

HB 1843 -- TRUSTS DIRECTED BY TRUST PROTECTORS

SPONSOR: Cornejo

This bill repeals the provision specifying that a trust instrument may provide for the appointment of a trust protector and replaces it with a provision specifying that a trust instrument may provide for one or more persons, not then serving as a trustee and not the settlor or a beneficiary, to be given any powers over the trust as expressly granted in the trust instrument. Any such person may be identified and appointed as a trust protector or similar term. When a trust designates a trust protector, the trust shall be deemed a direct trust.

Additionally, a trust protector shall act in a fiduciary capacity; however, the trust may provide that the trust protector shall act in a nonfiduciary capacity. In carrying out any written directions given to the trustee by the trust protector, the trustee shall not be subject to the provisions of the Prudent Investor Act. Furthermore, no trustee of a directed trust shall be accountable under law or equity for any act or omission of a trust protector and the trustee shall stand absolved from liability for executing the decisions or instructions from a trust protector or for monitoring the actions or inactions of a trust protector. A trustee shall take reasonable steps to facilitate the activity of a trust protector in a directed trust.