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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 1572

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to uniform laws; proposing enactment of the Uniform Principal and
1.3 Income Act of 2000; proposing coding for new law as Minnesota Statutes,
1.4 chapter 501C; repealing Minnesota Statutes 2006, sections 501B.59; 501B.60;
1.5 501B.61; 501B.62; 501B.63; 501B.64; 501B.65; 501B.665; 501B.67; 501B.68;
1.6 501B.69; 501B.705; 501B.71; 501B.72; 501B.73; 501B.74; 501B.75; 501B.76.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 **ARTICLE 1**
1.9 **DEFINITIONS AND FIDUCIARY DUTIES**

1.10 Section 1. **[501C.101] SHORT TITLE.**

1.11 This act may be cited as the Uniform Principal and Income Act (2000).

1.12 Sec. 2. **[501C.102] DEFINITIONS.**

1.13 In this act:

1.14 (1) "Accounting period" means a calendar year unless another 12-month period is
1.15 selected by a fiduciary. The term includes a portion of a calendar year or other 12-month
1.16 period that begins when an income interest begins or ends when an income interest ends.

1.17 (2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and
1.18 devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

1.19 (3) "Fiduciary" means a personal representative or a trustee. The term includes an
1.20 executor, administrator, successor personal representative, special administrator, and a
1.21 person performing substantially the same function.

1.22 (4) "Income" means money or property that a fiduciary receives as current return
1.23 from a principal asset. The term includes a portion of receipts from a sale, exchange, or
1.24 liquidation of a principal asset, to the extent provided in article 4.

2.1 (5) "Income beneficiary" means a person to whom net income of a trust is or may be
 2.2 payable.

2.3 (6) "Income interest" means the right of an income beneficiary to receive all or part
 2.4 of net income, whether the terms of the trust require it to be distributed or authorize it to
 2.5 be distributed in the trustee's discretion.

2.6 (7) "Mandatory income interest" means the right of an income beneficiary to receive
 2.7 net income that the terms of the trust require the fiduciary to distribute.

2.8 (8) "Net income" means the total receipts allocated to income during an accounting
 2.9 period minus the disbursements made from income during the period, plus or minus
 2.10 transfers under this act to or from income during the period.

2.11 (9) "Person" means an individual, corporation, business trust, estate, trust,
 2.12 partnership, limited liability company, association, joint venture, government;
 2.13 governmental subdivision, agency, or instrumentality; public corporation, or any other
 2.14 legal or commercial entity.

2.15 (10) "Principal" means property held in trust for distribution to a remainder
 2.16 beneficiary when the trust terminates.

2.17 (11) "Remainder beneficiary" means a person entitled to receive principal when
 2.18 an income interest ends.

2.19 (12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent
 2.20 with respect to the trust, expressed in a manner that admits of its proof in a judicial
 2.21 proceeding, whether by written or spoken words or by conduct.

2.22 (13) "Trustee" includes an original, additional, or successor trustee, whether or not
 2.23 appointed or confirmed by a court.

2.24 **Sec. 3. [501C.103] FIDUCIARY DUTIES; GENERAL PRINCIPLES.**

2.25 (a) In allocating receipts and disbursements to or between principal and income, and
 2.26 with respect to any matter within the scope of articles 2 and 3, a fiduciary:

2.27 (1) shall administer a trust or estate in accordance with the terms of the trust or the
 2.28 will, even if there is a different provision in this act;

2.29 (2) may administer a trust or estate by the exercise of a discretionary power of
 2.30 administration given to the fiduciary by the terms of the trust or the will, even if the
 2.31 exercise of the power produces a result different from a result required or permitted by
 2.32 this act;

2.33 (3) shall administer a trust or estate in accordance with this act if the terms of
 2.34 the trust or the will do not contain a different provision or do not give the fiduciary a
 2.35 discretionary power of administration; and

3.1 (4) shall add a receipt or charge a disbursement to principal to the extent that
3.2 the terms of the trust and this act do not provide a rule for allocating the receipt or
3.3 disbursement to or between principal and income.

3.4 (b) In exercising the power to adjust under section 501C.104(a) or a discretionary
3.5 power of administration regarding a matter within the scope of this act, whether granted
3.6 by the terms of a trust, a will, or this act, a fiduciary shall administer a trust or estate
3.7 impartially, based on what is fair and reasonable to all of the beneficiaries, except to the
3.8 extent that the terms of the trust or the will clearly manifest an intention that the fiduciary
3.9 shall or may favor one or more of the beneficiaries. A determination in accordance with
3.10 this act is presumed to be fair and reasonable to all of the beneficiaries.

3.11 **Sec. 4. [501C.104] TRUSTEE'S POWER TO ADJUST.**

3.12 (a) A trustee may adjust between principal and income to the extent the trustee
3.13 considers necessary if the trustee invests and manages trust assets as a prudent investor,
3.14 the terms of the trust describe the amount that may or must be distributed to a beneficiary
3.15 by referring to the trust's income, and the trustee determines, after applying the rules in
3.16 section 501C.103(a), that the trustee is unable to comply with section 501C.103(b).

3.17 (b) In deciding whether and to what extent to exercise the power conferred by
3.18 subsection (a), a trustee shall consider all factors relevant to the trust and its beneficiaries,
3.19 including the following factors to the extent they are relevant:

3.20 (1) the nature, purpose, and expected duration of the trust;

3.21 (2) the intent of the settlor;

3.22 (3) the identity and circumstances of the beneficiaries;

3.23 (4) the needs for liquidity, regularity of income, and preservation and appreciation
3.24 of capital;

3.25 (5) the assets held in the trust; the extent to which they consist of financial assets,
3.26 interests in closely held enterprises, tangible and intangible personal property, or real
3.27 property; the extent to which an asset is used by a beneficiary; and whether an asset was
3.28 purchased by the trustee or received from the settlor;

3.29 (6) the net amount allocated to income under the other sections of this act and the
3.30 increase or decrease in the value of the principal assets, which the trustee may estimate as
3.31 to assets for which market values are not readily available;

3.32 (7) whether and to what extent the terms of the trust give the trustee the power to
3.33 invade principal or accumulate income or prohibit the trustee from invading principal or
3.34 accumulating income, and the extent to which the trustee has exercised a power from time
3.35 to time to invade principal or accumulate income;

4.1 (8) the actual and anticipated effect of economic conditions on principal and income
4.2 and effects of inflation and deflation; and

4.3 (9) the anticipated tax consequences of an adjustment.

4.4 (c) A trustee may not make an adjustment:

4.5 (1) that diminishes the income interest in a trust that requires all of the income
4.6 to be paid at least annually to a spouse and for which an estate tax or gift tax marital
4.7 deduction would be allowed, in whole or in part, if the trustee did not have the power
4.8 to make the adjustment;

4.9 (2) that reduces the actuarial value of the income interest in a trust to which a person
4.10 transfers property with the intent to qualify for a gift tax exclusion;

4.11 (3) that changes the amount payable to a beneficiary as a fixed annuity or a fixed
4.12 fraction of the value of the trust assets;

4.13 (4) from any amount that is permanently set aside for charitable purposes under a
4.14 will or the terms of a trust unless both income and principal are so set aside;

4.15 (5) if possessing or exercising the power to make an adjustment causes an individual
4.16 to be treated as the owner of all or part of the trust for income tax purposes, and the
4.17 individual would not be treated as the owner if the trustee did not possess the power
4.18 to make an adjustment;

4.19 (6) if possessing or exercising the power to make an adjustment causes all or part of
4.20 the trust assets to be included for estate tax purposes in the estate of an individual who
4.21 has the power to remove a trustee or appoint a trustee, or both, and the assets would
4.22 not be included in the estate of the individual if the trustee did not possess the power
4.23 to make an adjustment;

4.24 (7) if the trustee is a beneficiary of the trust; or

4.25 (8) if the trustee is not a beneficiary, but the adjustment would benefit the trustee
4.26 directly or indirectly.

4.27 (d) If subsection (c)(5), (6), (7), or (8) applies to a trustee and there is more than
4.28 one trustee, a cotrustee to whom the provision does not apply may make the adjustment
4.29 unless the exercise of the power by the remaining trustee or trustees is not permitted
4.30 by the terms of the trust.

4.31 (e) A trustee may release the entire power conferred by subsection (a) or may release
4.32 only the power to adjust from income to principal or the power to adjust from principal to
4.33 income if the trustee is uncertain about whether possessing or exercising the power will
4.34 cause a result described in subsection (c)(1) to (6) or (c)(8) or if the trustee determines
4.35 that possessing or exercising the power will or may deprive the trust of a tax benefit or

5.1 impose a tax burden not described in subsection (c). The release may be permanent or for
5.2 a specified period, including a period measured by the life of an individual.

5.3 (f) Terms of a trust that limit the power of a trustee to make an adjustment between
5.4 principal and income do not affect the application of this section unless it is clear from the
5.5 terms of the trust that the terms are intended to deny the trustee the power of adjustment
5.6 conferred by subsection (a).

5.7 **Sec. 5. [501C.105] JUDICIAL CONTROL OF DISCRETIONARY POWER.**

5.8 (a) The court may not order a fiduciary to change a decision to exercise or not to
5.9 exercise a discretionary power conferred by this act unless it determines that the decision
5.10 was an abuse of the fiduciary's discretion. A fiduciary's decision is not an abuse of
5.11 discretion merely because the court would have exercised the power in a different manner
5.12 or would not have exercised the power.

5.13 (b) The decisions to which subsection (a) apply include:

5.14 (1) a decision under section 501C.104(a) as to whether and to what extent an amount
5.15 should be transferred from principal to income or from income to principal; and

5.16 (2) a decision regarding the factors that are relevant to the trust and its beneficiaries,
5.17 the extent to which the factors are relevant, and the weight, if any, to be given to those
5.18 factors, in deciding whether and to what extent to exercise the discretionary power
5.19 conferred by section 501C.104(a).

5.20 (c) If the court determines that a fiduciary has abused the fiduciary's discretion, the
5.21 court may place the income and remainder beneficiaries in the positions they would have
5.22 occupied if the discretion had not been abused, according to the following rules:

5.23 (1) To the extent that the abuse of discretion has resulted in no distribution to a
5.24 beneficiary or in a distribution that is too small, the court shall order the fiduciary to
5.25 distribute from the trust to the beneficiary an amount that the court determines will restore
5.26 the beneficiary, in whole or in part, to the beneficiary's appropriate position.

5.27 (2) To the extent that the abuse of discretion has resulted in a distribution to a
5.28 beneficiary which is too large, the court shall place the beneficiaries, the trust, or both,
5.29 in whole or in part, in their appropriate positions by ordering the fiduciary to withhold
5.30 an amount from one or more future distributions to the beneficiary who received the
5.31 distribution that was too large or ordering that beneficiary to return some or all of the
5.32 distribution to the trust.

5.33 (3) To the extent that the court is unable, after applying paragraphs (1) and (2), to
5.34 place the beneficiaries, the trust, or both, in the positions they would have occupied if the

6.1 discretion had not been abused, the court may order the fiduciary to pay an appropriate
 6.2 amount from its own funds to one or more of the beneficiaries or the trust, or both.

6.3 (d) Upon petition by the fiduciary, the court having jurisdiction over a trust or
 6.4 estate shall determine whether a proposed exercise or nonexercise by the fiduciary of
 6.5 a discretionary power conferred by this act will result in an abuse of the fiduciary's
 6.6 discretion. If the petition describes the proposed exercise or nonexercise of the power and
 6.7 contains sufficient information to inform the beneficiaries of the reasons for the proposal,
 6.8 the facts upon which the fiduciary relies, and an explanation of how the income and
 6.9 remainder beneficiaries will be affected by the proposed exercise or nonexercise of the
 6.10 power, a beneficiary who challenges the proposed exercise or nonexercise has the burden
 6.11 of establishing that it will result in an abuse of discretion.

6.12 **ARTICLE 2**
 6.13 **DECEDENT'S ESTATE OR**
 6.14 **TERMINATING INCOME INTEREST**

6.15 **Sec. 6. [501C.201] DETERMINATION AND DISTRIBUTION OF NET**
 6.16 **INCOME.**

6.17 After a decedent dies, in the case of an estate, or after an income interest in a trust
 6.18 ends, the following rules apply:

6.19 (1) A fiduciary of an estate or of a terminating income interest shall determine the
 6.20 amount of net income and net principal receipts received from property specifically given
 6.21 to a beneficiary under the rules in articles 3 to 5 which apply to trustees and the rules in
 6.22 paragraph (5). The fiduciary shall distribute the net income and net principal receipts to
 6.23 the beneficiary who is to receive the specific property.

6.24 (2) A fiduciary shall determine the remaining net income of a decedent's estate or a
 6.25 terminating income interest under the rules in articles 3 to 5 which apply to trustees and by:

6.26 (A) including in net income all income from property used to discharge liabilities;

6.27 (B) paying from income or principal, in the fiduciary's discretion, fees of attorneys,
 6.28 accountants, and fiduciaries; court costs and other expenses of administration; and interest
 6.29 on death taxes, but the fiduciary may pay those expenses from income of property passing
 6.30 to a trust for which the fiduciary claims an estate tax marital or charitable deduction only
 6.31 to the extent that the payment of those expenses from income will not cause the reduction
 6.32 or loss of the deduction; and

6.33 (C) paying from principal all other disbursements made or incurred in connection
 6.34 with the settlement of a decedent's estate or the winding up of a terminating income
 6.35 interest, including debts, funeral expenses, disposition of remains, family allowances, and

7.1 death taxes and related penalties that are apportioned to the estate or terminating income
 7.2 interest by the will, the terms of the trust, or applicable law.

7.3 (3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount
 7.4 outright the interest or any other amount provided by the will, the terms of the trust, or
 7.5 applicable law from net income determined under paragraph (2) or from principal to the
 7.6 extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount
 7.7 outright from a trust after an income interest ends and no interest or other amount is
 7.8 provided for by the terms of the trust or applicable law, the fiduciary shall distribute the
 7.9 interest or other amount to which the beneficiary would be entitled under applicable law if
 7.10 the pecuniary amount were required to be paid under a will.

7.11 (4) A fiduciary shall distribute the net income remaining after distributions required
 7.12 by paragraph (3) in the manner described in section 501C.202 to all other beneficiaries,
 7.13 including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary
 7.14 holds an unqualified power to withdraw assets from the trust or other presently exercisable
 7.15 general power of appointment over the trust.

7.16 (5) A fiduciary may not reduce principal or income receipts from property described
 7.17 in paragraph (1) because of a payment described in section 501C.501 or 501C.502 to the
 7.18 extent that the will, the terms of the trust, or applicable law requires the fiduciary to make
 7.19 the payment from assets other than the property or to the extent that the fiduciary recovers
 7.20 or expects to recover the payment from a third party. The net income and principal receipts
 7.21 from the property are determined by including all of the amounts the fiduciary receives or
 7.22 pays with respect to the property, whether those amounts accrued or became due before,
 7.23 on, or after the date of a decedent's death or an income interest's terminating event, and
 7.24 by making a reasonable provision for amounts that the fiduciary believes the estate or
 7.25 terminating income interest may become obligated to pay after the property is distributed.

7.26 **Sec. 7. [501C.202] DISTRIBUTION TO RESIDUARY AND REMAINDER**
 7.27 **BENEFICIARIES.**

7.28 (a) Each beneficiary described in section 501C.201(4) is entitled to receive a
 7.29 portion of the net income equal to the beneficiary's fractional interest in undistributed
 7.30 principal assets, using values as of the distribution date. If a fiduciary makes more than
 7.31 one distribution of assets to beneficiaries to whom this section applies, each beneficiary,
 7.32 including one who does not receive part of the distribution, is entitled, as of each
 7.33 distribution date, to the net income the fiduciary has received after the date of death or
 7.34 terminating event or earlier distribution date but has not distributed as of the current
 7.35 distribution date.

8.1 (b) In determining a beneficiary's share of net income, the following rules apply:

8.2 (1) The beneficiary is entitled to receive a portion of the net income equal to the
8.3 beneficiary's fractional interest in the undistributed principal assets immediately before the
8.4 distribution date, including assets that later may be sold to meet principal obligations.

8.5 (2) The beneficiary's fractional interest in the undistributed principal assets must
8.6 be calculated without regard to property specifically given to a beneficiary and property
8.7 required to pay pecuniary amounts not in trust.

8.8 (3) The beneficiary's fractional interest in the undistributed principal assets must be
8.9 calculated on the basis of the aggregate value of those assets as of the distribution date
8.10 without reducing the value by any unpaid principal obligation.

8.11 (4) The distribution date for purposes of this section may be the date as of which
8.12 the fiduciary calculates the value of the assets if that date is reasonably near the date
8.13 on which assets are actually distributed.

8.14 (c) If a fiduciary does not distribute all of the collected but undistributed net income
8.15 to each person as of a distribution date, the fiduciary shall maintain appropriate records
8.16 showing the interest of each beneficiary in that net income.

8.17 (d) A fiduciary may apply the rules in this section, to the extent that the fiduciary
8.18 considers it appropriate, to net gain or loss realized after the date of death or terminating
8.19 event or earlier distribution date from the disposition of a principal asset if this section
8.20 applies to the income from the asset.

8.21 **ARTICLE 3**

8.22 **APPORTIONMENT AT BEGINNING AND END** 8.23 **OF INCOME INTEREST**

8.24 **Sec. 8. [501C.301] WHEN RIGHT TO INCOME BEGINS AND ENDS.**

8.25 (a) An income beneficiary is entitled to net income from the date on which the
8.26 income interest begins. An income interest begins on the date specified in the terms
8.27 of the trust or, if no date is specified, on the date an asset becomes subject to a trust or
8.28 successive income interest.

8.29 (b) An asset becomes subject to a trust:

8.30 (1) on the date it is transferred to the trust in the case of an asset that is transferred to
8.31 a trust during the transferor's life;

8.32 (2) on the date of a testator's death in the case of an asset that becomes subject to a
8.33 trust by reason of a will, even if there is an intervening period of administration of the
8.34 testator's estate; or

8.35 (3) on the date of an individual's death in the case of an asset that is transferred to a
8.36 fiduciary by a third party because of the individual's death.

9.1 (c) An asset becomes subject to a successive income interest on the day after the
 9.2 preceding income interest ends, as determined under subsection (d), even if there is an
 9.3 intervening period of administration to wind up the preceding income interest.

9.4 (d) An income interest ends on the day before an income beneficiary dies or another
 9.5 terminating event occurs, or on the last day of a period during which there is no beneficiary
 9.6 to whom a trustee may distribute income.

9.7 **Sec. 9. [501C.302] APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS**
 9.8 **WHEN DECEDENT DIES OR INCOME INTEREST BEGINS.**

9.9 (a) A trustee shall allocate an income receipt or disbursement other than one to
 9.10 which section 501C.201(1) applies to principal if its due date occurs before a decedent
 9.11 dies in the case of an estate or before an income interest begins in the case of a trust or
 9.12 successive income interest.

9.13 (b) A trustee shall allocate an income receipt or disbursement to income if its due
 9.14 date occurs on or after the date on which a decedent dies or an income interest begins and
 9.15 it is a periodic due date. An income receipt or disbursement must be treated as accruing
 9.16 from day to day if its due date is not periodic or it has no due date. The portion of the
 9.17 receipt or disbursement accruing before the date on which a decedent dies or an income
 9.18 interest begins must be allocated to principal and the balance must be allocated to income.

9.19 (c) An item of income or an obligation is due on the date the payer is required to
 9.20 make a payment. If a payment date is not stated, there is no due date for the purposes of
 9.21 this act. Distributions to shareholders or other owners from an entity to which section
 9.22 501C.401 applies are deemed to be due on the date fixed by the entity for determining
 9.23 who is entitled to receive the distribution or, if no date is fixed, on the declaration date for
 9.24 the distribution. A due date is periodic for receipts or disbursements that must be paid at
 9.25 regular intervals under a lease or an obligation to pay interest or if an entity customarily
 9.26 makes distributions at regular intervals.

9.27 **Sec. 10. [501C.303] APPORTIONMENT WHEN INCOME INTEREST ENDS.**

9.28 (a) In this section, "undistributed income" means net income received before the
 9.29 date on which an income interest ends. The term does not include an item of income or
 9.30 expense that is due or accrued or net income that has been added or is required to be added
 9.31 to principal under the terms of the trust.

9.32 (b) When a mandatory income interest ends, the trustee shall pay to a mandatory
 9.33 income beneficiary who survives that date, or the estate of a deceased mandatory
 9.34 income beneficiary whose death causes the interest to end, the beneficiary's share of

10.1 the undistributed income that is not disposed of under the terms of the trust unless
 10.2 the beneficiary has an unqualified power to revoke more than five percent of the trust
 10.3 immediately before the income interest ends. In the latter case, the undistributed income
 10.4 from the portion of the trust that may be revoked must be added to principal.

10.5 (c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value
 10.6 of the trust's assets ends, the trustee shall prorate the final payment if and to the extent
 10.7 required by applicable law to accomplish a purpose of the trust or its settlor relating to
 10.8 income, gift, estate, or other tax requirements.

10.9 **ARTICLE 4**
 10.10 **ALLOCATION OF RECEIPTS DURING**
 10.11 **ADMINISTRATION OF TRUST**

10.12 **PART 1**
 10.13 **RECEIPTS FROM ENTITIES**

10.14 Sec. 11. **[501C.401] CHARACTER OF RECEIPTS.**

10.15 (a) In this section, "entity" means a corporation, partnership, limited liability
 10.16 company, regulated investment company, real estate investment trust, common trust fund,
 10.17 or any other organization in which a trustee has an interest other than a trust or estate to
 10.18 which section 501C.402 applies, a business or activity to which section 501C.403 applies,
 10.19 or an asset-backed security to which section 501C.415 applies.

10.20 (b) Except as otherwise provided in this section, a trustee shall allocate to income
 10.21 money received from an entity.

10.22 (c) A trustee shall allocate the following receipts from an entity to principal:

10.23 (1) property other than money;

10.24 (2) money received in one distribution or a series of related distributions in exchange
 10.25 for part or all of a trust's interest in the entity;

10.26 (3) money received in total or partial liquidation of the entity; and

10.27 (4) money received from an entity that is a regulated investment company or a
 10.28 real estate investment trust if the money distributed is a capital gain dividend for federal
 10.29 income tax purposes.

10.30 (d) Money is received in partial liquidation:

10.31 (1) to the extent that the entity, at or near the time of a distribution, indicates that it
 10.32 is a distribution in partial liquidation; or

10.33 (2) if the total amount of money and property received in a distribution or series of
 10.34 related distributions is greater than 20 percent of the entity's gross assets, as shown by the
 10.35 entity's year-end financial statements immediately preceding the initial receipt.

11.1 (e) Money is not received in partial liquidation, nor may it be taken into account
11.2 under subsection (d)(2), to the extent that it does not exceed the amount of income tax that
11.3 a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

11.4 (f) A trustee may rely upon a statement made by an entity about the source or
11.5 character of a distribution if the statement is made at or near the time of distribution by
11.6 the entity's board of directors or other person or group of persons authorized to exercise
11.7 powers to pay money or transfer property comparable to those of a corporation's board of
11.8 directors.

11.9 **Sec. 12. [501C.402] DISTRIBUTION FROM TRUST OR ESTATE.**

11.10 A trustee shall allocate to income an amount received as a distribution of income
11.11 from a trust or an estate in which the trust has an interest other than a purchased interest,
11.12 and shall allocate to principal an amount received as a distribution of principal from such
11.13 a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a
11.14 decedent or donor transfers an interest in such a trust to a trustee, section 501C.401 or
11.15 501C.415 applies to a receipt from the trust.

11.16 **Sec. 13. [501C.403] BUSINESS AND OTHER ACTIVITIES CONDUCTED**
11.17 **BY TRUSTEE.**

11.18 (a) If a trustee who conducts a business or other activity determines that it is in
11.19 the best interest of all the beneficiaries to account separately for the business or activity
11.20 instead of accounting for it as part of the trust's general accounting records, the trustee
11.21 may maintain separate accounting records for its transactions, whether or not its assets are
11.22 segregated from other trust assets.

11.23 (b) A trustee who accounts separately for a business or other activity may determine
11.24 the extent to which its net cash receipts must be retained for working capital, the
11.25 acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the
11.26 business or activity, and the extent to which the remaining net cash receipts are accounted
11.27 for as principal or income in the trust's general accounting records. If a trustee sells assets
11.28 of the business or other activity, other than in the ordinary course of the business or
11.29 activity, the trustee shall account for the net amount received as principal in the trust's
11.30 general accounting records to the extent the trustee determines that the amount received is
11.31 no longer required in the conduct of the business.

11.32 (c) Activities for which a trustee may maintain separate accounting records include:

11.33 (1) retail, manufacturing, service, and other traditional business activities;

11.34 (2) farming;

- 12.1 (3) raising and selling livestock and other animals;
 12.2 (4) management of rental properties;
 12.3 (5) extraction of minerals and other natural resources;
 12.4 (6) timber operations; and
 12.5 (7) activities to which section 501C.414 applies.

12.6 **PART 2**

12.7 **RECEIPTS NOT NORMALLY APPORTIONED**

12.8 **Sec. 14. [501C.404] PRINCIPAL RECEIPTS.**

12.9 A trustee shall allocate to principal:

12.10 (1) to the extent not allocated to income under this chapter, assets received from a
 12.11 transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating
 12.12 income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

12.13 (2) money or other property received from the sale, exchange, liquidation, or change
 12.14 in form of a principal asset, including realized profit, subject to this article;

12.15 (3) amounts recovered from third parties to reimburse the trust because of
 12.16 disbursements described in section 501C.502(a)(7) or for other reasons to the extent
 12.17 not based on the loss of income;

12.18 (4) proceeds of property taken by eminent domain, but a separate award made for
 12.19 the loss of income with respect to an accounting period during which a current income
 12.20 beneficiary had a mandatory income interest is income;

12.21 (5) net income received in an accounting period during which there is no beneficiary
 12.22 to whom a trustee may or must distribute income; and

12.23 (6) other receipts as provided in Part 3.

12.24 **Sec. 15. [501C.405] RENTAL PROPERTY.**

12.25 To the extent that a trustee accounts for receipts from rental property pursuant to
 12.26 this section, the trustee shall allocate to income an amount received as rent of real or
 12.27 personal property, including an amount received for cancellation or renewal of a lease. An
 12.28 amount received as a refundable deposit, including a security deposit or a deposit that is to
 12.29 be applied as rent for future periods, must be added to principal and held subject to the
 12.30 terms of the lease and is not available for distribution to a beneficiary until the trustee's
 12.31 contractual obligations have been satisfied with respect to that amount.

12.32 **Sec. 16. [501C.406] OBLIGATION TO PAY MONEY.**

12.33 (a) An amount received as interest, whether determined at a fixed, variable, or
 12.34 floating rate, on an obligation to pay money to the trustee, including an amount received as

13.1 consideration for prepaying principal, must be allocated to income without any provision
 13.2 for amortization of premium.

13.3 (b) A trustee shall allocate to principal an amount received from the sale, redemption,
 13.4 or other disposition of an obligation to pay money to the trustee more than one year after it
 13.5 is purchased or acquired by the trustee, including an obligation whose purchase price or
 13.6 value when it is acquired is less than its value at maturity. If the obligation matures within
 13.7 one year after it is purchased or acquired by the trustee, an amount received in excess of
 13.8 its purchase price or its value when acquired by the trust must be allocated to income.

13.9 (c) This section does not apply to an obligation to which section 501C.409,
 13.10 501C.410, 501C.411, 501C.412, 501C.414, or 501C.415 applies.

13.11 **Sec. 17. [501C.407] INSURANCE POLICIES AND SIMILAR CONTRACTS.**

13.12 (a) Except as otherwise provided in subsection (b), a trustee shall allocate to
 13.13 principal the proceeds of a life insurance policy or other contract in which the trust or its
 13.14 trustee is named as beneficiary, including a contract that insures the trust or its trustee
 13.15 against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall
 13.16 allocate dividends on an insurance policy to income if the premiums on the policy are paid
 13.17 from income, and to principal if the premiums are paid from principal.

13.18 (b) A trustee shall allocate to income proceeds of a contract that insures the trustee
 13.19 against loss of occupancy or other use by an income beneficiary, loss of income, or, subject
 13.20 to section 501C.403, loss of profits from a business.

13.21 (c) This section does not apply to a contract to which section 501C.409 applies.

13.22 **PART 3**
 13.23 **RECEIPTS NORMALLY APPORTIONED**

13.24 **Sec. 18. [501C.408] INSUBSTANTIAL ALLOCATIONS NOT REQUIRED.**

13.25 If a trustee determines that an allocation between principal and income required
 13.26 by section 501C.409, 501C.410, 501C.411, 501C.412, or 501C.415 is insubstantial,
 13.27 the trustee may allocate the entire amount to principal unless one of the circumstances
 13.28 described in section 501C.104(c) applies to the allocation. This power may be exercised
 13.29 by a cotrustee in the circumstances described in section 501C.104(d) and may be released
 13.30 for the reasons and in the manner described in section 501C.104(e). An allocation is
 13.31 presumed to be insubstantial if:

13.32 (1) the amount of the allocation would increase or decrease net income in an
 13.33 accounting period, as determined before the allocation, by less than ten percent; or

14.1 (2) the value of the asset producing the receipt for which the allocation would be
14.2 made is less than ten percent of the total value of the trust's assets at the beginning of the
14.3 accounting period.

14.4 **Sec. 19. [501C.409] DEFERRED COMPENSATION, ANNUITIES, AND**
14.5 **SIMILAR PAYMENTS.**

14.6 (a) In this section, "payment" means a payment that a trustee may receive over a fixed
14.7 number of years or during the life of one or more individuals because of services rendered
14.8 or property transferred to the payer in exchange for future payments. The term includes a
14.9 payment made in money or property from the payer's general assets or from a separate
14.10 fund created by the payer, including a private or commercial annuity, an individual
14.11 retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

14.12 (b) To the extent that a payment is characterized as interest or a dividend or a
14.13 payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The
14.14 trustee shall allocate to principal the balance of the payment and any other payment
14.15 received in the same accounting period that is not characterized as interest, a dividend, or
14.16 an equivalent payment.

14.17 (c) If no part of a payment is characterized as interest, a dividend, or an equivalent
14.18 payment, and all or part of the payment is required to be made, a trustee shall allocate to
14.19 income ten percent of the part that is required to be made during the accounting period and
14.20 the balance to principal. If no part of a payment is required to be made or the payment
14.21 received is the entire amount to which the trustee is entitled, the trustee shall allocate the
14.22 entire payment to principal. For purposes of this subsection, a payment is not "required to
14.23 be made" to the extent that it is made because the trustee exercises a right of withdrawal.

14.24 (d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate
14.25 more of a payment to income than provided for by this section, the trustee shall allocate to
14.26 income the additional amount necessary to obtain the marital deduction.

14.27 (e) This section does not apply to payments to which section 501C.410 applies.

14.28 **Sec. 20. [501C.410] LIQUIDATING ASSET.**

14.29 (a) In this section, "liquidating asset" means an asset whose value will diminish
14.30 or terminate because the asset is expected to produce receipts for a period of limited
14.31 duration. The term includes a leasehold, patent, copyright, royalty right, and right to
14.32 receive payments during a period of more than one year under an arrangement that does
14.33 not provide for the payment of interest on the unpaid balance. The term does not include
14.34 a payment subject to section 501C.409, resources subject to section 501C.411, timber

15.1 subject to section 501C.412, an activity subject to section 501C.414, an asset subject to
 15.2 section 501C.415, or any asset for which the trustee establishes a reserve for depreciation
 15.3 under section 501C.503.

15.4 (b) A trustee shall allocate to income ten percent of the receipts from a liquidating
 15.5 asset and the balance to principal.

15.6 **Sec. 21. [501C.411] MINERALS, WATER, AND OTHER NATURAL**
 15.7 **RESOURCES.**

15.8 (a) To the extent that a trustee accounts for receipts from an interest in minerals or
 15.9 other natural resources pursuant to this section, the trustee shall allocate them as follows:

15.10 (1) If received as nominal delay rental or nominal annual rent on a lease, a receipt
 15.11 must be allocated to income.

15.12 (2) If received from a production payment, a receipt must be allocated to income if
 15.13 and to the extent that the agreement creating the production payment provides a factor for
 15.14 interest or its equivalent. The balance must be allocated to principal.

15.15 (3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment,
 15.16 bonus, or delay rental is more than nominal, 90 percent must be allocated to principal
 15.17 and the balance to income.

15.18 (4) If an amount is received from a working interest or any other interest not
 15.19 provided for in paragraph (1), (2), or (3), 90 percent of the net amount received must be
 15.20 allocated to principal and the balance to income.

15.21 (b) An amount received on account of an interest in water that is renewable must
 15.22 be allocated to income. If the water is not renewable, 90 percent of the amount must be
 15.23 allocated to principal and the balance to income.

15.24 (c) This act applies whether or not a decedent or donor was extracting minerals,
 15.25 water, or other natural resources before the interest became subject to the trust.

15.26 (d) If a trust owns an interest in minerals, water, or other natural resources on the
 15.27 effective date of this act, the trustee may allocate receipts from the interest as provided in
 15.28 this act or in the manner used by the trustee before the effective date of this act. If the trust
 15.29 acquires an interest in minerals, water, or other natural resources after the effective date of
 15.30 this act, the trustee shall allocate receipts from the interest as provided in this act.

15.31 **Sec. 22. [501C.412] TIMBER.**

15.32 (a) To the extent that a trustee accounts for receipts from the sale of timber and
 15.33 related products pursuant to this section, the trustee shall allocate the net receipts:

16.1 (1) to income to the extent that the amount of timber removed from the land does
 16.2 not exceed the rate of growth of the timber during the accounting periods in which a
 16.3 beneficiary has a mandatory income interest;

16.4 (2) to principal to the extent that the amount of timber removed from the land exceeds
 16.5 the rate of growth of the timber or the net receipts are from the sale of standing timber;

16.6 (3) to or between income and principal if the net receipts are from the lease of
 16.7 timberland or from a contract to cut timber from land owned by a trust, by determining
 16.8 the amount of timber removed from the land under the lease or contract and applying the
 16.9 rules in paragraphs (1) and (2); or

16.10 (4) to principal to the extent that advance payments, bonuses, and other payments
 16.11 are not allocated pursuant to paragraph (1), (2), or (3).

16.12 (b) In determining net receipts to be allocated pursuant to subsection (a), a trustee
 16.13 shall deduct and transfer to principal a reasonable amount for depletion.

16.14 (c) This act applies whether or not a decedent or transferor was harvesting timber
 16.15 from the property before it becomes subject to the trust.

16.16 (d) If a trust owns an interest in timberland on the effective date of this act, the
 16.17 trustee may allocate net receipts from the sale of timber and related products as provided
 16.18 in this act or in the manner used by the trustee before the effective date of this act. If the
 16.19 trust acquires an interest in timberland after the effective date of this act, the trustee shall
 16.20 allocate net receipts from the sale of timber and related products as provided in this act.

16.21 **Sec. 23. [501C.413] PROPERTY NOT PRODUCTIVE OF INCOME.**

16.22 (a) If a marital deduction is allowed for all or part of a trust whose assets consist
 16.23 substantially of property that does not provide the spouse with sufficient income from or
 16.24 use of the trust assets, and if the amounts that the trustee transfers from principal to income
 16.25 under section 501C.104 and distributes to the spouse from principal pursuant to the terms
 16.26 of the trust are insufficient to provide the spouse with the beneficial enjoyment required
 16.27 to obtain the marital deduction, the spouse may require the trustee to make property
 16.28 productive of income, convert property within a reasonable time, or exercise the power
 16.29 conferred by section 501C.104(a). The trustee may decide which action or combination
 16.30 of actions to take.

16.31 (b) In cases not governed by subsection (a), proceeds from the sale or other
 16.32 disposition of an asset are principal without regard to the amount of income the asset
 16.33 produces during any accounting period.

16.34 **Sec. 24. [501C.414] DERIVATIVES AND OPTIONS.**

17.1 (a) In this section, "derivative" means a contract or financial instrument or a
 17.2 combination of contracts and financial instruments which gives a trust the right or
 17.3 obligation to participate in some or all changes in the price of a tangible or intangible
 17.4 asset or group of assets, or changes in a rate, an index of prices or rates, or other market
 17.5 indicator for an asset or a group of assets.

17.6 (b) To the extent that a trustee does not account under section 501C.403 for
 17.7 transactions in derivatives, the trustee shall allocate to principal receipts from and
 17.8 disbursements made in connection with those transactions.

17.9 (c) If a trustee grants an option to buy property from the trust, whether or not the
 17.10 trust owns the property when the option is granted, grants an option that permits another
 17.11 person to sell property to the trust, or acquires an option to buy property for the trust or an
 17.12 option to sell an asset owned by the trust, and the trustee or other owner of the asset is
 17.13 required to deliver the asset if the option is exercised, an amount received for granting the
 17.14 option must be allocated to principal. An amount paid to acquire the option must be paid
 17.15 from principal. A gain or loss realized upon the exercise of an option, including an option
 17.16 granted to a settlor of the trust for services rendered, must be allocated to principal.

17.17 **Sec. 25. ~~501C.415~~ ASSET-BACKED SECURITIES.**

17.18 (a) In this section, "asset-backed security" means an asset whose value is based upon
 17.19 the right it gives the owner to receive distributions from the proceeds of financial assets
 17.20 that provide collateral for the security. The term includes an asset that gives the owner
 17.21 the right to receive from the collateral financial assets only the interest or other current
 17.22 return or only the proceeds other than interest or current return. The term does not include
 17.23 an asset to which section 501C.401 or 501C.409 applies.

17.24 (b) If a trust receives a payment from interest or other current return and from other
 17.25 proceeds of the collateral financial assets, the trustee shall allocate to income the portion
 17.26 of the payment which the payer identifies as being from interest or other current return
 17.27 and shall allocate the balance of the payment to principal.

17.28 (c) If a trust receives one or more payments in exchange for the trust's entire
 17.29 interest in an asset-backed security in one accounting period, the trustee shall allocate the
 17.30 payments to principal. If a payment is one of a series of payments that will result in the
 17.31 liquidation of the trust's interest in the security over more than one accounting period, the
 17.32 trustee shall allocate ten percent of the payment to income and the balance to principal.

17.33 **ARTICLE 5**
 17.34 **ALLOCATION OF DISBURSEMENTS DURING**
 17.35 **ADMINISTRATION OF TRUST**

18.1 Sec. 26. **[501C.501] DISBURSEMENTS FROM INCOME.**

18.2 A trustee shall make the following disbursements from income to the extent that
 18.3 they are not disbursements to which section 501C.201(2)(B) or (C) applies:

18.4 (1) one-half of the regular compensation of the trustee and of any person providing
 18.5 investment advisory or custodial services to the trustee;

18.6 (2) one-half of all expenses for accountings, judicial proceedings, or other matters
 18.7 that involve both the income and remainder interests;

18.8 (3) all of the other ordinary expenses incurred in connection with the administration,
 18.9 management, or preservation of trust property and the distribution of income, including
 18.10 interest, ordinary repairs, regularly recurring taxes assessed against principal, and
 18.11 expenses of a proceeding or other matter that concerns primarily the income interest; and

18.12 (4) recurring premiums on insurance covering the loss of a principal asset or the
 18.13 loss of income from or use of the asset.

18.14 Sec. 27. **[501C.502] DISBURSEMENTS FROM PRINCIPAL.**

18.15 (a) A trustee shall make the following disbursements from principal:

18.16 (1) the remaining one-half of the disbursements described in section 501C.501(1)
 18.17 and (2);

18.18 (2) all of the trustee's compensation calculated on principal as a fee for acceptance,
 18.19 distribution, or termination, and disbursements made to prepare property for sale;

18.20 (3) payments on the principal of a trust debt;

18.21 (4) expenses of a proceeding that concerns primarily principal, including a
 18.22 proceeding to construe the trust or to protect the trust or its property;

18.23 (5) premiums paid on a policy of insurance not described in section 501C.501(4) of
 18.24 which the trust is the owner and beneficiary;

18.25 (6) estate, inheritance, and other transfer taxes, including penalties, apportioned to
 18.26 the trust; and

18.27 (7) disbursements related to environmental matters, including reclamation, assessing
 18.28 environmental conditions, remedying and removing environmental contamination,
 18.29 monitoring remedial activities and the release of substances, preventing future releases
 18.30 of substances, collecting amounts from persons liable or potentially liable for the costs
 18.31 of those activities, penalties imposed under environmental laws or regulations and other
 18.32 payments made to comply with those laws or regulations, statutory or common law claims
 18.33 by third parties, and defending claims based on environmental matters.

18.34 (b) If a principal asset is encumbered with an obligation that requires income from
 18.35 that asset to be paid directly to the creditor, the trustee shall transfer from principal to

19.1 income an amount equal to the income paid to the creditor in reduction of the principal
 19.2 balance of the obligation.

19.3 Sec. 28. **[501C.503] TRANSFERS FROM INCOME TO PRINCIPAL FOR**
 19.4 **DEPRECIATION.**

19.5 (a) In this section, "depreciation" means a reduction in value due to wear, tear,
 19.6 decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more
 19.7 than one year.

19.8 (b) A trustee may transfer to principal a reasonable amount of the net cash receipts
 19.9 from a principal asset that is subject to depreciation, but may not transfer any amount for
 19.10 depreciation:

19.11 (1) of that portion of real property used or available for use by a beneficiary as a
 19.12 residence or of tangible personal property held or made available for the personal use or
 19.13 enjoyment of a beneficiary;

19.14 (2) during the administration of a decedent's estate; or

19.15 (3) under this section if the trustee is accounting under section 501C.403 for the
 19.16 business or activity in which the asset is used.

19.17 (c) An amount transferred to principal need not be held as a separate fund.

19.18 Sec. 29. **[501C.504] TRANSFERS FROM INCOME TO REIMBURSE**
 19.19 **PRINCIPAL.**

19.20 (a) If a trustee makes or expects to make a principal disbursement described in
 19.21 this section, the trustee may transfer an appropriate amount from income to principal in
 19.22 one or more accounting periods to reimburse principal or to provide a reserve for future
 19.23 principal disbursements.

19.24 (b) Principal disbursements to which subsection (a) applies include the following,
 19.25 but only to the extent that the trustee has not been and does not expect to be reimbursed by
 19.26 a third party:

19.27 (1) an amount chargeable to income but paid from principal because it is unusually
 19.28 large, including extraordinary repairs;

19.29 (2) a capital improvement to a principal asset, whether in the form of changes to an
 19.30 existing asset or the construction of a new asset, including special assessments;

19.31 (3) disbursements made to prepare property for rental, including tenant allowances,
 19.32 leasehold improvements, and broker's commissions;

20.1 (4) periodic payments on an obligation secured by a principal asset to the extent
 20.2 that the amount transferred from income to principal for depreciation is less than the
 20.3 periodic payments; and

20.4 (5) disbursements described in section 501C.502(a)(7).

20.5 (c) If the asset whose ownership gives rise to the disbursements becomes subject to a
 20.6 successive income interest after an income interest ends, a trustee may continue to transfer
 20.7 amounts from income to principal as provided in subsection (a).

20.8 **Sec. 30. [501C.505] INCOME TAXES.**

20.9 (a) A tax required to be paid by a trustee based on receipts allocated to income
 20.10 must be paid from income.

20.11 (b) A tax required to be paid by a trustee based on receipts allocated to principal
 20.12 must be paid from principal, even if the tax is called an income tax by the taxing authority.

20.13 (c) A tax required to be paid by a trustee on the trust's share of an entity's taxable
 20.14 income must be paid proportionately:

20.15 (1) from income to the extent that receipts from the entity are allocated to income;

20.16 and

20.17 (2) from principal to the extent that:

20.18 (A) receipts from the entity are allocated to principal; and

20.19 (B) the trust's share of the entity's taxable income exceeds the total receipts described
 20.20 in paragraphs (1) and (2)(A).

20.21 (d) For purposes of this section, receipts allocated to principal or income must be
 20.22 reduced by the amount distributed to a beneficiary from principal or income for which the
 20.23 trust receives a deduction in calculating the tax.

20.24 **Sec. 31. [501C.506] ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME**
 20.25 **BECAUSE OF TAXES.**

20.26 (a) A fiduciary may make adjustments between principal and income to offset the
 20.27 shifting of economic interests or tax benefits between income beneficiaries and remainder
 20.28 beneficiaries which arise from:

20.29 (1) elections and decisions, other than those described in subsection (b), that the
 20.30 fiduciary makes from time to time regarding tax matters;

20.31 (2) an income tax or any other tax that is imposed upon the fiduciary or a beneficiary
 20.32 as a result of a transaction involving or a distribution from the estate or trust; or

21.1 (3) the ownership by an estate or trust of an interest in an entity whose taxable
21.2 income, whether or not distributed, is includable in the taxable income of the estate,
21.3 trust, or a beneficiary.

21.4 (b) If the amount of an estate tax marital deduction or charitable contribution
21.5 deduction is reduced because a fiduciary deducts an amount paid from principal for
21.6 income tax purposes instead of deducting it for estate tax purposes, and as a result
21.7 estate taxes paid from principal are increased and income taxes paid by an estate, trust,
21.8 or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the
21.9 decrease in income tax shall reimburse the principal from which the increase in estate tax
21.10 is paid. The total reimbursement must equal the increase in the estate tax to the extent
21.11 that the principal used to pay the increase would have qualified for a marital deduction
21.12 or charitable contribution deduction but for the payment. The proportionate share of the
21.13 reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must
21.14 be the same as its proportionate share of the total decrease in income tax. An estate or
21.15 trust shall reimburse principal from income.

21.16 **Sec. 32. APPLICATION OF ACT TO EXISTING TRUSTS AND ESTATES.**

21.17 This act applies to every trust or decedent's estate existing on the effective date of
21.18 this act except as otherwise expressly provided in the will or terms of the trust or in this act.

21.19 **Sec. 33. REPEALER.**

21.20 Minnesota Statutes 2006, sections 501B.59; 501B.60; 501B.61; 501B.62; 501B.63;
21.21 501B.64; 501B.65; 501B.665; 501B.67; 501B.68; 501B.69; 501B.705; 501B.71; 501B.72;
21.22 501B.73; 501B.74; 501B.75; and 501B.76, are repealed.