

2012 ANNUAL REPORT  
TO THE NEBRASKA LEGISLATURE  
FROM THE  
NEBRASKA COMMISSION ON UNIFORM STATE LAWS  
(SUBMITTED JANUARY 15, 2013)

**I. PREAMBLE**

To the Nebraska State Legislature. The Nebraska Commissioners on Uniform State Laws respectfully submit this annual report.

**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 for the uniformity of state laws since 1892. 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 R.R.R.2010 Section 49-901 et seq.

There is only one fundamental requirement for the more than 300 uniform law commissioners across the nation: that they are 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 Uniform Law Commission.

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. The ULC can only propose – no uniform law is effective until a state legislature adopts it.

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 Uniform Law Commission. By 1912, every state was participating in the ULC. The U.S. Virgin Islands was the last jurisdiction to join, appointing its first commission 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 Professors Wigmore, Williston, Pound and Bogert. Many more distinguished lawyers have served since 1892, though their names are not as well known in legal affairs and the affairs of the U.S.

In each year of service, the ULC steadily increased its contribution to state law. Since its founding, the ULC has drafted more than 200 uniform laws on numerous subjects and in various fields of law, setting patterns for uniformity across the nation. Uniform Acts include the Uniform Probate Code, the Uniform Partnership Act, the Uniform Limited Partnership Act, the Uniform Anatomical Gift Act, the Uniform Interstate Family Support Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Uniform Prudent Management of Institutional Funds Act.

Most significant was the 1940 ULC decision to attack 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, the UCC took ten years to draft and another 14 years before it was enacted across the country. It remains the signature product of the ULC.

Today 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 Uniform Law Commission arose out of the concerns of state government for the improvement of the law and for 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 Uniform Law Commission, the terms of uniform law commissioners and the individuals who are appointed from the legal profession of that jurisdiction. The Uniform Law Commission encourages the appointing authorities to consider among other factors, diversity of membership

in their uniform law commissions, including race, ethnicity and gender in making appointments. The Uniform Law Commission does its best work when the 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 seven or eight days, usually 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 must be considered over a substantial period of 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 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.

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 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 on an on-going basis. Liaison and activities are conducted with other organizations as interests and activities necessitate.

## **VI. ACTIVITIES OF THE NEBRASKA COMMISSIONERS DURING 2012**

- A. The Nebraska Commissioners, year of first appointment, position on the Nebraska Commission and ULC committee assignments are:

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

Steven L. Willborn (2007), Secretary – American Tribal and State Electronic Legal Materials Act Committees

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

Joanne M. Pepperl (1980) – Life Member; Legislative Attorneys and Style Committees

Harvey S. Perlman (1987) – Life Member; Federalism and State Law, International Choice of Court Agreements Convention Implementation, International Legal Developments and Public Information Committees

Jill Robb Ackerman (2012)

Norman Krivosha (1974) – Life Member; Inactive and a non-resident now living in Florida

B. Meetings were held by the Nebraska Commissioners at the Annual Meeting on July 13-18, 2012, and were attended by Commissioners Ruth, Willborn, Perlman, Pepperl and Ackerman

C. ULC Uniform Acts and ULC Amendments to Uniform Acts considered in the 2012 Legislative Session were:

LB 317 Uniform Unincorporated Nonprofit Corporations Act – Died End of Session

LB 367 Uniform Faithful Presidential Electors Act – Died End of Session

LB 536 Uniform Real Property Transfer on Death Act – Enacted

LB 1018 Merger Amendments to Nebraska Limited Liability Company Act -- Enacted

LB 1031 Amendment to UCC Article 9 -- Enacted

LB 1113 Uniform Power of Attorney Act – Enacted

D. Legislative Study Resolutions on Uniform Acts considered in 2012 Interim were:

LR 476 To study update of business entity statutes and the Model Entity Transactions Act

**VII. RECOMMENDATIONS FOR ENACTMENT**

- A. The Nebraska Commissioners recommend that these Uniform Acts be considered in 2013:

Uniform Faithful Presidential Electors Act

Uniform Unsworn Foreign Declarations Act

Amend UCC 4A-108

- B. The Nebraska Commissioners recommend that Dues to the Uniform Law Commission for FY 2014 and FY 2015 be approved in the amount of \$32,400 for each fiscal year.
- C. The Nebraska Commissioners recommend that \$14,375 be approved for expenses in connection with the ULC Annual Meeting for FY 2014 and for FY 2015. (R.R.S.2010 Sec. 49-904 provides: “Each commissioner shall attend the meeting of the National Conference of Commissioners on Uniform State Laws....”

**IX. ENACTMENT RECORD TO DATE**

The records of the Uniform Law Commission reflect that Nebraska has an outstanding record of enacting uniform and model acts prepared by the ULC with 109 enactments since the first enactment in 1905. Adoption of these acts has improved the jurisprudence of the State of Nebraska at little cost to the State because of the work done by the ULC in preparing the acts.

Respectfully Submitted,

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