

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

January 21, 1999 LB 62

PRESIDENT MAURSTAD: Senator Landis.

SENATOR LANDIS: I'll do my best to answer that question. Understand that in a number of the circumstances the beneficiary is the original holder of the property. They're an older person. They give it to a trustee to manage for their...on their behalf. So they are both the giver and the receiver, because they're just simply transferring it to somebody else to manage on their behalf for their benefit. However, who needs to be...who is the right person to determine the quality of the trustee's investments? Well, the money is there for a purpose. The money is there to benefit the beneficiary. How much money they get, how risky the investment is, they are the ultimate receiver of the benefit. Understand that in many cases it will be the person who is the transferor, but it is the beneficiary whose recovery we're talking about here in the performance of the trust. It seems to...it's written this way, and I'll check to see if this is a mistake but I don't think it is, and that's because the trust exists for the benefit of the beneficiary. And if you were going to say to a...to the trustee, look, you're operating under this...these rules that you had before, but now the law's going to come in and give you this Uniform Prudent Investor Act; wait a second, I'm very comfortable with the way it's being done now; I'm getting this benefit; please don't change your standards; please keep doing it the way you're doing it, as the beneficiary, I think that's probably an appropriate person to make that decision. Let me reflect on that, however, and if you're uncomfortable with that response, rather than changing it here, let's...let's discuss it between now and Select File.

SENATOR BROMM: Thank you. I'm not suggesting that we change it now. I just want to...I want to be sure that that...that that's correct and...and I think I need to read the...more of the act rather than focusing on that one paragraph. So I appreciate you're answer, thank you, and we'll look at it between now and Select File.

SENATOR LANDIS: You bet.

PRESIDENT MAURSTAD: Thank you, Senator Bromm. Chair recognizes Senator Janssen.