



**Hundredth Legislature - First Session - 2007
Committee Statement
LB 189**

Hearing Date: February 6, 2007
Committee On: Banking, Commerce and Insurance

Introducer(s): (Mines)
Title: Change the Nebraska Uniform Trust Code

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

7	Yes	Senators Pahls, Langemeier, Carlson, Christensen, Gay, Hansen, Pankonin, Pirsch
	No	
	Present, not voting	
1	Absent	Senator Pankonin

Proponents:
Senator Mick Mines
Robert J Hallstrom
John McCabe

Tom Fitchett

Representing:
Introducer
NE Bankers Association
National Conference of Commissioners on
Uniform State Laws
Self

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 189 (Mines) would amend two sections of the Nebraska Uniform Trust Code, as follows:

Section 1 would amend section 30-3803 to provide that for the purposes of the trustee determining qualified beneficiaries of trust in which a beneficial interest is subject to a power of appointment, the trustee may presume such power of appointment has not been exercised unless the trustee has been furnished an instrument exercising such power of appointment.

Section 2 would amend section 30-3867 of the Nebraska Uniform Trust Code by replacing subsection (e) which currently provides circumstances under which a trustee may invest trust property in securities of an investment company to which the trustee also provides other services and receives compensation from the investment company for providing these services out of fees charged to the trust.

As re-written this subsection would provide that the following transactions shall not be presumed to be affected by a conflict between the personal and fiduciary interests of the trustee if the transaction and any investment made pursuant to the transaction complies with the prudent investor rule:

(1) An investment by a trustee in securities of an investment company or investment trust to which the trustee or its affiliate provides services in a capacity other than as trustee. With respect to any such investment, the trustee shall, at least annually, notify persons entitled to receive the trustee's annual report of the rate and method by which compensation was determined.

(2) The placing of securities transactions by a trustee through a securities broker that is part of the same company as the trustee, is owned by the trustee, or is affiliated with the trustee.

This subsection would further provide that in addition to the trustee's fees charged to the trust, the trustee, its affiliate, or its associated entity may be compensated for any transaction or provision of services described in this subsection.

The bill carries the emergency clause.

Explanation of amendments, if any:

The committee amendments (AM217) would strike section 1 from the bill and thus the bill would propose no amendments to section 30-3803 of the Nebraska Uniform Trust Code.

In section 2, the committee amendments would further amend the new provisions of section 30-3867 to provide that the identified transactions that would not be presumed to be affected by a conflict of interest must be "in the best interest of the beneficiaries" as well as in compliance with the prudent investor rule and that in addition to the trustee's fees charged to the trust, the trustee, its affiliate, or its associated entity may be "reasonably" compensated for any transaction or provision of services "performed by the trustee, its affiliate, or its associated entity".

Senator Rich Pahls, Chairperson