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Susan T. Bart
Reporter, Uniform Trust Decanting Act
Sidley Austin LLP
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Dear Susan:

I am the current president of the National Association of State Charity Officials (NASCO) and write on behalf of NASCO to provide our initial comments on the draft of the Uniform Trust Decanting Act ("Act"), which express our concerns regarding the manner in which the Act addresses charitable trusts and the long-standing common law and statutory oversight authority of a State Attorney General (AG) over such trusts. Upon our initial review of the Act, we have the following comments:

- 1) The Act contains a provision which requires the trustee to provide notice to the AG of a proposed decanting of a charitable trust and shifts the burden on the AG to file suit if he or she has an objection to the proposed decanting. We believe that when a proposed decanting impacts a charitable interest, the burden of suit should be on the trustee. The Act should have a provision which provides that, if a trust has a charitable beneficiary, the AG must be given notice of a proposed decanting AND the ability to block the decanting and require the trustee to seek court approval.
- 2) The Act may broaden the trustee's discretion with regard to purely charitable trusts to a degree well beyond that intended by donors and manifested in the express provisions of their granting documents and may be over-inclusive in that it applies to all charitable trusts rather than only to charitable lead, charitable remainder and other split-interest trusts.
- 3) The Act should contain a specific provision requiring that decanting must be consistent with the settlor's purpose or intent in establishing the trust.

- 4) The Act should include a savings clause providing that it does not limit the authority of the AG in matters pertaining to charitable trusts as otherwise provided by statute or common law.

We thank you for considering our initial comments and would like the opportunity to continue to be involved in this drafting project.

Sincerely,



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