

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

### Minutes of the

## NORTH DAKOTA COMMISSION ON UNIFORM STATE LAWS

National Conference of Commissioners on Uniform State Laws

Monday June 10, 2024

Harvest Room, State Capitol

Bismarck, North Dakota

Commissioner Lawrence R. Klemin, Chairman, called the meeting to order at 2:00 p.m.

**Members present:** Owen L. Anderson\*, Parrell Grossman\*, Gail H. Hagerty, Lawrence R. Klemin, Dustin A. Richard, Jake Rodenbiker\*, Jerod E. Tufte

**Members absent:** Jay E. Buringrud, David Hogue, Bradley Myers, Candace Zierdt

**Others present:** Tracy Kennedy\*, Zimney Foster P.C.; Katrina Turman Lang\*, Wold Johnson, P.C.; Jane Sternecky\*, Uniform Law Commission

\*Attended remotely

**It was moved by Commissioner Grossman, seconded by Commissioner Anderson, and carried on a voice vote that the minutes of the July 5, 2023, meeting of the North Dakota Commission on Uniform State Laws be approved as distributed.**

Chairman Klemin recognized former Commissioner Jennifer S.N. Clark for her years of service as a member of the North Dakota Commission on Uniform State Laws. He also welcomed incoming Commissioner Dustin A. Richard to the commission.

### ELECTION OF OFFICERS

Chairman Klemin called an election of Chairman, Vice Chairman, and Secretary pursuant to North Dakota Century Code Section 54-55-03. He acknowledged while the statute does not provide for the election of a Vice Chairman, the commission has historically done so to ensure continuity if the Chairman is unavailable.

**It was moved by Commissioner Hagerty, seconded by Commissioner Grossman, and carried on a voice vote that Commissioner Klemin be elected Chairman, Commissioner Tufte be elected Vice Chairman, and Commissioner Richard be elected Secretary.**

### DISCUSSION OF THE BUDGET

Chairman Klemin called on Commissioner Richard to discuss the commission's current budget. Commissioner Richard noted:

- The current budget is part of the statewide memberships and related expenses line item within the budget of the Office of Management and Budget.
- The most recent appropriation for this line item occurred through the enactment of Section 13 of Senate Bill No. 2393 during the 2023 special session of the Legislative Assembly.
- The commission's budget is divided into travel and professional development expenditures.
- As of June 10, 2024, the remaining professional development line item balance is \$43,455. However, in July, the annual dues payment to the Uniform Law Commission of \$41,835.25 will be subtracted from the remaining professional development balance.
- As of June 10, 2024, the remaining travel line item balance is \$32,557.37, which equates to 41 percent of the total travel appropriation for the 2023-25 biennium.

Chairman Klemin shared with the commission he will present a report to the Legislative Management's interim Judiciary Committee in August or September 2024. This report will outline the uniform acts the commission plans to introduce during the 2025 legislative session.

## THE NORTH DAKOTA 2025 LEGISLATIVE PLAN

Chairman Klemin introduced Ms. Jane Sternecky, Legislative Counsel, Uniform Laws Commission, who facilitated the discussion of the North Dakota 2025 Legislative Plan ([Appendix A](#)).

### Uniform Commercial Real Estate Receivership Act

Chairman Klemin called on Ms. Tracy Kennedy, Attorney, Zimney Foster, P.C., and Ms. Katrina Turman Lang, Attorney, Wold Johnson, P.C., to discuss the Uniform Commercial Real Estate Receivership Act ([Appendix B](#)). They noted:

- Amending the Act to include personal property would benefit debtor and creditor relationships.
- Under current receivership laws, selling property subject to a receivership without consulting with all lienholders is difficult.
- The Act provides clear powers and duties for receivers.

Commissioner Grossman voiced concerns about amending the Act to include personal property, but later withdrew his concerns. Ms. Sternecky indicated Illinois attempted to amend the Act to include personal property, but the bill was not enacted. Commissioners asked to review the Illinois bill before deciding whether to amend the Act in North Dakota.

Chairman Klemin proposed adding the Uniform Commercial Real Estate Receivership Act to the 2025 Legislative Plan without an amendment to include personal property. Without objection, the commissioners added the Act to the plan.

### Uniform Special Deposits Act

Chairman Klemin called on Ms. Kennedy to discuss the Uniform Special Deposits Act ([Appendix C](#)). She noted the Act provides statutory clarification relating to depositors and beneficiaries.

Chairman Klemin proposed adding the Uniform Special Deposits Act to the 2025 Legislative Plan. Without objection, the commissioners added the Act to the plan.

### Uniform Electronic Estate Planning Documents Act

Chairman Klemin called on Ms. Sternecky to discuss the Uniform Electronic Estate Planning Documents Act ([Appendix D](#)). She noted the Act is intended to supplement the Uniform Electronic Wills Act and the Uniform Electronic Transactions Act without creating redundancies.

Chairman Klemin indicated Commissioner Myers would be willing to testify on behalf of the Act if the Act is added to the 2025 Legislative Plan.

Chairman Klemin proposed adding the Uniform Electronic Estate Planning Documents Act to the 2025 Legislative Plan. Without objection, the commissioners added the Act to the plan.

### Uniform Electronic Recordation of Custodial Interrogations Act

Chairman Klemin noted the interim Judiciary Committee has been directed to study the recording practices of local and state law enforcement during custodial interrogations to determine the feasibility and desirability for uniform implementation of recording practices. He noted as part of this study, the committee is considering the Uniform Electronic Recordation of Custodial Interrogations Act ([Appendix E](#)).

Commissioner Rodenbiker indicated the law enforcement community generally is opposed to the Act.

Commissioner Hagerty stated that in previous legislative sessions, the uniform act was introduced and subsequently amended into a study due to opposition from the law enforcement community.

Commissioner Rodenbiker asked Chairman Klemin whether the sponsor of Senate Bill No. 2376 (2023) consulted with the commission before introducing the bill. Chairman Klemin noted he did not believe so and was unsure if the bill was introduced as a study or amended into a study.

Commissioner Richard shared that Senate Bill No. 2376 (2023) was introduced as a study and was not amended before its enactment.

Chairman Klemin proposed allowing the interim Judiciary Committee to complete its study and decide whether to introduce the Act during the 2025 legislative session. Without objection, the commissioners did not add the Act

to the plan. However, the commissioners agreed that if the interim Judiciary Committee introduced the Act, the commission would discuss whether to support or oppose the Act during the 2025 legislative session.

### **Uniform Consumer Debt Default Judgments Act**

Chairman Klemin called on Commissioner Hagerty to provide an update on the Uniform Consumer Debt Default Judgements Act ([Appendix F](#)). She shared that as a member of the drafting committee for the Act, she has received opposition from debt collection attorneys. Because of the opposition, the State Bar Association of North Dakota may be reluctant to support the Act.

Commissioner Grossman shared his experience with the debt collection and consumer protection industries and the prevalence of questionable practices in those fields.

Commissioner Hagerty offered to circulate additional information to commissioners for further consideration.

Chairman Klemin proposed excluding the Act from the 2025 Legislative Plan until the commissioners could discuss the Act after receiving the materials from Commissioner Hagerty. Without objection, the commissioners did not add the Act to the plan.

### **Uniform Child Abduction Prevention Act**

Ms. Sternecky updated the commission on the Uniform Child Abduction Prevention Act ([Appendix G](#)). She noted 18 states have enacted the Act since 2006.

Commissioner Grossman asked Commissioner Hagerty whether the Act was a sound project for the state. Commissioner Hagerty indicated it was, and noted she would be willing to advocate for the Act if the Act is introduced during the 2025 legislative session.

Chairman Klemin proposed adding the Uniform Child Abduction Prevention Act to the 2025 Legislative Plan. Without objection, the commissioners added the Act to the plan.

### **Uniform Public Expression Protection Act**

Chairman Klemin called on Ms. Sternecky to discuss the Uniform Public Expression Protection Act ([Appendix H](#)). She noted the Act is designed to prevent an abusive type of litigation called a "SLAPP," or "strategic lawsuit against public participation." A SLAPP may be filed as a defamation, invasion of privacy, nuisance, or other type of claim. However, the true purpose of a SLAPP is to silence and intimidate the defendant from engaging in constitutionally protected activities, such as free speech. The Act contains a clear framework for the efficient review and dismissal of SLAPPs.

Commissioner Tufte noted he did not see a need to implement the Act because these lawsuits are incredibly rare in the state.

Chairman Klemin proposed excluding the Act from the 2025 Legislative Plan. Without objection, the commissioners did not add the Act to the plan.

### **Uniform Parentage Act (2017)**

Chairman Klemin called on Commissioner Hagerty to provide an update on the Uniform Parentage Act ([Appendix I](#)). She noted it would be unwise to introduce the Act in the state until the child protection field supports its implementation.

Chairman Klemin proposed excluding the Act from the 2025 Legislative Plan. Without objection, the commissioners did not add the Act to the plan.

### **Uniform Partition of Heirs Property Act**

Ms. Sternecky updated the commission on the Uniform Partition of Heirs Property Act ([Appendix J](#)). She noted:

- The Act addresses dispossession of land through a forced sale, which is faced by many middle- to low-income families who own real property.
- For many of these families, real estate is their most valuable asset.
- Rural African American families have been hit especially hard. However, the issue can affect anyone who inherits land from a relative and takes title as a tenant in common with other heirs.

Commissioner Anderson acknowledged that while the issues the Act was designed to cover may occur in other states, the same issues may not necessarily be present in North Dakota.

Chairman Klemin proposed excluding the Act from the 2025 Legislative Plan. Without objection, the commissioners did not add the Act to the plan.

### **Uniform Telehealth Act**

Ms. Sternecky updated the commission on the Uniform Telehealth Act ([Appendix K](#)). She said the scope of the Act is quite broad, and prospective states have significant concerns about the Act. She also shared with the commission that only the State of Washington has enacted the Act.

Chairman Klemin proposed excluding the Act from the 2025 Legislative Plan. Without objection, the commissioners did not add the Act to the plan.

### **Uniform Unincorporated Organizations Act**

Chairman Klemin discussed the Uniform Unincorporated Organizations Act ([Appendix L](#)), which will be subject to final consideration at the Uniform Law Commission Annual Meeting in July 2024.

### **CLOSING COMMENTS**

Chairman Klemin noted that Section 1-02-13 was initially enacted in 1943. This section requires any provision in the Century Code which is part of a uniform statute to be so construed as to effectuate its general purpose to make uniform the law of those states which enact the uniform statute.

Commissioner Tufte said when the North Dakota Supreme Court reviews uniform laws, the court often cites this provision as an avenue to review the uniform act's comment section to ascertain and effectuate the Act's general purpose.

**It was moved by Commissioner Grossman, seconded by Commissioner Rodenbiker, and carried on a voice vote that the June 10, 2024, meeting be adjourned.**

No further business appearing, Chairman Klemin adjourned the meeting at 3:19 p.m.

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Dustin A. Richard  
Secretary

ATTACH:12