Act

builds on existing state laws authorizing the declaration of emergencies and subjecting public meetings to various procedural and public access requirements. This Act is intended to work in harmony with those laws, particularly open meetings and other laws providing for public comment on and participation in the deliberations of public bodies.

UNIFORM TELEHEALTH ACT

In recent years, improvements in telecommunication technologies have transformed the delivery of health care. The arrival of the Covid-19 pandemic greatly expanded patient demand for telehealth services. To meet patient needs, many states chose to modify licensure and other requirements that served as barriers to the delivery of telehealth services. Today, many states are re-examining laws related to telehealth, often with an eye toward expanding access to care while maintaining protections for patients. The Uniform Telehealth Act has two broad goals. The first is to make clear that, as a general matter, health care services may be provided through telehealth, if doing so is consistent with applicable professional practice standards and the practitioner's scope of practice, as defined by the state in which the patient is located. The second goal is to establish a registration system for practitioners who hold licenses in other states. This Act permits a registered practitioner to provide telehealth services to patients located in the state adopting the act.

UNIFORM COMMERCIAL CODE AND EMERGING TECHNOLOGIES

The 2022 Amendments to the Uniform Commercial Code (UCC) update and modernize the UCC to address emerging technologies. A new UCC Article 12 on Controllable Electronic Records governs transactions involving new types of digital assets (such as virtual currencies, electronic money, and nonfungible tokens), and corresponding changes to UCC Article 9 address security interests in digital assets. The 2022 amendments also update terminology to account for digital records, electronic signatures, and distributed ledger technology, provide rules for electronic negotiable instruments, and clarify the rules for UCC applicability to hybrid transactions involving both goods and services.

VII. PLANNED ACTIVITIES FOR 2023

During the 2023 session, we are considering advancing the following acts:

- (a) Uniform Commercial Code and Emerging Technologies, the 2022 amendments to the Uniform Commercial Code.
- (b) The Community Property Disposition at Death Act
- (c) The Uniform Telehealth Act

VIII. 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. Civil Remedies for Unauthorized Disclosure of Intimate Images Act (2021); *Enacted 2021*
15. Commercial Code (1951): *Enacted 1963*
16. Revised UCC Article 1 (2001): *Enacted 2005*
17. UCC Article 2A (1987)(1990): *Enacted 1991*
18. Revised UCC Articles 3 and 4 (1990): *Enacted 1991*
19. UCC Article 4A (1989): *Enacted 1991*
20. Revised UCC Article 5 (1995): *Enacted 1996*
21. Revised UCC Article 6 (Repeal) (1989): *Enacted 1991*
22. Revised UCC Article 7 (2003): *Enacted 2005*
23. Amendments to UCC Article 8 (1977): *Enacted 1989*
24. Revised UCC Article 8 (1994): *Enacted 1995*
25. Amendments to UCC Article 9 (1972): *Enacted 1980*
26. Revised UCC Article 9 (1998): *Enacted 1999*
27. Amendments to Revised UCC Article 9 (1999): *Enacted 2000*
28. Amendments to Revised UCC Article 9 (2010): *Enacted 2011*
29. Common Trust Fund (1938): *Enacted 1953*
30. Composite Reports as Evidence (1936): *Enacted 1951*
31. Condominium (1977)(1980): *Enacted 1983*
32. Conflict of Laws-Limitations (1982): *Enacted 2006*
33. Controlled Substances (1970): *Enacted 1971*

34. Criminal Extradition (1926): *Enacted 1935*
35. Revised Criminal Extradition (1936): *Enacted 1963*
36. Custodial Trust (1987): *Enacted 1997*
37. Deceptive Trade Practices (1964)(1966): *Enacted 1969*
38. Declaratory Judgments (1922): *Enacted 1929*
39. Deployed Parents Custody & Visitation Act (2012): *Enacted 2016.*
40. Interstate Depositions and Discovery (2007): *Enacted 2021*
41. Determination of Death (1980): *Enacted 1992*
42. Directed Trust Act (2021); *Enacted 2021*
43. Disposition of Unclaimed Property (1966): *Enacted 1969*
44. Divorce Recognition (1947): *Enacted 1949*
45. Durable Power of Attorney (1979): *Enacted 1985*
46. Easement Relocation Act (2020): *Enacted 2021*
47. Electronic Transaction (1999): *Enacted 2000*
48. Enforcement of Foreign Judgments (1948): *Enacted 1949*
49. Revised Enforcement of Foreign Judgments (1964): *Enacted 1993*
50. Environmental Covenants (2003): *Enacted 2005*
51. Evidence, Rules of * (1964): *Enacted 1975*
52. Faithful Presidential Electors Act (2010): *Enacted 2014*
53. Federal Lien Registration (1978)(1982): *Enacted 1988*
54. Federal Tax Lien Registration (1966): *Enacted 1969*
55. Revised Fiduciary Access to Digital Assets Act. *Enacted in 2016.*
56. Foreign Depositions (1920): *Enacted 1951*
57. Foreign Money Judgements (2005); *Enacted 2021*
58. Fraudulent Conveyance (1918): *Enacted 1980*
59. Fraudulent Transfer (1984): *Enacted 1989*
60. Gifts to Minors (1956): *Enacted 1957*
61. Revised Gifts to Minors (1965): *Enacted 1969*
62. Interstate Arbitration of Death Taxes (1943): *Enacted 1976*
63. Interstate Compromise of Death Taxes (1943): *Enacted 1976*
64. Interstate Enforcement of Domestic Violence Protection Orders (2000)(2002):
Enacted 2003
65. Interstate and International Procedure (1962): *Enacted 1967*
66. Interstate Family Support (1992): *Enacted 1993*
67. Amendments to Interstate Family Support (1996): *Enacted 1997*
68. Amendments to Interstate Family Support (2001): *Enacted 2003*
69. Amendments to Interstate Family Support (2016): *Enacted 2016*
70. Intestacy, Wills and Donative Transfers (1991): *Enacted 1993*
71. Judicial Notice of Foreign Law (1936): *Enacted 1947*
72. Limited Cooperative Association (2007): *Enacted 2008*
73. Limited Liability Company (2006): *Enacted 2010*
74. Limited Partnership (1916): *Enacted 1939*
75. Revised Limited Partnership (1976): *Enacted 1981*
76. Management of Institutional Funds (1972): *Enacted 1996*
77. Mediation (2001): *Enacted 2003*

78. Military Justice, Code of * (1961): *Enacted 1969*
79. Multiple Person Accounts (1989): *Enacted 1993*
80. Narcotic Drug (1932): *Enacted 1935*
81. Negotiable Instruments Law (1896): *Enacted 1905*
82. Partnership * (1914): *Enacted 1943*
83. Revised Partnership (1994)(1996): *Enacted 1997*
84. Photographic Copies of Business and Public Records as Evidence (1949):
Enacted 1951
85. Power of Attorney (2006): *Enacted 2012*
86. Powers of Appointment (2013): *Enacted 2021*
87. Premarital Agreement (1983): *Enacted 1994*
88. Principal and Income (1997): *Enacted 2001*
89. Amendments to Principal and Income (2008): *Enacted 2009*
90. Probate Code (1969): *Enacted 1974*
91. Property (1938): *Enacted 1941*
92. Protected Series Act (2017): *Enacted 2019*
93. Prudent Investor (1994): *Enacted 1997*
94. Prudent Management of Institutional Funds (2006): *Enacted 2007*
95. Real Property Transfer on Death Act (2009): *Enacted 2012*
96. Reciprocal Enforcement of Support (1950): *Enacted 1951*
97. Amendments to Reciprocal Enforcement of Support (1952): *Enacted 1957*
98. Amendments to Reciprocal Enforcement of Support (1958): *Enacted 1965*
99. Revised Reciprocal Enforcement of Support (1968): *Enacted 1971*
100. Reciprocal Transfer Tax (1928): *Enacted 1945*
101. Recognition of Acknowledgments (1968): *Enacted 1969*
102. Registration of Canadian Money Judgments (2019): *Enacted 2021*
103. Rendition of Accused Persons (1967): *Enacted 1969*
104. Rendition of Prisoners as Witnesses in Criminal Proceedings (1957): *Enacted 1969*
105. Residential Landlord and Tenant (1972): *Enacted 1974*
106. Rights of the Terminally Ill (1985): *Enacted 1992*
107. Sales (1906): *Enacted 1921*
108. Securities * (1956)(1958): *Enacted 1967*
109. Simplification of Fiduciary Security Transfers (1958): *Enacted 1961*
110. Simultaneous Death (1940): *Enacted 1947*
111. Statutory Rule Against Perpetuities (1986): *Enacted 1989*
112. Stock Transfer (1909): *Enacted 1941*
113. Testamentary Additions to Trusts (1991): *Enacted 1999*
114. TOD Security Registration (1989): *Enacted 1993*
115. Traffic on Highways, Act Regulating * (1926): *Enacted 1931*
116. Transfers to Minors (1983)(1986): *Enacted 1992*
117. Trust Code (2000): *Enacted 2003*
118. Trust Decanting Act (2015); *Enacted 2021*
119. Trust Receipts (1933): *Enacted 1949*
120. Veterans' Guardianship (1928): *Enacted 1929*

121. Revised Veterans' Guardianship (1942): *Enacted 1949*
122. Voidable Transactions Act Amendments (2021): *Enacted 2021*
123. Voting by New Residents in Presidential Elections (1962): *Enacted 1963*
124. Warehouse Receipts (1906): *Enacted 1909*
125. Wills Act, Foreign Executed (1910): *Enacted 1941*
126. Wills Recognition Act (1977); *Enacted 2021*

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 – 112	ALASKA – 107
ARIZONA – 119	ARKANSAS – 127
CALIFORNIA – 106	COLORADO – 136
CONNECTICUT – 116	DELAWARE – 103
DISTRICT OF COLUMBIA – 112	FLORIDA – 94
GEORGIA – 83	HAWAII – 146
IDAHO – 139	ILLINOIS – 122
INDIANA – 110	IOWA – 111
KANSAS – 119	KENTUCKY – 106
LOUISIANA – 87	MAINE – 116
MARYLAND – 122	MASSACHUSETTS – 94
MICHIGAN – 122	MINNESOTA – 146
MISSISSIPPI – 92	MISSOURI – 87
MONTANA – 158	NEBRASKA – 126
NEVADA – 149	NEW HAMPSHIRE – 102
NEW JERSEY – 94	NEW MEXICO – 157
NEW YORK – 81	NORTH CAROLINA – 105
NORTH DAKOTA – 183	OHIO – 88
OKLAHOMA – 140	OREGON – 124
PENNSYLVANIA – 119	PUERTO RICO – 30
RHODE ISLAND – 111	SOUTH CAROLINA – 89
SOUTH DAKOTA – 133	TENNESSEE – 109
TEXAS – 98	US VIRGIN ISLANDS – 91
UTAH – 151	VERMONT – 102
VIRGINIA – 117	WASHINGTON – 153
WEST VIRGINIA – 111	WISCONSIN – 145
WYOMING – 103	

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