

MINUTES OF MEETING OF
SOUTH DAKOTA TRUST TASK FORCE
September 27, 2013

A telephonic meeting of the South Dakota Trust Task Force was called to order by Chair David E. Lust at 8:00 a.m. Mountain Daylight Time.

The members of the Task Force present at the meeting: David Lust, Director Bret Afdahl, Peter Randazzo, Patrick Goetzinger, Terry Prendergast, Charles Habhab, Frances Becker, Jennifer Bunkers, Pierce McDowell, Carl Schmidtman, and Marc Sivertson. Also present as a special guest was Linda Lea Viken.

The members who were not present were Commissioner Pat Costello, Secretary Pam Roberts, John Lillibridge, Jeffory Erickson, Jeb Clarkson, Kim Olson, Paul Christen, Richard Corcoran, Brad Grossenburg, Todd Bernard, and Daniel Donohue.

Members and guests were introduced.

Discussion then ensued concerning each of the 2013 discussions items including recent submissions. The status of each is reflected on the attached chart.

Chairman Lust will follow up with Dan Donohue regarding items 13, 21, and 22. Absent a pressing need these items will be deferred until next year

Commission Afdahl is going to put the approved changes into bill form and will re-circulate while he submits to the Governor's office for review. We will then circulate if there are any changes and perhaps have another conference call if necessary to resolve any outstanding issues or concerns.

Once the Governor has given approval, Chairman Lust will provide to Tom Barnett for circulation to RPPT section of state bar.

Upon motion and second, the meeting was then adjourned.

DISCUSSION ITEMS – 2013
Following September 27, 2013 meeting

No.	Description	Provided by:	Responsible Parties	Status
1	(51A-6A-29) Amend subparagraph (7) to change reference to §§ 55-6-2 to 55-6-7 with reference to §§ 55-6-1 to 55-6-7	DOB (Afdahl)	Afdahl	Final Approval
2	(51A-6A-32) Amend so the director conducts the initial examination of a trust company, subject to review by the commission.	DOB (Afdahl)	Afdahl	Final Approval
3	(51A-6A-64) Amend to change reference to §§ 55-6-2 to 55-6-7 to §§ 55-6-1 to 55-6-7	DOB (Afdahl)	Afdahl	Final Approval
4	(55-4-31) Remove language limiting protection afforded trustees	Corcoran	Corcoran	Final Approval
5	(55-5-17) Add new subsection (6)	Corcoran	Corcoran	Final Approval
6	To bring Ch. § 21-22 in line with updates made to various chapters to SDCL § 55, specifically Ch. § 55-1B. (21-22-1) Add definition of “Fiduciary”	Bunkers	Bunkers	Final Approval
7	(21-22-3) required ‘certified’ or ‘verified’ copy of original instrument	Bunkers	Bunkers	Final Approval
8	(21-22-7; 21-22-8; 21-22-9; 21-22-13; 21-22-22; 21-22-26; 21-22-28)) allow a fiduciary to act rather than a trustee	Bunkers	Bunkers	Final Approval
9	(21-22-10; 21-22-15) replace ‘his’ with ‘its’	Bunkers		Deferred
10	(21-22-18) allow a fiduciary to act and all final sentence regarding notice	Bunkers	Bunkers	One potential revision
11	(55-1B-10) Adding language to subsection (1) and add subsection (5) regarding non-publically traded trust investments	Randazzo	Randazzo	Final Approval
12	(55-3-13) To consider regarding strengthening a trustee’s right to indemnification out of trust assets for legal fees incurred in litigation	Sivertson	Sivertson	Final Approval
13	(55-3-31 through 55-3-38) Review of Virtual Representation statutes and possible application in non-judicial settings (chart provided by Frances Becker)	Donohue	Donohue	Deferred

No.	Description	Provided by:	Responsible Parties	Status
14	(55-1A-9.1) Amendment of subparagraph 4(c) regarding authorization by the trust or a court of a fiduciary to invest the account with an affiliate	Becker	Becker	Final Approval
15	(55-16-15) adding notice and consent provisions to the exception creditor statute	Becker	Becker	Final Approval
16	(55-16-9) supplement self-settled trust statutes	Becker	Becker	Final Approval
17	(55-16-2) amend to remove any alleged ambiguity regarding revocability of a trust	Prendergast	Prendergast	Final Approval
18	NEW – (43-45-16) previously considered proposal re: Trustee IRA and other IRA issues	Becker	Becker	Deferred
19	NEW – amending or adding to asset protection statutes	Becker	Becker	Deferred
20	NEW – Lifetime transfers of IRA interests	Becker	Becker	Deferred
21	NEW – Classification of Trust and Medicaid eligibility			Deferred