



**Statement of Benjamin Orzeske, Chief Counsel from the Uniform Law Commission,
to the Kansas Senate Judiciary Committee in support of SB 63,
the Revised Uniform Fiduciary Access to Digital Assets Act, January 31, 2017.**

Chairman Wilborn and Members of the Committee:

Thank you for considering SB 63, which would enact the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), and for sponsoring this important legislation. This bill is based on a uniform act produced by the Uniform Law Commission (ULC). The ULC is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of state law for which uniformity among the states is advisable. Kansas has a long and successful history of enacting ULC acts including the Uniform Commercial Code, the Uniform Anatomical Gifts Act, the Uniform Transfers to Minors Act, and dozens of others.

This legislation is necessary because the law has not kept pace with technological advances in the Internet age. A generation ago, a human being delivered our mail, photos were kept in albums, documents were filed in file cabinets, and money was deposited at the corner bank. For most people today, at least some of their property and communications are stored as data on a computer server and accessed via the Internet. While Kansans have complete control over what happens to their tangible private property when they die or lose capacity, that is not always the case for their digital assets. SB 63 solves that problem.

This bill will give Kansans the power to plan for the management and disposition of their digital assets in the same way they can make plans for their tangible property: by providing instructions in a will, trust, or power of attorney, or by using simple online planning tools. The act encourages Internet service providers to offer online tools that allow the user to name a designated recipient to receive access to the user's account if the user dies or loses capacity.

SB 63 will authorize access to digital assets by four common types of fiduciaries:

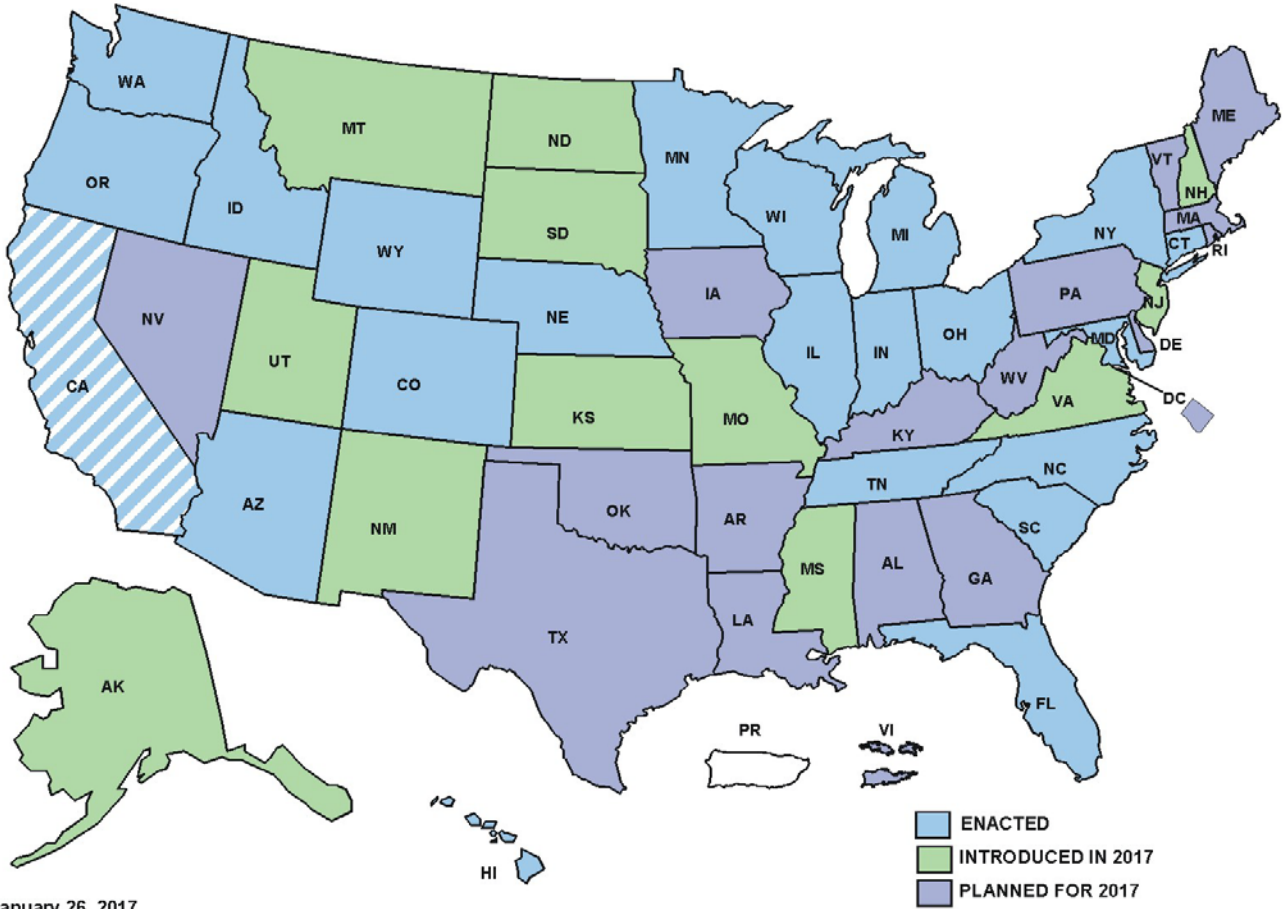
1. personal representatives of decedents' estates,
2. court-appointed conservators of incapacitated persons' property,
3. agents under a power of attorney, and
4. trustees.

This act is supported by major internet firms including Facebook and Google, and by senior advocates including AARP and the National Academy of Elder Law Attorneys.

Enacting this legislation will give Kansas citizens the ability to plan for disposition of their digital assets in the same way they can plan for their more tangible assets, and will bring Kansas laws into conformity with the many other states that are enacting RUFADAA. I ask for your support to advance this important legislation for the digital age, and I welcome questions from the committee.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.

REVISED UNIFORM FIDUCIARY ACCESS TO DIGITAL ASSETS ACT (2015)



January 26, 2017