

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2248

2001 SENATE JUDICIARY

SB 2248

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

Senate Judiciary Committee

☐ Conference Committee

Hearing Date January 31st, 2001

| Tape Number | Side A | Side B | Meter # |
|---------------------------|--------|--------|-----------|
| 1 | X | | 17.0-51.2 |
| | | | |
| | | | |
| Committee Clerk Signature | | | |

Minutes: **Senator Traynor** opened the hearing on SB 2248: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 47-02-27.1 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO CONTINGENT PROPERTY INTERESTS IN PERSONAL PROPERTY.

Senator Judy Lee, representing West Fargo, encourages a do pass.

Representative Rennerfeldt, supports SB 2248.

Susan Ribeiro, president of Frontier Trust Company at Fargo. (testimony attached) supports SB 2248

Senator Traynor, what about a trust that has real estate and personal trusts?

Susaon Ribeiro, in that case the dynasty would still be limited.

Senator Traynor, so the personal property held by the trust would be limited by the statutes.

Susaon Ribeiro, that is my understanding. This will create two separate trusts.

Senator Trenbeath, Doctrine of equitable conversion, that when you put real estate into trusts it is treated as personity. Does that need to be more clearer. I don't have a problem if we're dealing only with private property. If there is a doctrine out there then we are not doing what we are intending to do. I'm not sure I'm correct on this, but this doctrine of equitable conversion turns real property to personity.

Senator Traynor, I had a client whose estate was in California. She also had land in ND, and in her will she wanted this land sold, however, California seized upon this land. The said their was an equitable conversion of the land in ND, personal property. They levied their tax on this land.

Susan Ribeiro, the section we're amending is the one that doesn't allow dynasty trusts. This will then take out the limitations and allow them.

Senator Traynor, passage of bill would not prevent a beneficiary who was annoyed with the administration of the trust to change to another trustee.

Susan Ribeiro, no. There are 4 kinds of trusts we do. 1) revocable trusts, 2) rabbi trusts, 3) bi trusts and 4) employee benefits trust.

Marilyn Foss, appearing on behalf of the ND Bankers association and Frontier Trust Company, supports SB 2248. This offers the dynasty trust.

Senator Traynor, has this been reviewed by the real property of the bar association?

Marilyn Foss, I did not run it by the real property section. I did run it by the Bar association which does review all pieces of legislation which are introduced and take positions on them. The Bar association would have reviewed this. Representative Rennerfeldt noted that this is competitive issue in Williston. It is competitive all over ND. I discussed dynasty trust with trust bankers. I asked, "Does this cause a problem for you," they replied it didn't. This could be used in ND for broad areas.

Page 3

Senate Judiciary Committee

Bill/Resolution Number SB 2248

Hearing Date January 31st, 2001

Senator Traynor, as I understand, starting on line 6 of the bill, the rule against perpetuities is maintained as far as real properties is concerned. On line 23 what about the language the common law against perpetuities not enforced in this state?

Marilyn Foss, This is to make the language clearer. As a matter of perspective from a trust company. Most assests would be personal property which is alot easier to manage.

Senator Traynor closed the hearing on SB 2248.

Senator Trenbeath motioned to do pass, seconded by Senator Lyson. Vote indicated 7 yeas, 0 nays, and 0 absent and not voting. Senator Trenbeath volunteered to carry the bill.

Date: 1/31/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *SB 2249*

| Senate | Judiciary | Committee |
|--------|-----------|-----------|
| | | |

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Trenbath Seconded By Lyson

[illegible]

Total (Yes) 7 No 0

Absent 0

Floor Assignment Trenbeath

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 31, 2001 4:55 p.m.

Modulo No: SR-17-2049
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2248: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2248 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2248

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-06-01

| Tape Number | Side A | Side B | Meter # |
|---|--------|--------|--------------|
| TAPE I | | x | 1223 to 2704 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Joan Diers</i> | | | |

Minutes: Chairman DeKrey opened the hearing on SB 2248. Relating to contingent property interests in personal property.

Marilyn Foss: appearing on behalf of Frontier Trust Company and the North Dakota Bankers Association, (see attached testimony).

Chairman DeKrey: Is this a different bill than two years ago.

Marilyn Foss: I didn't participate in that one, this bill is not identical, real property is left out.

Chairman DeKrey: This bill excludes real property.

Marilyn Foss: Yes, this bill page one lines 21 through 23 where it says that the common law rule against perpetuities is not in force in this state, I am not sure that it was in the bill two years ago.

Rep Klemin: The only rule against perpetuity that would be enforced would be in this section.

Marilyn Foss: That would be correct.

Vice Chr Kretschmar: My recollection of the law against perpetuity is that the dead hand does not control the living, would this not be a good rule for today.

Page 2

House Judiciary Committee

Bill/Resolution Number SB 2248

Hearing Date 03-06-01

Marilyn Foss: The rule would also provide that real estate would change hands within a certain amount of time. Goes on to explain her views on the rule.

Vice Chr Kretschmar: In that day land was the principal assets, it has now changed.

Marilyn Foss: She makes an observation, people made a living off the land then, that is not true anymore.

Rep Klemin: What will the repeal of the federal estate tax have on this.

Marilyn Foss: It will not have any effect.

Chairman DeKrey: If there are no questions, thank you for appearing before our committee.

Susan Ribeiro: President of the Frontier trust Company, (see attached testimony)

Chairman DeKrey: Are there any questions, seeing none, thank you for appearing before the committee. We will be in recess until 2:00 pm.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2248b

House Judiciary Committee

☐ Conference Committee

Hearing Date 03-13-01

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|--------------|
| TAPE 1 | | x | 2587 to 3360 |
| | | | |
| | | | |
| Committee Clerk Signature <i>Joan Rivers</i> | | | |

Minutes: Chairman DeKrey called the committee to order on SB 2248.

COMMITTEE ACTION

Chairman DeKrey: What are your wishes. Vice Chr Kretschmar moved a DO NOT PASS, seconded by Rep Delmore.

DISCUSSION

Chairman DeKrey: the clerk will call the roll on a DO NOT PASS motion on SB 2248. The motion passes with a vote of 11 YES, 2 NO and 2 ABSENT. Carrier Vice Chr Kretschmar.

Date: 03-13-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2248

House JUDICIARY Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Vice Chr Kretschmar Seconded By Rep Delmore

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| CHR - Duane DeKrey | ✓ | | | | |
| VICE CHR -- Wm E Kretschmar | ✓ | | | | |
| Rep Curtis E Brekke | | | | | |
| Rep Lois Delmore | ✓ | | | | |
| Rep Rachael Disrud | ✓ | | | | |
| Rep Bruce Eckre | ✓ | | | | |
| Rep April Fairfield | | | | | |
| Rep Bette Grande | | ✓ | | | |
| Rep G. Jane Gunter | ✓ | | | | |
| Rep Joyce Kingsbury | ✓ | | | | |
| Rep Lawrence R. Klemin | | ✓ | | | |
| Rep John Mahoney | ✓ | | | | |
| Rep Andrew G Maragos | ✓ | | | | |
| Rep Kenton Onstad | ✓ | | | | |
| Rep Dwight Wrangham | ✓ | | | | |

Total (Yes) 11 No 2

Absent 2

Floor Assignment Rep Kretschmar

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 13, 2001 1:00 p.m.

Module No: HR-43-5477
Carrier: Kretschmer
Insert LC: . Title: .
.....

REPORT OF STANDING COMMITTEE

SB 2248: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(11 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). SB 2248 was placed on the
Fourteenth order on the calendar.

2001 TESTIMONY

SB 2248



Consultants • Certified Public Accountants

January 31, 2001

Senate Judiciary Committee
North Dakota Senate
600 E Boulevard Ave
Bismarck, ND 58505

RE: Senate Bill 2248 Relating to Rules Against Perpetuities

Dear Chairman and Committee Members:

I'm am in favor of House Bill 2248.

While not for everyone, using trust longer than North Dakota's rule against perpetuities, is appropriate for certain situations. Currently, where a longer term trust is appropriate, it is drafted and domiciled in South Dakota with a bonus that the accumulation of income in the trust is not taxed for state income tax purposes. It is unfortunate that planning professionals have to domicile trust in South Dakota because they can't be domiciled in North Dakota.

When pondering perpetuities, one may think of almost 10,000 years. Well that is a stretch. However, the current law can limit a trust to as few as 21 years. For example, assume a single parent, one child, age 20, and an unborn grandchild. The parent dies setting up a \$1,000,000 trust. The trust provides for distribution of principal at age 35. Grandchildren are named as contingent beneficiaries, and in this case, there is only one grandchild. Grandchild is born and shortly thereafter, child dies. The trust will be required to distribute the principal of the trust to the grandchild at age 21.

I respectfully request you yes vote on SB 2248.

Sincerely,

EIDE BAILLY LLP


Paul J. Wonnoutka, CPA

PJW/bp

**TESTIMONY OF SUSAN RIBEIRO
IN FAVOR OF SENATE BILL 2248**

Mr. Chairman, Members of Committee:

My name is Susan Ribeiro I am President of Frontier Trust Company which is located in Fargo, North Dakota.

Frontier Trust Company, FSB is a Federal Savings Bank with trust powers that was originally chartered in the early 1960's as a North Dakota Banking Association. In 1987, Frontier Trust Company, FSB was purchased by The Equitable Life Assurance Society of the U.S. In June, 2000, at the time of the conversion to a Federal Savings Bank, ownership was transferred to AXA Financial.

Frontier provides trustee services for retirement plans and certain types of personal trusts. Frontier is trustee for over 2700 companies and individuals. Most of our clients are located outside the state of North Dakota.

You may be aware that Frontier has introduced three bills relating to trust services for the consideration of the 2001 Legislative Session. To quote a recent business journal article, "Trust is hot business". South Dakota, Delaware and other states have passed laws to attract trust business that is profitable but also safe and sound.

Senate Bill 2248 is one of the three bills Frontier is sponsoring. It relates specifically to the statutory rule again perpetuities.

Not long ago, it was possible for a person to avoid federal estate taxation by creating trusts at death that provided successive lifetime interests, or life estates, for each succeeding generation. Federal estate taxes are imposed on property which a

person owns or controls, but do not apply if a person only has a lifetime interest. Many wealthy persons took advantage of this feature and set up trusts that were to last for several generations.

However, in 1976, Congress decided to close this "loophole" by creating a law that would tax generation skipping transfers. (This first law was eventually scrapped and then recreated in its current form in 1986.) By assessing this Generation Skipping Tax, the government is attempting to carry out a policy of imposing an estate tax at least once as wealth passes from generation to generation. When a generation is skipped the government has missed an opportunity to tax that wealth. Although Congress allows a \$1 million dollar Generation Skipping Tax exemption (indexed for inflation), the current rate for the Generation Skipping Tax is a flat 55%.

By taking advantage of the \$1 million Generation Skipping Tax exemption (or \$2 million for married persons) this amount can be left in trust for the benefit of succeeding generations and the assets will never be subject to estate tax again. The wealth in this "Dynasty Trust" then passes from generation to generation and can provide for support, health needs and education of the original donor's descendants. The "Dynasty Trust" continues, free of estate tax (but not federal or state income tax) until it ends; according to the terms of the trust or the requirements of state law.

Each state falls into one of three categories regarding the duration of a "Dynasty Trust":

1. States that follow the common law "rule against perpetuities" that all trusts must end 21 years after the expiration of the named lives in being in the trust; or

2. States that have adopted the Uniform Statutory Rule Against Perpetuities, which states that a "Dynasty Trust" can endure for either the common law period or, alternatively, for 90 years; or
3. States with no Rule Against Perpetuities which permit a trust to last perpetually.

Senate Bill 2248 removes North Dakota's "rule against perpetuities" and any statutory limitation on a trust that holds only personal property. The current statutory limitations remain in effect with regard to real property.

Frontier is in favor of SB 22488 and believes it would allow a trustee to hold personal property in trust for a period of time determined by the trust agreement, and the trust would not be limited by a statutory "rule against perpetuities". This bill would provide North Dakotans with an additional opportunity for long term estate planning that would protect and provide for their descendants. It could also lead to the establishment of such trusts by persons who live in other states that limit the length of time a trust can exist. This would be of benefit to financial institutions located in North Dakota and would allow North Dakotans and others to establish a "Dynasty Trust" within this state.

Frontier is in favor of SB 2248. We hope that the committee will vote to recommend passage.

TESTIMONY OF MARILYN FOSS IN FAVOR OF SB 2248

Chairman DeKrey, members of the Judiciary committee, my name is Marilyn Foss. I am appearing before you to support SB 2248 primarily on behalf of Frontier Trust Company fsb, Fargo, but also on behalf of the North Dakota Bankers Association.

This bill seeks to include North Dakota among those states which permit the establishment of "dynasty trusts". The feature which distinguishes a "dynasty trust" from other types of trust is the possibility of perpetual existence, rather than mandatory distribution of trust assets upon a date which is set by statute. The opportunity for perpetual existence substantially improves the trust as a method of wealth creation and as a vehicle to save estate taxes and in some cases, generation skipping transfer taxes. A number of states, including South Dakota, New Jersey, Delaware, Idaho, and Alaska have passed legislation to permit dynasty trusts and more are considering bills to make the product available during this legislative year.

The statutory impediment to the establishment of a North Dakota dynasty trust is NDCC 47-02-27.1, a version of the common law "rule against perpetuities". Under present law, the rule against perpetuities applies to all types of property. In the trust context it applies to require an interest in a trust to "vest" or the trust to terminate within 21 years after the death of a hypothetical individual "then alive" at the date the trust was established. This bill would revise the statute so the requirement for "vesting or termination within twenty-one years of a life in being" applies only to interests in real property. That change in the law will permit North Dakotans and others from outside North Dakota to establish a trust with a North Dakota bank or trust company, to fund the trust with personal property (typically money and securities) and to provide that the duration of the trust may be perpetual. During the life of the trust, the trustee will

invest and reinvest trust assets, collect and distribute income in accordance with the directive of the trust grantor, and administer the trust for long term growth of principal. Because the trust can, in theory, have perpetual life, the growth can be very substantial. The typical dynasty trust provides for distribution of income to trust beneficiaries at the discretion of the trustee and for distribution of principal under specified conditions such as the health, education, and support of the trust beneficiaries. Upon the death of the primary beneficiaries (usually children of the grantor) the trust becomes available for the use of remote beneficiaries such as grandchildren and other family descendants. The trust terminates when upon the distribution of all funds, or when there are no living descendants of the grantor. Trust assets are subject to estate taxes only after termination or distribution and not at the death of a trust beneficiary. Since estate taxes can consume up to 55% of a federally taxable estate, freeing assets from estate tax is a substantial wealth creation and continuation technique.

Let there be no mistake. Dynasty trusts are a product which North Dakota trustees can use. Right now, dynasty trusts are available through two North Dakota banks because the institutions direct the business to their South Dakota affiliates. Frontier and other North Dakota banks which do not have affiliates in dynasty trust states, are losing customers to financial institutions in those states and will continue to do so unless and until North Dakota law is changed. This is a real time, right now competitive disadvantage and it will grow as time passes and the popularity of dynasty trusts grows.

I want to make one final comment. Some may think that dynasty trusts are only for the wealthy. I don't agree. There is nothing about SB2248 which limits the utility of a dynasty trust to the very wealthy. The growth effect of very long term investment applies to any amount of money. This bill will help North Dakota banks and trust companies offer a

product which can help anyone who is has put something away and wants to keep it growing for the long term future. The current law helps only the wealthy because it is those folks who go to the expense and trouble of securing an out of state trustee. This bill helps our financial institutions and our citizens and we urge you to give it a Do Pass.

With that, I'll close my testimony. Thank you.

TESTIMONY OF SUSAN RIBEIRO

IN FAVOR OF SENATE BILL 2248

Mr. Chairman, Members of Committee:

My name is Susan Ribeiro. I am President of Frontier Trust Company which is located in Fargo, North Dakota.

Frontier Trust Company, FSB is a Federal Savings Bank with trust powers that was originally chartered in the early 1960's as a North Dakota Banking Association. In 1987, Frontier Trust Company, FSB was purchased by The Equitable Life Assurance Society of the U.S. In June, 2000, at the time of the conversion to a Federal Savings Bank, ownership was transferred to AXA Financial.

Frontier provides trustee services for retirement plans and certain types of personal trusts. Frontier is trustee for over 2700 companies and individuals. Most of our clients are located outside the state of North Dakota.

You may be aware that Frontier has introduced three bills relating to trust services for the consideration of the 2001 Legislative Session. To quote a recent business journal article, "Trust is hot business". South Dakota, Delaware and other states have passed laws to attract trust business that is profitable but also safe and sound.

Senate Bill 2248 is one of the three bills Frontier is sponsoring. It relates specifically to the statutory rule again perpetuities.

Not long ago, it was possible for a person to avoid federal estate taxation by creating trusts at death that provided successive lifetime interests, or life estates, for each succeeding generation. Federal estate taxes are imposed on property which a person owns or controls, but do not apply if a person only has a lifetime interest. Many wealthy persons took advantage of this feature and set up trusts that were to last for several generations.

However, in 1976, Congress decided to close this "loophole" by creating a law that would tax generation skipping transfers. (This first law was eventually scrapped and then recreated in it's current form in 1986.) By assessing this Generation Skipping Tax, the government is attempting to carry out a policy of imposing an estate tax at least once as wealth passes from generation to generation. When a generation is skipped the government has missed an opportunity to tax that wealth. Although Congress allows a \$1 million dollar Generation Skipping Tax exemption (indexed for inflation), the current rate for the Generation Skipping Tax is a flat 55%.

By taking advantage of the \$1 million Generation Skipping Tax exemption (or \$2 million for married persons) this amount can be left in trust for the benefit of succeeding generations and the assets will never be subject to estate tax again. The wealth in this "Dynasty Trust" then passes from generation to generation and can provide for support, health needs and education of the

original donor's descendants. The "Dynasty Trust" continues, free of estate tax (but not federal or state income tax) until it ends; according to the terms of the trust or the requirements of state law.

Each state falls into one of three categories regarding the duration of a "Dynasty Trust":

1. States that follow the common law "rule against perpetuities" that all trusts must end 21 years after the expiration of the named lives in being in the trust; or
2. States that have adopted the Uniform Statutory Rule Against Perpetuities, which states that a "Dynasty Trust" can endure for either the common law period or, alternatively, for 90 years; or
3. States with no Rule Against Perpetuities which permit a trust to last perpetually.

Senate Bill 2248 removes North Dakota's common law "rule against perpetuities" and any statutory limitation on a trust that holds only personal property. The current statutory limitations remain in effect with regard to real property.

Frontier is in favor of SB 2248 and believes it would allow a trustee to hold personal property in trust for a period of time determined by the trust agreement, and the trust would not be limited by a statutory "rule against perpetuities". This bill would provide North Dakotan's with an additional opportunity for long term estate planning that would protect and provide for their descendants. It could also lead to the establishment of such trusts by persons who live in other states that limit the length of time a trust can exist. This would be of benefit to financial institutions located in North Dakota and would allow North Dakotan's and others to establish a "Dynasty Trust" within this state.

Frontier is in favor of SB 2248. We hope that the committee will vote to recommend passage.

WHEELER WOLF

ATTORNEYS

Albert A. Wolf
Jack McDonald
Gregory C. Larson
Steven L. Latham
Sarah Vogel

Todd A. Schwarz
Courtney Koebele
Anthony J. Weiler
Damian J. Huettl
Andrew F. Nilles

Legal Assistants
Dianne M. Taix, CLAS
Char J. Jacober, CLA

220 North Fourth Street • P.O. Box 2056 • Bismarck, ND 58502-2056 • (701) 223-5300 • Fax (701) 223-5366

March 9, 2001

Chairman Duane DeKrey
House Judiciary Committee
State Capitol
600 East Boulevard
Bismarck, North Dakota 58505

RE: SB 2246 and SB 2248

Dear Chairman DeKrey:

I am writing regarding two bills: SB 2246 and SB 2248.

SB 2246 relates to the duties and liabilities of a trustee of a life insurance trust and SB 2248 does away with the rule against perpetuities in North Dakota and allows trusts to be set up and allows "dynasty" trusts to be set up in North Dakota.

My Background.

I have practiced in Bismarck for 21 years specializing in estate and tax planning. I represent a broad base of clients. For most of them, I have prepared wills, powers of attorney, health care powers of attorney, and living wills. For many with larger taxable estates, I have also prepared life insurance trusts. For the largest estates that I work on, I have been involved the establishment of "dynasty" trusts.

SB 2246.

I have reviewed this bill and am very much in favor of its passage. The bill addresses an issue that has become a problem for insureds throughout the United States. The problem is finding a corporate or professional trustee that will be the trustee of a life insurance trust for a reasonable fee. For many years, trust companies were willing to be trustees of life insurance trusts for a very reasonable fee (usually between \$200.00 and \$500.00). However, in recent years, there have been lawsuits brought in other states where the beneficiaries of life insurance trusts have sued the trustees.

Chairman Duane DeKrey

March 9, 2001

Page 2 of 3

The typical lawsuit against the trustees has been based on a claim that the trustees did not purchase the very best policy with the premiums that they paid. In other words, the beneficiaries are complaining that for the premium dollars paid, the trustees could have found a better product in the market place.

Most life insurance trusts are set up by the insured as the grantor and his spouse and/or children as beneficiaries. The purpose of a life insurance trust is to insure the life of the grantor while keeping the insurance proceeds out of the taxable estate of the grantor. This is accomplished by having ownership of a policy in the name of the trustee of the life insurance trust. Typically, the insured already has his policy picked out prior to the establishment of the life insurance trust. The trustee is then instructed to make premium payments on the policy already selected. Normally, the duties of the trustee are limited to making premium payments until the insured passes away.

Because of the lawsuits mentioned above, trustees have been reluctant to take on these duties. The result of this reluctance is that trust companies either refuse to take on these duties or they have raised their rates considerably so as to discourage insureds from hiring them.

The passage of this bill would minimize the exposure of trustees regarding policies selected by the grantor/insured. It would also allow the trustee to just make premium payments without being required to review every product in the marketplace every year to be assured the trust has the best product. This product review would be the responsibility of the insured and his insurance agent.

I have read the letter dated February 11, 2001, written by Thomas A. Mayer and sent to the Representative Al Carson. I completely disagree with Mr. Mayer's concerns and speculations. The purpose of this bill is simply to allow insureds to set up a life insurance trust and find a trustee that will take on the duties of making premium payments without charging an excessive fee. The passage of this bill will benefit the consumer by allowing them to have a professional trustee at a reasonable fee.

SB 2248.

This bill eliminates the rule against perpetuities. This rule has been in place to stop trusts from being perpetual. It required trusts to terminate and distribute property within a certain time limit. If trust property is distributed, when the recipient dies, those assets will be part of the recipient's estate; and possibly cause the occurrence of an estate tax.

The purpose of the "dynasty" trust is to set up a trust that will go for the lifetime of the grantor's children and when the children pass away, the trust will continue on for the lifetime of grandchildren. When the grandchildren pass away, the trust will continue on for the lifetime of the great-grandchildren. This can continue on generation after generation.

Chairman Duane DeKrey

March 9, 2001

Page 3 of 3

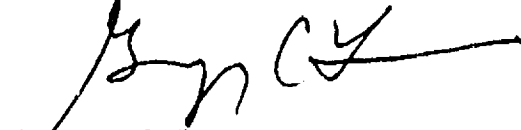
The benefit of this type of trust is that there is no estate tax required to be paid at the death of a beneficiary, since that beneficiary only had the right to receive income during his or her lifetime. This can be very beneficial to allow estates to continue to grow without being reduced by the occurrence of an estate tax. This is a very popular and beneficial estate tax planning tool.

In the past, I have been required to go to South Dakota to have these types of trusts set up for my clients. There are just a few states (Alaska, Delaware, Wisconsin and South Dakota) that have laws that will allow these types of trusts to be set up.

If this bill is passed, it will enhance the ability of North Dakota trustees to be trustees of these trusts for North Dakota citizens and also for out-of-state citizens. All of the states that have eliminated the rule against perpetuities seek business across the United States from people who wish to take advantage of this estate tax planning benefit. Typically, the amount of money placed in a "dynasty" trust will range from \$1,350,000 to \$2,000,000. It would be very beneficial to North Dakota trust departments and related businesses to keep that kind of money in North Dakota. Also, the ability to draw money from outside of North Dakota in these amounts would provide a great benefit to related North Dakota businesses.

If you have any questions on either of these bills, please let me know.

Sincerely,



Gregory C. Larson

Email: glarson@wheelerwolf.com

GCL:sar/dms