

June 2009

## **TITLE 59**

### **Trusts, Uses, and Powers**

### **Summary of Bills Enacted by 2009 Legislative Assembly**

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

**House Bill No. 1458** requires a trustee to inform a person who has been identified as a qualified beneficiary of a revocable trust of what the trust may provide that beneficiary if the qualified beneficiary is required to provide that information for a determination of benefits for medical assistance, temporary assistance for needy families, supplemental nutrition assistance, home and community-based services, or service payments for the elderly and disabled. In addition, the bill reestablishes the presumption against a trustee in a transaction between a trustee and the trust's beneficiary that the transaction is presumed to be entered into by the trust beneficiary without sufficient consideration and under undue influence.

**House Bill No. 1300** provides that an irrevocable noncharitable trust that is modified upon the consent of the beneficiaries continues to be irrevocable.

**Senate Bill No. 2073** amends the Uniform Principal and Income Act to bring the Act in compliance with Internal Revenue Service rulings to ensure that the trust qualifies for the marital deduction, to minimize estate taxes in accordance with the decedent's plan, and to provide a formula for calculating how much of the trust needs to be distributed and how much of it can be used to pay taxes. The bill clarifies that the trust will keep enough money to pay its taxes and distribute the balance of income to a mandatory income beneficiary.

**House Bill No. 1074** adopts the Uniform Prudent Management of Institutional Funds Act, repeals the Uniform Management of Institutional Funds Act, provides more detail to nonprofits about investment of funds, moves to a prudent spending rule based on donor intent and the permanent duration of the endowment, and modifies restrictions on gifts made to nonprofits.