

**2023 SENATE INDUSTRY AND BUSINESS**

**SB 2210**

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2210  
1/30/2023

A bill relating to individual retirement and employee benefit trusts.

10:32 AM Chairman D. Larsen opened the meeting. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

### Discussion Topics:

- Trustee roles
- Trust companies
- Retirement and benefit trusts
- Uniform Trust Code (UTC)

10:32 AM Senator Klein introduced SB 2210 and verbally testified in favor.

10:33 AM Brad Kraft, President, Ascensus Trust, testified in favor of SB 2210. # 17535

10:47 AM Rick Clayburg, President and CEO , North Dakota Bankers Association, verbally testified in favor of SB 2210.

10:54 AM Lise Kruse, Commissioner, Department of Financial Institutions verbally testified neutral on SB 2210.

10:57 AM Senator Klein closed the hearing on SB 2210.

*Brenda Cook, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Industry and Business Committee Fort Union Room, State Capitol

SB 2210  
1/31/2023

A bill relating to individual retirement and employee benefit trusts.

9:32 AM Chairman D. Larsen called the meeting to order. Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Klein, Senator Boehm.

### Discussion Topics:

- Committee action

9:32 AM Senator Klein moved to DO PASS SB 2210.

9:32 AM Senator Barta seconded the motion to DO PASS SB 2210.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0-Do Pass SB 2210.

Senator Kessel will carry the bill.

9:33 AM Chairman D. Larsen closed the hearing on SB 2210.

*Brenda Cook, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2210: Industry and Business Committee (Sen. Larsen, Chairman) recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** SB 2210 was placed on the Eleventh order on the calendar. This bill does not affect workforce development.

**2023 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2210**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Industry, Business and Labor Committee Room JW327C, State Capitol

SB 2210  
3/20/2023

Relating to individual retirement and employee benefit trusts.

Chairman Louser called meeting to order 2:48 PM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Kasper, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.

### Discussion Topics:

- Trust companies
- Uniform trust code

### In Favor:

Senator Jerry Klein, District 14, Fessenden, ND (no written testimony)  
Brad Kraft, President, Ascensus Trust, #25745

### Neutral:

Lise Kruse, Commissioner, Department of Financial Institutions (no written testimony)

Representative Schauer moved a do pass.  
Representative Thomas seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	AB
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passed 13-0-1

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SB 2210  
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Representative Warrey will carry the bill.

Chairman Louser adjourned the meeting 3:04 PM

*Diane Lillis, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**SB 2210: Industry, Business and Labor Committee (Rep. Louser, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB  
2210 was placed on the Fourteenth order on the calendar.

**TESTIMONY**

**SB 2210**



Good afternoon, Industry Business and Labor Committee members, and thank you for giving me the opportunity to provide testimony in support of Senate Bill # 2210, which will clarify the role of North Dakota trustees who provide service to IRA owners and retirement plans and participants.

I'm originally from Rugby and moved to Fargo to earn my accounting degree and MBA at NDSU. During the past 19 years, I've worked for Ascensus Trust Company (formerly known as Frontier Trust). Over the past 7+ years, I've had the opportunity to serve as Ascensus Trust's President.

I am also involved in 3 other trust companies owned by Ascensus Trust's parent company, Ascensus Group, LLC. I am the President & CEO of Provident Trust, based in Nevada, and serve as Chairman of the Board for both PAi Trust Company, based in South Dakota and Newport Trust Company, based in New Hampshire.

I am also a registered representative for Ascensus Broker Dealer Services, LLC who is the distributor of the North Dakota College SAVE plan. I'm sharing this affiliation for transparency purposes only, as Bill # 2210 should have no impact on either Ascensus Broker Dealer Services or the North Dakota College SAVE plan.

Ascensus Trust is the largest of the 4 trust companies currently owned by Ascensus Group, which is a retirement plan recordkeeper that supports everything from individual retirement accounts and 529 college savings accounts to simple and complex qualified retirement plans—and even state-facilitated retirement plans.

At Ascensus Trust's headquarters in Fargo, we act as a directed, non-discretionary trustee or custodian to support more than 55,000 employer retirement plans, 1.7 million qualified plan participants, and 580,000 IRAs across the entire country. Our organization's focus has always been on the retirement plan sector, and we generally don't provide support to personal or family trusts other than to a very limited business line.

Ascensus Trust has been a state-chartered trust company, regulated by the North Dakota Department of Financial Institutions, since 2007, when we converted from a federal savings bank. Since 2007, we've experienced substantial growth, with our assets under administration increasing from \$15B to more than \$100B as of December 31<sup>st</sup>, 2022.

This growth has been fueled both organically and through mergers and acquisitions. After Ascensus Trust was purchased in 2007, Ascensus has acquired 4 additional trust companies. Whenever possible, we've tried to consolidate business to Ascensus Trust to benefit both from our region's strong workforce and from the North Dakota DFI's commonsense, transparent, and collaborative approach to regulation.

As we've grown, we've also been conscious of certain differences between the governing laws in the states that we operate in—and where our trust companies are based. This is the main reason I'm here today.

Last year, Ascensus acquired trust companies based on New Hampshire and South Dakota. As we were planning to bring these organizations together, we became aware of a particular provision in the North Dakota Century Code that is inconsistent with similar laws in most other states. Specifically, we have

concerns about certain language that was included when North Dakota adopted the Uniform Trust Code in 2007.

The Uniform Trust Code was originally created to provide a consistent framework for state trust law to provide uniform treatment of trusts across the country—and fortunately, 36 states, including North Dakota, have adopted the UTC.

The products and accounts that Ascensus Trust supports are often governed by a complex and ever-evolving set of rules established and enforced by the Department of Labor and the IRS.

When North Dakota adopted the UTC in 2007, the Century Code specifically excluded, quote, “trusts that are part of employee benefit arrangements or individual retirement accounts.”

Despite our best efforts, we don’t know why North Dakota’s version of the UTC excluded employee benefit arrangements or individual retirement accounts. Nor does the legislative history at the time of enactment provide any insight into why it was drafted this way. The rationale could have been that, because federal retirement law often preempts state law, carving out IRAs and other retirement plans simply reflected that fact. But while most retirement account rules *are* governed by federal law, at times trust companies or banks may still need to rely on state laws to resolve certain issues. For example, state law may help determine the proper beneficiary of a retirement account.

Based on our research, it appears that North Dakota is one of only 8 states that excluded these accounts when adopting the UTC.

Because North Dakota’s Uniform Trust Code does not apply to retirement savings accounts, common law applies. The common law of trusts in North Dakota provides far less specificity than the UTC, and this lack of certainty creates a less predictable business environment for Ascensus Trust and other trust companies or banks that operate in North Dakota.

Based on the benefits of providing more clarity in the statute, we are requesting that you amend North Dakota’s Uniform Trust Code to *include* coverage of employee benefit arrangements and individual retirement accounts under Title 59.

I’ve discussed this proposal with several other trust companies domiciled in North Dakota, and also with Rick Clayburgh at the North Dakota Bankers Association and Barry Haugen at the Independent Community Banks of North Dakota. All are supportive of this change, and you’ll hear directly from Rick later regarding the North Dakota Bankers Association’s support.

I have also discussed with Commissioner Kruse at the North Dakota Department of Financial Institutions, and they do not have any concerns with the change.

Thank you again for your time and attention today—and for considering this request.

I am happy to answer any questions that you have about my background, Ascensus Trust, or the proposed language change.



Good afternoon, Industry Business and Labor Committee members, and thank you for giving me the opportunity to provide testimony in support of Senate Bill # 2210, which passed the Senate unanimously on February 2<sup>nd</sup> and will clarify the role of North Dakota trustees who provide service to IRA owners and retirement plans and participants.

I'm originally from Rugby and moved to Fargo to earn my accounting degree and MBA at NDSU. During the past 19 years, I've worked for Ascensus Trust Company (formerly known as Frontier Trust). Over the past 7+ years, I've had the opportunity to serve as Ascensus Trust's President.

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This growth has been fueled both organically and through mergers and acquisitions. After Ascensus Trust was purchased in 2007, Ascensus has acquired 4 additional trust companies. Whenever possible, we've tried to consolidate business to Ascensus Trust to benefit both from our region's strong workforce and from the North Dakota DFI's commonsense, transparent, and collaborative approach to regulation.

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Based on the benefits of providing more clarity in the statute, we are requesting that you amend North Dakota’s Uniform Trust Code to *include* coverage of employee benefit arrangements and individual retirement accounts under Title 59.

If this bill passes, it would allow Ascensus Trust to continue its strong growth inside North Dakota while being Ascensus Group’s primary trust company for supporting new retirement account opportunities (including the possibility of Ascensus Trust supporting another ~1 million account holders within the next 12-18 months).

I’ve discussed this proposal with several other trust companies domiciled in North Dakota, and also with Rick Clayburgh at the North Dakota Bankers Association and Barry Haugen at the Independent Community Banks of North Dakota. All are supportive of this change.

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