

**2018 ANNUAL REPORT  
TO THE NEBRASKA STATE LEGISLATURE  
FROM THE  
NEBRASKA COMMISSION ON UNIFORM STATE LAWS  
(AS OF DECEMBER 31, 2018))**

**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 2018 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, 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 2018**

### **A. *Appointments***

The Nebraska Commissioners are appointed for four-year terms by the Governor.

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 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; Study Committee for State Data Breach Notification Act; Study Committee for Online Data Privacy; Member, Technology 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; Chair of Study Committee for Online Data Privacy Right Act.

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

Steven L. Willborn (2007) - Resigned midyear as a Nebraska Commissioner to become the interim Executive Director of the Uniform Law Commission.

**B. *Meetings***

The Uniform Law Commission held its Annual Meeting on July 20-26, 2018, in Louisville, KY. It was attended by Commissioners O'Connor, Pepperl, Perlman, and Ruth. The Nebraska Commission decided to retain Commissioner Pepperl as Chair and elected Commissioner O'Connor as Secretary. It also discussed its planned activities for the upcoming year.

**C. *Uniform Acts Approved by the ULC During the 2018 Annual Meeting***

**Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act**

The Uniform Civil Remedies for Unauthorized Disclosure of Intimate Images Act addresses an increasingly common form of abuse that causes immediate, and in many cases, irreversible harm. The act creates a cause of action for unauthorized disclosure of private, intimate images. The act also outlines procedures enabling victims to protect their identity in court proceedings. In addition, the act provides various remedies for victims, including actual damages, statutory damages, punitive damages, and attorney's fees.

**Uniform Criminal Records Accuracy Act**

The Uniform Criminal Records Accuracy Act is designed to improve the accuracy of criminal history records, commonly called a RAP sheet, that are frequently used in determining the eligibility of a person for employment, housing, credit, and licensing, in addition to law enforcement purposes. The Act imposes duties on governmental law enforcement agencies and courts that collect, store and use criminal history records, to ensure the accuracy of the information contained in the rap sheet. The Act provides individuals the right to see and correct errors in their RAP sheet. Through use of a mistaken identity prevention registry, the Act also provides a mechanism by which an individual whose name is similar to and confused with a person who is the subject of criminal-history-record information, a means to minimize the possibility of a mistaken arrest or denial of housing, employment, credit, or other opportunities.

**Uniform Fiduciary Income and Principal Act**

The Uniform Fiduciary Income and Principal Act is an updated version of the Uniform Principal and Income Act, which has been adopted in 47 jurisdictions. The Act provides rules for allocating receipts and disbursements between income and principal accounts of a trust in accordance with the fiduciary duty to treat all beneficiaries loyally and impartially, unless the terms of the trust specify otherwise. This revision includes provisions allowing conversion of a traditional trust with income and principal beneficiaries into a total-return unitrust when all beneficiaries consent.

**Revised Uniform Law on Notarial Acts (2018)**

The Revised Uniform Law on Notarial Acts (2018) is designed to modernize and clarify the law governing notaries public, their responsibilities and duties, and to provide a stable infrastructure for the performance of notarial acts with respect to electronic records. In particular, the revised act recognizes the ascendance of electronic commerce and transactions in the public and private sectors, and brings the law governing electronic notarial acts on par with laws governing other forms of electronic transactions. The act was amended in 2018 to authorize notaries public to perform notarial acts in the state in which they are commissioned for remotely located individuals using audio-visual communication and identity-proofing technology regardless of where the individual may be located.

**Uniform Nonparent Custody and Visitation Act (2018)**

The Uniform Nonparent Custody and Visitation Act addresses the rights of third parties other than parents to custody of or visitation with a child. Those rights are also affected by the decision of the United States Supreme Court in *Troxel v. Granville*, 530 U.S. 57 (2000), which held that courts must give deference to decisions of fit parents concerning the raising of children, including concerning grandparents' visitation rights. The Act recognizes a right to seek custody or visitation for two categories of individuals: (1) nonparents who have served as consistent caretakers of a child without expectation of compensation, and (2) other nonparents who have a substantial relationship with a child and who demonstrate that denial of custody or visitation would result in harm to the child.

**Uniform Supplemental Commercial Law for the  
Uniform Regulation of Virtual-Currency Businesses Act (2018)**

The Uniform Supplemental Commercial Law for the Uniform Regulation of Virtual-Currency Businesses Act (Supplemental Act) is a follow-up to the Uniform Regulation of Virtual-Currency Businesses Act (URVCBA). The URVCBA establishes a regulatory framework for virtual-currency businesses to operate either by license or registration in a state and creates safeguards to protect consumers. As a regulatory act, the URVCBA provides numerous robust user protections based on commercial law principles but does not directly address the commercial law rules for transactions and relationships between virtual-currency businesses and consumers. This Supplemental Act provides the commercial law rules using the time-tested duties and rights of customers of securities intermediaries under the Uniform Commercial Code. The Supplemental Act does this by incorporating Article 8 of the Uniform Commercial Code into the agreement made between a virtual-currency licensee or registrant and users.

**D. *Uniform Acts Introduced in Nebraska During the 2018 Legislative Session***

LB 1121 Protected Series Act

LB 987 Regulation of Virtual Currency Businesses Act

LB 141 Revised Uniform Unclaimed Property Act

## VII. PLANNED ACTIVITIES FOR 2019

During 2019, the Nebraska Commissioners plan to focus on the following:

- Uniform Voidable Transactions Act
- Uniform Directed Trust Act
- Uniform Collaborative Law Act (by Neb. Ct. Rule)
- Uniform Interstate Depositions and Discovery Act (by Neb. Ct. Rule)
- Uniform Protected Series Act (Clean-Up)

## 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. 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. Protected Series Act (2017): *Enacted 2018*
87. Prudent Investor (1994): *Enacted 1997*
88. Prudent Management of Institutional Funds (2006): *Enacted 2007*
89. Real Property Transfer on Death Act (2009): *Enacted 2012*
90. Reciprocal Enforcement of Support (1950): *Enacted 1951*
91. Amendments to Reciprocal Enforcement of Support (1952): *Enacted 1957*
92. Amendments to Reciprocal Enforcement of Support (1958): *Enacted 1965*
93. Revised Reciprocal Enforcement of Support (1968): *Enacted 1971*
94. Reciprocal Transfer Tax (1928): *Enacted 1945*
95. Recognition of Acknowledgments (1968): *Enacted 1969*
96. Rendition of Accused Persons (1967): *Enacted 1969*
97. Rendition of Prisoners as Witnesses in Criminal Proceedings (1957): *Enacted 1969*
98. Residential Landlord and Tenant (1972): *Enacted 1974*
99. Rights of the Terminally Ill (1985): *Enacted 1992*
100. Sales (1906): *Enacted 1921*
101. Securities \* (1956)(1958): *Enacted 1967*
102. Simplification of Fiduciary Security Transfers (1958): *Enacted 1961*
103. Simultaneous Death (1940): *Enacted 1947*
104. Statutory Rule Against Perpetuities (1986): *Enacted 1989*
105. Stock Transfer (1909): *Enacted 1941*
106. Testamentary Additions to Trusts (1991): *Enacted 1999*
107. TOD Security Registration (1989): *Enacted 1993*
108. Traffic on Highways, Act Regulating \* (1926): *Enacted 1931*

109. Transfers to Minors (1983)(1986): Enacted 1992
110. Trust Code (2000): Enacted 2003
111. Trust Receipts (1933): Enacted 1949
112. Veterans' Guardianship (1928): Enacted 1929
113. Revised Veterans' Guardianship (1942): Enacted 1949
114. Voting by New Residents in Presidential Elections (1962): Enacted 1963
115. Warehouse Receipts (1906): Enacted 1909
116. 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 – 107              | ALASKA – 106           |
| ARIZONA – 117              | ARKANSAS – 122         |
| CALIFORNIA – 105           | COLORADO – 129         |
| CONNECTICUT – 112          | DELAWARE – 103         |
| DISTRICT OF COLUMBIA – 109 | FLORIDA – 88           |
| GEORGIA – 81               | HAWAII – 141           |
| IDAHO – 138                | ILLINOIS – 118         |
| INDIANA – 106              | IOWA – 106             |
| KANSAS – 117               | KENTUCKY – 99          |
| LOUISIANA – 87             | MAINE – 112            |
| MARYLAND – 120             | MASSACHUSETTS – 93     |
| MICHIGAN – 120             | MINNESOTA – 145        |
| MISSISSIPPI – 88           | MISSOURI – 84          |
| MONTANA – 152              | <b>NEBRASKA – 116</b>  |
| NEVADA – 147               | NEW HAMPSHIRE – 97     |
| NEW JERSEY – 92            | NEW MEXICO – 155       |
| NEW YORK – 78              | NORTH CAROLINA – 103   |
| NORTH DAKOTA – 174         | OHIO – 88              |
| OKLAHOMA – 135             | OREGON – 122           |
| PENNSYLVANIA – 116         | PUERTO RICO – 30       |
| RHODE ISLAND – 104         | SOUTH CAROLINA – 89    |
| SOUTH DAKOTA – 130         | TENNESSEE – 105        |
| TEXAS – 97                 | US VIRGIN ISLANDS – 86 |
| UTAH – 143                 | VERMONT – 100          |
| VIRGINIA – 111             | WASHINGTON – 139       |
| WEST VIRGINIA – 108        | WISCONSIN – 142        |
| WYOMING – 103              |                        |

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(AS OF DECEMBER 31, 2018)

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