One Hundred First Legislature - First Session - 2009

Introducer's Statement of Intent

LB 80

Chairperson: **Rich Pahls**
Committee: **Banking, Commerce and Insurance**
Date of Hearing: **January 26, 2009**

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The Uniform Principal and Income Act, enacted in 43 jurisdictions, provides procedures for trustees and personal representatives administering a trust or probate estate in separating principal from income. These rules apply only as a default if the controlling document does not contain provisions applicable to the situation. Generally, assets allocated to principal serve the interests of remainder beneficiaries of a trust, and the interests of the final distributees of the assets in an estate. Assets allocated to income meet requirements of income beneficiaries during the life of the trust, and those beneficiaries who must be paid out of the income derived during the administration of an estate.

An unexpected ruling of the federal Internal Revenue Service raised serious issues concerning retirement plan benefits. The ruling prompted the National Conference of Commissioners on Uniform State Laws to act on an emergency basis in 2008 to clarify the intended and previously generally understood language in Section 409. At the same time, comparable issues with respect to Section 505 of the Uniform Act were clarified by the Uniform Commissioners.

Sec. 2. Sometimes a person leaves his or her IRA or similar retirement plan to a trust for his or her spouse instead of to the person outright. Qualifying this trust for the federal estate tax marital deduction prevents estate tax from being incurred until the surviving spouse dies. The changes in Sec. 2 are crafted in response to the federal revenue ruling in order to ensure that the trust qualifies for the marital deduction in accordance with the decedent’s intention and plans.

Sec. 3 It is not uncommon for trusts that are required to pay income to a beneficiary to own an interest in a closely-held business entity. Often, the trust is required to report its share of the entity’s income, whether or not the trust actually receives all of this income. Current law provides a formula for calculating how much the trust needs to distribute and how much it can use to pay taxes. The proposed change clarifies that the trust will keep enough money to pay its taxes and distribute the balance of the income to the mandatory income beneficiary.

Principal Introducer: ______________________________
Senator John Nelson