

**MEMO# 2689**

April 15, 1991

## **NEBRASKA AMENDS INDEFINITE REGISTRATION PROVISIONS**

April 15, 1991 TO: BOARD OF GOVERNORS NO. 23-91 STATE SECURITIES MEMBERS NO. 16-91 RE: NEBRASKA AMENDS INDEFINITE REGISTRATION PROVISIONS

The Institute is pleased to inform you that legislation amending Nebraska's indefinite registration provision for mutual funds has been signed by the Governor and will be effective as of September 6, 1991. A copy of LB 305 is attached. The amendment to Section 8-1108(5) of the Nebraska Securities Act provides that a fund may elect to register an indefinite amount of securities if the registrant pays a fee of \$1,000 with the application for registration. Within sixty days after the expiration of the fund's registration period, the fund must file a sales report reflecting actual sales in Nebraska and submit any additional fees due. The initial \$1,000 fee will be deducted from the total amount due; if the total fee due is less than \$1,000, no payment must be made and no credit or refund will be allowed or returned. We are also pleased to inform you that in recognition of the significant amount of fees paid to Nebraska because of the open-end fee for registration of securities, LB 305 establishes a fee break for funds registering an indefinite amount of securities. LB 305 provides that the fee for registration of securities of a mutual fund shall be 1/10th of 1% for the first \$10 million of securities sold in Nebraska and 1/20th of 1% of the remainder. You should be aware that this fee schedule is not available for funds registering a definite amount of securities. Currently, a mutual fund may elect to register an indefinite amount of securities; however, the fund must pay a registration fee equal to the amount of its Nebraska registration fee for the preceding year. Within sixty days of the expiration of the fund's registration, the fund must file a sales report and a registration fee for the upcoming year equal to the amount of sales reflected on the sales report. If sales reflected on the sales report are less than the preceding year (the figure on which the fee was based), then a credit, up to ten thousand dollars, was allowed. If sales reflected on the sales report are more than the preceding year (the figure on which the fee was based), then additional fees had to be paid. This procedure has been somewhat confusing for both the funds and the Nebraska Securities Bureau. We believe the amendment to Nebraska's indefinite registration provision will not only simplify the procedure for funds electing to register an indefinite amount of securities but also enable more funds to take advantage of this procedure. The staff of the Nebraska Securities Bureau will be revising the sales report form in the near future to reflect the change in the indefinite registration procedure. We will keep you advised of developments. Patricia Louie Assistant General Counsel Attachment

abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.