



One Hundred First Legislature - Second Session - 2010
Introducer's Statement of Intent
LB 760

Chairperson: Rich Pahls
Committee: Banking, Commerce and Insurance
Date of Hearing: February 8, 2010

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

LB 760 changes the Nebraska Principal and Income Act by deleting the requirement to distribute the entire net income in a marital deduction trust which may take the form of a QTIP marital deduction trust, net income/general power of appointment marital deduction trust, or a QDOT marital deduction trust. Historically, trustees were required to distribute the net income generated by marital deduction trusts to surviving spouses in order to qualify for an estate tax marital deduction. U.S. Department of the Treasury regulations on this subject have been updated to permit trustees to pay a set percentage of the trust's assets in lieu of the distribution of net income requirement. Suggested change would bring Nebraska Principal and Income Act in line with the treasury regulations on this subject.

Under current law trustees of these marital deduction trusts can administratively elect to convert these net income trusts to 'total return' trusts. Under this amendment, a beneficiary spouse of a trust for which the marital deduction has been taken would now be able to compel the trustee to reconvert the trust from a total return trust back to an income trust.

The bill also deletes the prohibition against changing a 'net income' distribution provision in an exempt generation-skipping trust if the trustee elects to convert such a trust to a total return trust. The Treasury Regulations now state that a trust will not lose its generation-skipping exempt status merely because the trustee elects to convert a net income trust to one that pays out a 'unitrust' amount, and therefore the Nebraska statutory prohibition is no longer current with federal regulations.

The Nebraska Principal and Income Act is a compilation of default procedures for trustees administering trusts and personal representatives administering estates in allocating assets to principal and income, and to govern their proper distribution to beneficiaries, heirs and devisees. To the extent the controlling document is silent; fiduciaries can utilize these statutes for direction.

Principal Introducer: _____
Senator John Wightman

