RECOMMENDATIONS OF THE NORTH DAKOTA COMMISSION ON UNIFORM STATE LAWS - 2015 LEGISLATIVE SESSION

North Dakota Century Code (NDCC) Section 54-55-01 establishes the North Dakota Commission on Uniform State Laws, consisting of:

- An individual engaged in the practice of law in this state (Jacob Rodenbiker);
- The dean or a full-time member of the faculty of the law school of the University of North Dakota (Bradley Myers);
- A law-trained judge of a court of record in this state (District Judge Gail Hagerty);
- A member of the House of Representatives (Representative Lawrence R. Klemin);
- A member of the Senate of the Legislative Assembly (Senator David Hogue);
- A member of the Legislative Council staff (Jay E. Buringrud);
- Any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the National Conference of Commissioners on Uniform State Laws (Owen L. Anderson; Jay E. Buringrud); and
- Any residents of this state who have been previously appointed to at least five years of service on the commission (William E. Kretschmar; David Nething; Candace Zierdt).

Commissioners are required to attend the annual meeting of the National Conference of Commissioners on Uniform State Laws (ULC) and to promote uniformity in state laws on those subjects where uniformity may be deemed desirable and practicable. Under NDCC Section 54-55-04, the commission may submit its recommendations for enactment of the uniform and model laws to the Legislative Management for its review and recommendation.

The commission meets during the annual meeting of the ULC and determines which uniform or model Acts to recommend to the next session of the Legislative Assembly.

At its meeting on July 14, 2014, the commission decided to recommend five uniform Acts for introduction during the 2015 legislative session:

- The Uniform Act on Prevention of and Remedies for Human Trafficking. The Act was initiated as the result of a proposal by the American Bar Association Center for Human Rights in 2010. The Act was approved by the national conference in July 2013 and by the ABA House of Delegates in August 2013. To date in 2014, the Act has been introduced in 12 states and enacted in two. A copy of the ULC summary is attached as an appendix.
- The Uniform Fiduciary Access to Digital Assets Act, which was approved by the national conference in 2014. In the modern world, documents are stored in electronic files rather than in file cabinets, e.g., photographs are uploaded to websites rather than printed on paper. Under this Act, if a fiduciary would have access to a tangible asset, that fiduciary will also have access to a similar type of digital asset. The Act governs four common types of fiduciaries: personal representatives of a deceased person's estate; guardians or conservators of a protected person's estate; agents under a power of attorney; and trustees. The Act defers to an accounts holder's privacy choices as expressed in a document, e.g., a will or trust or by an online affirmative act.
- The amendment to Uniform Commercial Code Article 4A (4A-108), which was approved by the national conference in 2012, was introduced in the 2013 legislative session, but which failed to pass the Senate. The amendment provides that Article 4A does apply to a remittance transfer that is not an electronic funds transfer under the Federal Electronic Funds Transfer Act. Without this amendment, neither state nor federal law will apply for transfers that may involve mistaken addresses or payees and other issues beyond the initial sending of the transfer. To date, the amendment has been enacted in 41 states, including Minnesota, South Dakota, and Montana.
- Amendments to the Uniform Fraudulent Transfer Act, which were adopted by the national conference in 2014. The conference renamed the Act the Uniform Voidable Transactions Act, which more closely reflects the Act. The amendments address narrowly-defined issues, e.g., choice of law rules and burden of proof rules for claims under the Act.

- The Revised Uniform Limited Liability Company Act, which was recommended by the national conference in 2006. The revised Act was the subject of a 2009-10 interim Judiciary Committee study, which recommended continued study during the 2011-12 interim while Minnesota was working on the revised Act for adoption in Minnesota. The 2011-12 interim study recommended that the revised Act not be introduced during the 2013 legislative session because Minnesota had not yet adopted the revised Act. In 2014 the Minnesota Legislature adopted the revised Act, which was signed by the Governor in April.

ATTACH:1