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MEMORANDUM

To: Chairman Longbine and the Senate Committee on Financial Institutions and Insurance

From: Office of Revisor of Statutes

Date: February 8, 2022

Subject: **Bill Brief for SB 400 – Updating certain requirements relating to the creation, modification and termination of trusts in the Kansas uniform trust code and updating the definition of resident trust for tax purposes.**

SB 400 would create two new provisions and modify two statutes in the Kansas Uniform Trust Code, as well as amending the definition of resident trust contained in K.S.A. 79-32,109, and amendments thereto.

New Section 1 of the bill specifies conditions under which the rule against perpetuities is inapplicable to a trust, exceptions that might be made to the rule against accumulations when the rule against perpetuities is inapplicable to such trusts, and the types of trusts to which the section applies.

New Section 2 of the bill creates what might be called a "decanting" statute. This section specifies that the contents of a trust may, at the discretion of the trustee, be decanted into a new trust and the conditions, limitations and requirements of such a transaction and the trustee.

Section 3 of the bill amends K.S.A. 58a-111 and adds three new items to the list of matters that may be settled by a nonjudicial settlement agreement between interested persons. These items are: the interpretation or construction of the terms of the trust; direction to a trustee to refrain from performing a particular act or the grant of any necessary or desirable power to a trustee (to perform a particular act); and the governing law of the trust.

Section 4 of the bill amends K.S.A. 58a-414 and increases the total value of the trust at which the trustee may terminate a trust if the trustee concludes that that the value of the trust property is insufficient to justify the cost of administration.

Section 5 of the bill amends K.S.A. 79-32,109 of the Kansas tax code and redefines "resident trust" to mean "a trust that was created by or consisting of property owned by a person domiciled in this state on the date the trust or portion of the trust became irrevocable and has at least one income beneficiary who, on the last day of the taxable year, was a resident of this state.

The bill would become effective upon publication in the statute book.