

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

March 6, 1997

LB 51

ASSISTANT CLERK: Madam President, LB 51 was introduced by Senator Landis. (Read title.) The bill was read for the first time on January 9th of this year, referred to the Banking Committee. That committee reports the bill directly to General File with no committee amendments.

SENATOR CROSBY: Senator Landis on LB 51.

SENATOR LANDIS: Thank you, Madam President. This is the Uniform Custodial Trust Act reported out unanimously by the Banking, Commerce and Insurance Committee. Having heard from two of the Uniform Law Commissioners or one of the Uniform Law Commissioners that represents Nebraska, Dean Harvey Perlman of the UNL Law School, the wills and trusts professor at the UNL Law School, John Gradwohl, and a representative of the Uniform State Law Commissioners from Chicago, John McCabe. We also had a letter from Ron Volkmer, who teaches wills and trusts at the Creighton Law School, on behalf of this measure as well. There was no opposition. The custodial trust is a simple statutory trust that is designed to give people an inexpensive simple way to control their assets during their life, and then pass those assets onto a beneficiary at the time of death without going through probate. There are two ways of doing it, one through a transfer, and one through a declaration. Simplest thing to do is to make a very simple written declaration. There is a model in the act. You describe the property that is being held in trust. You name a beneficiary who is ultimately to get the property, but the property is held for the life of the declarant, the person making this trust, for their benefit, and in which the declarant is designated the custodial trustee. So I declare a trust, and I name somebody who will take over for me in the event I become incapacitated. Then I direct the use of the property while I maintain my capacity. When I lose my capacity, it goes to the trustee to administer on my behalf during the rest of my life, and then when I die, the trustee then distributes the property consistent with the Custodial Trust Act to my named beneficiary. This has been reviewed by the Nebraska State Bar Association's appropriate section in this area. There are some changes from the uniform provisions for that. Thirteen states have adopted it, and I would ask for the advancement of LB 51, the Uniform Custodial Trust Act.