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SENATOR JOHN COGHILL

Date: March 18, 2013
To: Labor and Commerce Committee Members
From: Sen. John Coghill's Office
Re: Basic Trust FAQs and Terms

TRUSTS 101

What Is a Trust?

- A legal relationship (i.e.: a contract) in which the property of one party is generally held for the benefit of a third party. A party can also establish a trust in which the owner of the property and the beneficiary of the property are one and the same.

Why Set Up a Trust?

- Trusts not just for the wealthy—they are a useful financial planning tool for all walks of life.
- Spendthrift Protection: Provide for children or family members inexperienced in or unable to handle financial matters.
- Provide management of personal assets should one become unable to handle them oneself.
- Provide for a child's educational future.
- Will and Estate Planning.
- Avoid the complications associated with probate (establishing the legal validity of wills) by immediately transferring assets to beneficiaries upon death.
- Privacy: The terms of a will are public while the terms of a trust are not.
- Reduce one's estate taxes and provide liquid assets to help pay for them.
- Protection against Creditors: Protect certain assets from creditors even if facing personal bankruptcy.

Key Terms:

- **Grantor/Donor/Settlor:** Person who establishes the trust.
- **Trustee:** Person/entity designated by the grantor to manage the trust. They owe a fiduciary duty to the trust's beneficiary.
- **Beneficiary:** Person who benefits from the trust.
- **Revocable trust:** May be amended, altered or revoked by its settlor at any time, provided the settlor is not mentally incapacitated. Increasingly common in the US as a substitute for a will to minimize administrative costs associated with probate and to provide centralized administration of a person's final affairs after death.
- **Irrevocable trust:** Cannot be amended or revised until the terms or purposes of the trust have been completed. Under normal circumstances an irrevocable trust may not be changed by the trustee or the beneficiaries of the trust.
- **Testamentary trust:** A trust created in an individual's will. Becomes effective only upon death. Created at or following the date of the settlor's death.
- **Probate:** The process of legally establishing the validity of a will.