

**2017 ANNUAL REPORT
TO THE NEBRASKA STATE LEGISLATURE
FROM THE
NEBRASKA COMMISSION ON UNIFORM STATE LAWS
(SUBMITTED DECEMBER 31, 2017)**

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 2017 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. 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, 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 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, the current President of the organization is a woman. 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 coordinates 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 2017

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 of the Nebraska ULC – Legislative Attorneys and Style Committees

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

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

Steven L. Willborn (2007), Secretary of the Nebraska ULC – Scope and Program, Wage Garnishment Enactment, and American Indian Tribes and Nations Committees, Vice Chair of Study Committee on Garnishment of Wages in Bank Accounts.

B. Meetings

The Uniform Law Commission held its Annual Meeting on July 17, 2017, in San Diego, California. It was attended by Commissioners O'Connor, 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 2017 Annual Meeting

Uniform Directed Trust Act

The Uniform Directed Trust Act (UDTA) addresses the rise of directed trusts. In a directed trust, a person other than a trustee has a power over some aspect of the trust’s administration. Such a person may be called a “trust protector,” “trust adviser,” or in the terminology of the UDTA, a “trust director.” The division of authority between a trust director and a trustee raises difficult questions about how to divide fiduciary power and duty. The Uniform Directed Trust Act provides clear, functional rules that allow a settlor to freely structure a directed trust while preserving key fiduciary safeguards for beneficiaries. The UDTA also provides sensible default rules for a variety of matters that might be overlooked in the drafting of a directed trust, including information sharing among trustees and trust directors, the procedures for accepting appointment as a trust director, the distinction between a power of direction and a nonfiduciary power of appointment, and many other matters.

Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act is an updated version of the Uniform Guardianship and Protective Proceedings Act, originally promulgated in 1969 as part of the Uniform Probate Code, and revised in 1982 and 1997. This new version is a comprehensive and modern guardianship statute that better protects the individual rights of both minors and adults subject to a guardianship or conservatorship order. The Act promotes person-centered planning to incorporate an individual’s preferences and values into a guardianship order, and requires courts to order the least-restrictive means necessary for protection of persons who are unable to fully care for themselves. The act includes a set of optional forms to help courts implement its provisions effectively.

Uniform Parentage Act (2017)

The Uniform Parentage Act (2017) is a revision of the Uniform Parentage Act (UPA) of 2000, which has been adopted in 11 states. The UPA covered several topics, including: the parent-child relationship; voluntary acknowledgments of paternity; registry of paternity; genetic testing; proceedings to adjudicate parentage of children of assisted reproduction. As a result of the Supreme Court decision in *Obergefell v. Hodges*, as well as other developments in the states, a revision to the Act became necessary. The revised Act addresses issues related to same-sex couples, surrogacy, the right of a child to genetic information, de facto parentage, and parentage of children conceived through sexual assault.

Uniform Protected Series Act

The Uniform Protected Series Act provides a comprehensive framework for the formation and operation of a protected series limited liability company. A protected series LLC has both “horizontal” liability shields, as well as the standard “vertical” liability shield. All modern business entities provide the traditional, “vertical” shield – protecting the entity’s owners (and their respective assets) from automatic, vicarious liability for the entity’s debts. A “series” limited liability company provides “horizontal” shields – protecting each protected series (and its assets) from automatic, vicarious liability for the debts of the company and for the debts of any other protected series of the company. A horizontal shield likewise protects the series limited liability company (and its assets) from creditors of any protected series of the company. The Act integrates into any existing LLC Act, whether it is the Uniform Limited Liability Company Act or not.

Uniform Regulation of Virtual-Currency Businesses Act

The Uniform Regulation of Virtual-Currency Businesses Act (URVCBA) creates a statutory framework for regulating virtual currency business activity, which includes businesses engaged in the exchange of virtual currencies for cash, bank deposits, or other virtual currencies; the transfers of virtual currency between customers; and certain custodial or fiduciary services. Under the Act, “virtual currency” is a digital representation of value that is used as a medium of exchange, unit of account, or store of value and is not legal tender. This technology-neutral definition covers as many types of virtual currency as possible. The URVCBA’s unique, three-tiered structure clarifies whether an individual or company engaging in virtual currency business activity is (1) exempt from the act; (2) must register; or (3) must obtain a license. The URVCBA also contains numerous consumer protections.

Model Veterans Treatment Court Act and Rules

Veterans’ courts have been created in many judicial districts around the United States to ensure that veterans in the criminal justice system receive the treatment and support necessary to rehabilitate them into being productive members of society. Very few states have legislation on veterans’ courts, but many local judicial districts have effectively created veterans’ courts by rule or practice. The Model Veterans Treatment Court Act provides guidelines for the establishment of veterans’ courts while permitting substantial local discretion necessary to accommodate circumstances in different communities. Some of the issues that the model act and rules address include: what subset of veterans are entitled to diversion into a veterans’ court; for what type of offenses is diversion into a veterans’ court appropriate; what rights should victims have to participate in proceedings in veterans’ courts; and how, in general, should veterans’ courts be organized and operated. The Act provides that participation in the veterans’ treatment program requires approval of the prosecutor, but expressly reserves to the court all power regarding punishment including probation, conditions of probation, and consequences of violation of terms of participation in the treatment program. This Act can also be implemented as a set of court rules.

D. Uniform Acts Introduced in Nebraska During the 2017 Legislative Session

- LB 37 The Uniform Wage Garnishment Act
- LB 57 The Uniform Unsworn Foreign Declarations Act
- LB 141 The Revised Uniform Unclaimed Property Act

E. Uniform Rules Submitted to the Nebraska Supreme Court in 2017

In addition to the legislative bills above, the Nebraska ULC submitted proposed rules to the Nebraska Supreme Court based on the Uniform Collaborative Law Rules/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 – 105	ALASKA - 105
ARIZONA – 116	ARKANSAS - 121
CALIFORNIA – 103	COLORADO - 128
CONNECTICUT – 111	DELAWARE - 103
DISTRICT OF COLUMBIA – 109	FLORIDA - 89
GEORGIA – 78	HAWAII - 140
IDAHO – 138	ILLINOIS - 117
INDIANA – 106	IOWA - 104
KANSAS – 116	KENTUCKY - 97
LOUISIANA – 87	MAINE - 104
MARYLAND – 119	MASSACHUSETTS - 92
MICHIGAN – 119	MINNESOTA - 142
MISSISSIPPI – 88	MISSOURI – 83
MONTANA – 152	NEBRASKA - 115
NEVADA – 147	NEW HAMPSHIRE - 97
NEW JERSEY – 92	NEW MEXICO - 154
NEW YORK – 78	NORTH CAROLINA - 103
NORTH DAKOTA – 174	OHIO - 87
OKLAHOMA – 135	OREGON - 122
PENNSYLVANIA – 113	PUERTO RICO - 30
RHODE ISLAND – 100	SOUTH CAROLINA - 88
SOUTH DAKOTA – 129	TENNESSEE - 104
TEXAS – 97	US VIRGIN ISLANDS - 84
UTAH – 140	VERMONT - 98
VIRGINIA – 111	WASHINGTON - 136
WEST VIRGINIA – 106	WISCONSIN - 140
WYOMING - 103	

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