

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2210  
(Senator Klein)

AN ACT to amend and reenact section 59-09-02 of the North Dakota Century Code, relating to individual retirement and employee benefit trusts.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 59-09-02 of the North Dakota Century Code is amended and reenacted as follows:

**59-09-02. (102) Scope.**

1. Except as provided in subsection 2, chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 apply to express trusts, whether charitable or noncharitable and testamentary or inter vivos, and to trusts created pursuant to a statute or a judgment or decree that requires the trust to be administered in the manner of an express trust.
2. Chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 do not apply to:
  - a. ~~A trust that is part of an employee benefit arrangement or an individual retirement account.~~
  - b. A trust account established under a qualified tuition savings program pursuant to section 6-09-38.
  - ~~c.~~ Trust accounts maintained on behalf of clients or customers by licensed service professionals, including trust accounts maintained by attorneys pursuant to the North Dakota Rules of Professional Conduct and by real estate brokers pursuant to chapter 43-23.
  - ~~d.~~ An endowment care fund established by a cemetery authority pursuant to chapter 23-21.
  - ~~e.~~ Funds maintained by public bodies as defined by chapter 1-07 or other governmental unit entities.
  - ~~f.~~ Trust funds held for a single business transaction or an escrow arrangement.
  - ~~g.~~ Trusts created by a depository agreement with a financial institution.
  - ~~h.~~ An account maintained under the North Dakota Uniform Transfers to Minors Act as contained in chapter 47-24.1.
  - ~~i.~~ A fund maintained pursuant to court order in conjunction with a bankruptcy proceeding or a business liquidation.
  - ~~j.~~ A voting trust described in chapter 10-19.1.
  - ~~k.~~ Funds maintained to manage proceeds from class actions.
  - ~~l.~~ A trust created solely to secure the performance of an obligation.
  - ~~m.~~ A trust created on behalf of a resident of a residential facility.

n.m. A trust managed by a nonprofit association for disabled individuals under 42 U.S.C. 1396p(d)(4), as in effect on the effective date of chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 and under the rules adopted by the department of health and human services.

o.n. A resulting or constructive trust.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2210.

Senate Vote:    Yeas 47            Nays 0            Absent 0

House Vote:    Yeas 92            Nays 0            Absent 2

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2023.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State