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Foreword: Twenty Years of the Uniform Trust Code

*Jeffrey A. Cooper**

Traditionally, the sources of trust law in the United States were fragmented, with key authority scattered across various statutes, case law, the Restatements, and influential treatises.¹ Twenty years ago, the Uniform Trust Code (“UTC”) was proffered as “the first national codification of the law of trusts”— a means of making trust law more easily accessible and more uniform.² This issue of the *ACTEC Law Journal* marks the 20th anniversary of the UTC with a series of essays devoted to numerous topics concerning the UTC and its influence.

The process of designing and drafting the UTC began in 1993 under the auspices of The National Conference of Commissioners on Uniform State Laws (NCCUSL).³ Over the ensuing seven years, the drafters sought input from a variety of stakeholders as they worked toward their final proposal.⁴ That end product was approved by the Commissioners in 2000 and soon thereafter endorsed by the American Bar Association’s House of Delegates and adopted in the first jurisdictions.⁵ While in many cases the UTC is consistent with the common law rules, it contains notable and intentional deviations.⁶ Accordingly, it did not merely collect trust law but actively modernized it.

As we approach the 20th anniversary of the UTC’s codification, it has been enacted in thirty-five jurisdictions and remains under consider-

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¹ David M. English, *The Uniform Trust Code (2000): Significant Provisions and Policy Issues*, 67 MO. L. REV. 143, 144 (2002). Professor English, who was the Reporter for the UTC, opined that prior to codification of the UTC many lawyers could not successfully navigate these various sources to find applicable law. *Id.* at 148 (“For the first time, legal practitioners in many states actually will be able to determine their state’s law on trusts.”).

² UNIF. TRUST CODE, Prefatory Note (UNIF. LAW COMM’N 2000). For a discussion of the path toward codification of trust law, see generally John H. Langbein, *Why Did Trust Law Become Statute Law in the United States?*, 58 ALA. L. REV. 1069 (2007).

³ English, *supra* note 1, at 144-45.

⁴ *Id.* at 145.

⁵ *Id.* at 144.

⁶ UNIF. TRUST CODE, Prefatory Note (“The Code also contains a number of innovative provisions.”).

ation elsewhere.⁷ It has proven to be both popular and influential, generating spirited debates about issues ranging from ministerial to transformative. It has impacted numerous aspects of trust and estate practice, including estate planning, trust administration, and fiduciary litigation.

This issue of the *ACTEC Law Journal* has its own, albeit far briefer, history. In March 2019, at the ACTEC annual meeting in La Quinta, California, the editors announced that a special issue of the *ACTEC Law Journal* would be produced to mark the occasion of the UTC's 20th anniversary. At the same time, we issued a call for papers inviting brief articles considering various aspects of the UTC and its impact. The response was immediate and robust. The call for papers generated enough proposals to fill an entire volume of the *Journal*, forcing the editors to make the difficult choices needed to whittle that list down to a mere dozen which follow.

The following articles are not intended to be an exhaustive study of the UTC. Rather, they are offered as a series of viewpoints on a diverse group of issues related to the UTC. Indeed, diversity is a key principle behind the design of this issue. The articles are written by authors hailing from different jurisdictions and different professional backgrounds. Their articles accordingly take similarly varied approaches to the broad subject at hand. Some have chosen to analyze the practical impact of specific provisions of the UTC, offering suggestions relevant to those who practice trust planning or administration. Others have chosen to deploy a public policy lens to study aspects of the drafting process or offer proposals for legislative consideration.

Despite all of the diversity of thought and perspective represented herein, the articles in this issue share one common trait—they are brief. The blame, or perhaps the credit, for that belongs to the editors. In order to accommodate a large number of articles, we necessarily imposed a strict word limit on the pieces which follow. All of the authors have much more to say with respect to their chosen topic than could possibly

⁷ As of this writing, the UTC has been enacted in Alabama, Arizona, Arkansas, Colorado, Connecticut, District of Columbia, Florida, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. See *Trust Code*, UNIF. LAW COMM'N, <https://www.uniformlaws.org/committees/community-home?CommunityKey=193ff839-7955-4846-8f3c-ce74ac23938d> (last visited Nov. 6, 2019). In addition, the structure and wording of the UTC has shaped trust law in some jurisdictions that the Uniform Law Commission does not list as having formally adopted the UTC. See, e.g., Martin D. Begleiter, *In the Code We Trust—Some Trust Law for Iowa at Last*, 49 *DRAKE L. REV.* 165, 175 (2001) (describing how the Iowa Trust Code was based in part on early drafts of the UTC).

be published in a forum like this. The editors hope, and expect, that many of the topics addressed herein will continue to be explored and debated in future articles in this journal and elsewhere.

We hope that you enjoy this issue of the *ACTEC Law Journal*.

