

**2023 ANNUAL REPORT
TO THE NEBRASKA STATE LEGISLATURE
FROM THE
NEBRASKA COMMISSION ON UNIFORM STATE LAWS
(AS OF DECEMBER 31, 2023)**

I. PREAMBLE

To the Honorable Jim Pillen and members of the Nebraska Unicameral, the Nebraska Commissioners on Uniform State Laws respectfully submit this Annual Report for the 2023 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. 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 2023

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 (2020) – Legislative Committee.

(c) James E. O'Connor (2015) – Chair Nebraska ULC; Automated Technology Liability Committee; Use of Artificial Intelligence Committee; Virtual Currency Consumer Protection Committee. Term ends August 11, 2027.

(d) Joanne M. Pepperl (1980) (Life member) - Style Committee.

(e) Harvey S. Perlman (1987) (Life Member) – Automated Technology Liability Committee.

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

(g) Donald L. Swanson (2023) – Legislative Liaison Nebraska ULC; Assignment for Benefit of Creditors Committee; Commercial Financing Disclosure Committee; Legislative Committee.

(h) Steven L. Willborn (2007) – Secretary, Nebraska ULC; served as Interim Executive Director of the Uniform Law Commission from 2018-2019 – American Indian Tribes and Nations Committee; Antitrust Committee; International Legal Developments Committee; Executive Committee; Patent Rights in Employment Study Committee (Chair); Scope and Program Committee (Chair); Supply Chain Transparency Committee.

B. *Meetings*

The Nebraska Commission on Uniform State Laws held its Annual Meeting via Zoom on August 20, 2023. The meeting was called to order at 1:00 pm. It was attended by Commissioners, McClurg, O'Connor, Pepperl, Ruth, Swanson and Willborn. Commissioner O'Connor was elected as Chair, Commissioner Willborn as Secretary, and Commissioner Swanson and Legislative Liaison. The Commission then conducted a legislative planning session which is detailed later in this Report.

C. Uniform Acts Approved by the ULC During the 2023 Annual Meeting

Uniform Consumer Debt Default Judgments Act

Numerous studies report that default judgments are entered in more than half of all debt collection actions. The purpose of this Act is to provide consumer debtors and courts with the information necessary to evaluate debt collection actions. The Act provides consumer debtors with access to information needed to understand claims being asserted against them and identify available defenses; advises consumers of the adverse effects of failing to raise defenses or seek the voluntary settlement of claims; and makes consumers aware of assistance that may be available from legal aid organizations. The Act also seeks to provide a uniform framework in which courts can fairly, efficiently, and promptly evaluate the merits of requests for default judgments while balancing the interests of all parties and the courts.

Uniform Health-Care Decisions Act (2023)

This Act is intended to supersede the 1993 Uniform Health-Care Decisions Act. This Act enables individuals to appoint agents to make health care decisions for them should they be unable to make those decisions for themselves, provide their health-care professionals and agents with instructions about their values and priorities regarding their health care, and to indicate particular medical treatment they do or do not wish to receive. It also authorizes certain people to make health-care decisions for individuals incapable of making their own decisions but who have not appointed agents, thus avoiding the need to appoint a guardian or otherwise involve a court in most situations. In addition, it sets forth the related duties and powers of agents and healthcare professionals, and provides protection in the form of immunity to both under specified circumstances. This Act shares the goals of the 1993 Act but is revised to reflect changes in how health care is delivered, increases in non-traditional familial relationships and living arrangements, the proliferation of the use of electronic documents, the growing use of separate advance directives exclusively for mental health care, and other recent developments. The Act also seeks to improve upon the 1993 Act based on decades of experience and knowledge about how people make health-care decisions and about the challenges associated with creating and using advance directives.

Model Public-Health Emergency Authority Act

This Act is designed to improve the preparedness of states for public health

emergencies. Specifically, the Act clarifies the powers of a governor to declare a public health emergency and to issue orders in response to that emergency. Simultaneously, the Act establishes measures to promote a governor's accountability to the Legislature and to the public at large. The goal of the Act is to empower a governor to act quickly and decisively while also clarifying substantive and procedural limitations to a governor's authority. The Model Act also imposes a sunset provision on every public-health emergency declaration and public-health emergency order, and it requires a governor to make a new record as a condition of renewing declaration or an order.

Uniform Special Deposits Act

A special deposit is an account at a bank that holds funds that may be paid upon the occurrence of one or more contingencies. Although such accounts are common, the legal protections afforded to them are uncertain and outdated in the context of modern banking. This uniform act minimizes these legal uncertainties by providing clear and executable rules. First, the Act sets forth several elements for when a deposit is considered a "special deposit." Second, the Act specifies that a special deposit is a debt owed to the beneficiary after determination of a stated contingency. Third, the Act clarifies that a special deposit is remote from a depositor's bankruptcy estate unless the depositor has a determined right to the special deposit in its capacity as a beneficiary. Finally, the Act reduces the vulnerability created by the prospect of the bank holding the special deposit exercising a right of set off against the special deposit for a mature debt of the depositor or a beneficiary. The Special Deposits Act gives banks and their customers legal certainty that the expectations of special deposit account users will be respected.

Uniform Unlawful Restrictions in Land Records Act

This Act allows property owners whose deed contains a discriminatory, prohibited restriction to record an amendment to the land records that effectively removes the restriction. Under the Act, individuals who own property in a common interest community that is subject to a prohibited restriction are empowered to record an amendment to the governing instruments that removes the restriction, either by majority vote of the members of the association or by sending a request to the governing body. The Act creates a path forward for property owners who want to correct the record on the often painful history of their homes.

VII. PLANNED LEGISLATIVE ACTIVITIES

During the upcoming session, we are forwarding the following acts for the Unicameral's consideration:

(a) Uniform Commercial Code and Emerging Technologies, the 2023 amendments to the Uniform Commercial Code.

(b) Community Property Disposition at Death Act

- (c) Uniform Healthcare Decisions Act
- (d) The Uniform Restrictions in Land Records Act
- (e) Uniform Public Expression Protection 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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