

One Hundred Sixth Legislature - Second Session - 2020

Introducer's Statement of Intent

LB902

Chairperson: Senator Matt Williams

Committee: Banking, Commerce and Insurance

Date of Hearing: January 27, 2020

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

The Uniform Law Commission's Uniform Trust Decanting Act was developed in 2015 and has since been adopted in 9 states. The Act is designed to provide a statutory framework for a trust management technique known as decanting whereby the assets of an otherwise irrevocable trust may be distributed into another trust to address changing circumstances that may make such a transfer beneficial for all involved. As the Uniform Law Commission has explained:

Decanting can be a useful strategy for changing the outdated terms of an otherwise irrevocable trust. The Uniform Trust Decanting Act (UTDA) permits decanting for appropriate purposes while preventing abuse and preserving the intent of the settlor. Every state allows decanting in some form, but only some states have statutes governing decanting, and those vary widely. In both cases, the person exercising the decanting power is subject to all applicable fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

LB 902 simply seeks to adopt the Uniform Act to provide a framework for trust decanting as a tool for estate planners in Nebraska.

Principal Introducer: _____

Senator Patty Pansing Brooks