

DRAFT  
FOR DISCUSSION ONLY

**REVISED UNIFORM PRINCIPAL AND INCOME ACT**

**[TENTATIVE NEW NAME:  
UNIFORM FIDUCIARY INCOME AND PRINCIPAL  
ACT]**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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May 4-7, 2017 Style Committee Meeting

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April 26, 2017

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**REVISED UNIFORM PRINCIPAL AND INCOME ACT**

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1                                   **UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT**

2   **[ARTICLE] 1**

3                                   **SHORT TITLE, DEFINITIONS, SCOPE, AND GOVERNING LAW**

4                   **SECTION 101. SHORT TITLE.** This [Act] may be cited as the Uniform Fiduciary  
5 Income and Principal Act. [IF THE EXECUTIVE COMMITTEE AGREES TO THIS NAME  
6 CHANGE]

7                   **SECTION 102. DEFINITIONS.** In this [Act]:

8                   (1) “Accounting period” means a calendar year unless another period of 12 calendar  
9 months or approximately 12 calendar months is selected by a fiduciary. The term includes a part  
10 of a calendar year or other 12-month period that begins when an income interest begins or ends  
11 when an income interest ends.

12                   (2) “Beneficiary” includes:

13                                   (A) in the case of a trust, an income beneficiary, including a current income  
14 beneficiary, a remainder beneficiary, and any other successor beneficiary;

15                                   (B) in the case of an estate, an heir[, legatee,] and devisee;

16                                   (C) in the case of a life estate or term interest, a person that holds a life estate, a  
17 term interest, or a remainder or other interest following a life estate or term interest; and

18                                   (D) in the case of another arrangement or relationship, a person that holds an  
19 interest in property or may succeed to an interest in property.

20                   (3) “Current income beneficiary” means a beneficiary to which a fiduciary may distribute  
21 net income, regardless of whether the fiduciary may also distribute principal to that beneficiary.

22                   (4) “Distribution” means payment or transfer by a fiduciary to a beneficiary in the  
23 beneficiary’s capacity as a beneficiary, made pursuant to the terms of the trust, without

1 consideration other than a beneficiary’s right to receive a distribution under the terms of the trust.

2 In Section 401, the term also includes a payment or transfer from an entity to an owner of the  
3 entity or another person with an interest in the entity. “Distribute” has a corresponding meaning.

4 (5) “Estate” means a decedent’s estate. The term includes the property of the decedent as  
5 originally constituted and as it exists from time to time during administration.

6 (6) “Fiduciary” means a trustee, personal representative, life tenant, or holder of a term  
7 interest. The term also means another person that holds possession of property for the benefit of  
8 persons that may succeed to an interest in the property, if the interests of those successor persons  
9 may be affected by the allocation of receipts and expenditures between income and principal. If  
10 there are two or more co-fiduciaries, the term means all co-fiduciaries, acting in accordance with  
11 the terms of the trust and applicable law, including this [act].

12 (7) “Income” means money or other property a fiduciary receives as current return from  
13 principal. The term includes a part of receipts from a sale, exchange, or liquidation of a principal  
14 asset, to the extent provided in [Article] 4.

15 (8) “Income interest” means the right of a current income beneficiary to receive all or part  
16 of net income, whether the terms of the trust require it to be distributed or authorize it to be  
17 distributed in the fiduciary’s discretion. The term also includes the right of a current beneficiary  
18 to use property held by a fiduciary.

19 (9) “Independent person” means a person that is not:

20 (A) in the case of a trust:

21 (i) [a qualified beneficiary determined under [Section 103(13)] of [the  
22 Uniform Trust Code] [a beneficiary that receives or is entitled to receive income from the trust or  
23 would be entitled to receive a distribution of principal if the trust were terminated, assuming no

1 power of appointment is exercised];

2 (ii) a settlor of the trust or the spouse of a settlor of the trust; or

3 (iii) an individual whose legal obligation to support a beneficiary may be  
4 satisfied by distributions from the trust;

5 (B) in the case of an estate, a beneficiary; or

6 (C) a related or subordinate party, as that term is defined in Section 672(c) of the  
7 Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section 672(c)][, as amended] with  
8 respect to a person defined in subparagraph (A) or (B).

9 (10) “Mandatory income interest” means the right of a current income beneficiary to  
10 receive net income that the terms of the trust require the fiduciary to distribute.

11 (11) “Net income” means the total allocations to income under this [act] and the terms of  
12 the trust during an accounting period minus the disbursements, other than distributions, allocated  
13 to income under this [act] and the terms of the trust during the period. The term includes  
14 adjustments from principal to income and excludes adjustments from income to principal under  
15 Section 203. If the trust is a unitrust or has been converted to a unitrust, the term includes the  
16 unitrust amount determined under [Article] 3.

17 (12) “Person” means an individual, corporation, business trust, estate, trust, partnership,  
18 limited liability company, association, joint venture, government or governmental subdivision,  
19 agency, or instrumentality, public corporation, or any other legal or commercial entity.

20 **[Drafting Note:** The UTC defines “person” as “an individual, corporation, business trust, estate,  
21 trust, partnership, limited liability company, association, joint venture, government;  
22 governmental subdivision, agency, or instrumentality; public corporation, or any other legal or  
23 commercial entity,” but the Uniform Principal and Income Act currently uses this broader  
24 definition.]

25 (13) “Personal representative” means an executor, administrator, successor personal



1 representative, special administrator, and person who performs substantially the same function  
2 with respect to an estate under the law governing the person’s status.

3 (14) “Principal” means property held in trust for distribution to, production of income for,  
4 or use by a current or successor beneficiary.

5 (15) “Record” means information that is inscribed on a tangible medium or that is stored  
6 in an electronic or other medium and is retrievable in perceivable form.

7 (16) “Successor beneficiary” means a person entitled to receive income or principal or  
8 use property when an income interest or other current interest ends.

9 (17) “Terms of the trust” means the manifestation of the intent of a settlor or decedent  
10 with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding,  
11 whether by written or spoken words or by conduct. In the case of a decedent’s estate, the term  
12 includes a will. In the case of a life estate, term interest, or other arrangement or relationship, the  
13 term includes the corresponding manifestation of the rights of the beneficiaries.

14 (18) “Trust” includes an express trust, private or charitable, with additions to the trust,  
15 wherever and however created. The term includes a trust created or determined by judgment or  
16 decree under which the trust is to be administered in the manner of an express trust. The term  
17 excludes other constructive trusts and excludes resulting trusts, conservatorships, multi-party  
18 accounts, custodial arrangements for minors, business trusts, common trust funds, voting trusts,  
19 security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts,  
20 dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of  
21 any kind, and any arrangement under which a person is a nominee or escrowee for another.

22 (19) “Trustee” includes an original, additional, or successor trustee, whether or not  
23 appointed or confirmed by a court.

1 (20) “Will” means a decedent’s will, codicil, or any testamentary instrument recognized  
2 by applicable law.

3 **Legislative Note:** *Modify Section 102(9)(A)(i) to refer to Section 103(13) of the Uniform Trust*  
4 *Code, or modify that provision appropriately if your state has not adopted the Uniform Trust*  
5 *Code.*

6 **SECTION 103. SCOPE.** Except as otherwise provided in this [act] or in the terms of  
7 the trust, this [act] applies to trusts and estates. This [act] also applies to life estates and other  
8 term interests in which the interests of one or more persons will be succeeded by the interests of  
9 one or more other persons. This [act] also applies to any other arrangement or relationship to the  
10 extent a person holds possession of property for the benefit of persons that may succeed to an  
11 interest in the property, if the interests of those successor persons may be affected by the  
12 allocation of receipts and disbursements between income and principal.

13 **SECTION 104. GOVERNING LAW.** This [act] applies when this state is the principal  
14 place of administration of an estate or trust. By accepting the trusteeship of a trust having its  
15 principal place of administration in this state or by moving the principal place of administration  
16 of a trust to this state, the trustee submits to the application of this [act] to any matter within its  
17 scope involving the trust.

18 **[ARTICLE] 2**

19 **FIDUCIARY DUTIES AND JUDICIAL REVIEW**

20 **SECTION 201. FIDUCIARY DUTIES; GENERAL PRINCIPLES.**

21 (a) In allocating receipts and disbursements to or between income and principal, and with  
22 respect to any matter within the scope of [Articles] 6 and 7, a fiduciary:

23 (1) shall administer a trust or estate in good faith in accordance with the terms of  
24 the trust, even if there is a different provision in this [act];

1 (2) may administer the trust or estate by the exercise of a discretionary power of  
2 administration given to the fiduciary by the terms of the trust, even if the exercise of the power  
3 produces a result different from a result required or permitted by this [act];

4 (3) shall administer the trust or estate in accordance with this [act] if the terms of  
5 the trust do not either contain a different provision or give the fiduciary a discretionary power of  
6 administration;

7 (4) shall add a receipt to principal to the extent the terms of the trust and this [act]  
8 do not allocate the receipt to or between income or principal; and

9 (5) shall charge a disbursement to income to the extent the terms of the trust and  
10 this [act] do not allocate the disbursement to or between income or principal.

11 (b) In exercising the power to adjust under Section 203(a), the powers to convert to or  
12 from a unitrust or change the administration of a unitrust under [Article 3], or another  
13 discretionary power of administration regarding a matter within the scope of this [act], whether  
14 granted by the terms of the trust or this [act], a trustee shall administer a trust impartially, based  
15 on what is fair and reasonable to all the beneficiaries, giving due regard to the beneficiaries'  
16 respective interests, except to the extent the terms of the trust manifest an intention that the  
17 trustee shall or may favor one or more beneficiaries.

18 (c) In deciding whether and to what extent to exercise the powers conferred by Section  
19 203 and [Article] 3, a fiduciary shall consider all other factors relevant to the trust and its  
20 beneficiaries, including the following factors to the extent they are relevant:

21 (1) the terms of the trust;

22 (2) the nature, purpose, and expected duration of the trust;

23 (3) the intent of the settlor;

1 (4) the identity and circumstances of the beneficiaries;

2 (5) the needs of the trust and the beneficiaries for liquidity and regularity of  
3 income;

4 (6) the need for the preservation and appreciation of the capital of the trust,  
5 including the reasonable maintenance of the value of capital with regard to the cost of living and  
6 other indices the fiduciary determines to be appropriate;

7 (7) the role of allocations between income and principal in enabling the fiduciary  
8 to comply with subsection (b) after applying the rules in subsection (a);

9 (8) the assets held in the trust; the extent to which the assets consist of financial  
10 assets, interests in closely held enterprises, tangible and intangible personal property, real  
11 property, or assets for which specialized treatment is provided in [Articles] 4 through 7; the  
12 extent to which an asset is used or may be used by a beneficiary; and whether an asset was  
13 purchased by the fiduciary or received from the settlor;

14 (9) the net amount that would be allocated to income under [Articles] 4 through 7  
15 to the extent they apply;

16 (10) the increase or decrease in the value of the principal assets, which the  
17 fiduciary may estimate as to assets for which market values are not readily available;

18 (11) whether and to what extent the terms of the trust give the trustee the power to  
19 invade principal or accumulate income or prohibit the trustee from invading principal or  
20 accumulating income, and the extent to which the trustee has exercised a power from time to  
21 time to invade principal or accumulate income;

22 (12) the actual and anticipated effect of economic conditions on income and  
23 principal and effects of inflation and deflation; and

1 (13) the anticipated tax consequences of the exercise.

2 **SECTION 202. JUDICIAL REVIEW OF DISCRETIONARY POWER.**

3 (a) The court may not order a fiduciary to change a decision to exercise or not to exercise  
4 a discretionary power conferred by this [act] unless the court determines that the decision was an  
5 abuse of the fiduciary's discretion. A fiduciary's decision is not an abuse of discretion merely  
6 because the court would have exercised the power in a different manner or would not have  
7 exercised the power.

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

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

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

20 (3) To the extent that the court is unable, after applying paragraphs (1) and (2), to  
21 place the beneficiaries, the trust, or both, in the positions they would have occupied if the  
22 discretion had not been abused, the court may order the fiduciary to pay an appropriate amount  
23 from its own funds to one or more of the beneficiaries, the trust, or both.

1 (c) Upon [petition] by the fiduciary, the court having jurisdiction over a trust shall  
2 determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power  
3 conferred by this [act] will result in an abuse of the fiduciary's discretion. If the petition  
4 describes the proposed exercise or nonexercise of the power and contains sufficient information  
5 to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary  
6 relies, and an explanation of how the income and remainder beneficiaries will be affected by the  
7 proposed exercise or nonexercise of the power, a beneficiary who challenges the proposed  
8 exercise or nonexercise has the burden of establishing that it will result in an abuse of discretion.

9 (d) A determination in accordance with this [act] is presumed to be fair and reasonable to  
10 all the beneficiaries.

11 *Legislative Note: Modify this provision if your state does not permit what in effect are*  
12 *declaratory judgments in such matters.*

13 **SECTION 203. FIDUCIARY'S POWER TO ADJUST.**

14 (a) A fiduciary may adjust between income and principal to the extent the fiduciary  
15 considers the adjustment to be in the best interests of the beneficiaries.

16 (b) In deciding whether and to what extent to exercise the power conferred by subsection  
17 (a), a fiduciary shall consider all factors relevant to the trust and its beneficiaries, including the  
18 relevant factors in Section 201(c).

19 (c) A fiduciary may not make an adjustment:

20 (1) that reduces the income interest in a trust that requires income to be paid at  
21 least annually to a spouse and for which a marital deduction for federal estate or gift tax purposes  
22 would be allowed, in whole or in part, if the fiduciary did not have the power to make the  
23 adjustment;

1 (2) that reduces the actuarial value of the income interest in a trust to which a  
2 person transfers property if the transfer would qualify, in whole or in part, for a federal gift tax  
3 exclusion based on the actuarial value of the income interest;

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

6 (4) from any amount that is permanently set aside for charitable purposes under  
7 the terms of the trust unless both income and principal are so set aside;

8 (5) if possessing or exercising the power to make an adjustment causes a person to  
9 be treated as the owner of all or part of the trust for federal income tax purposes;

10 (6) if possessing or exercising the power to make an adjustment causes all or part  
11 of the value of the trust assets to be included for federal estate tax purposes in the gross estate of  
12 an individual who has the power to remove a fiduciary or appoint a fiduciary, or both, and the  
13 value of the assets would not be included in the gross estate of the individual if the fiduciary did  
14 not possess the power to make an adjustment;

15 (7) if the fiduciary is a beneficiary of the trust whose interest would be materially  
16 affected by the adjustment;

17 (8) if the trustee is not an independent person; or

18 (9) if the trust is a unitrust under [Article] 3.

19 (d) If subsection (c)(5), (6), (7), or (8) applies to a fiduciary and there is more than one  
20 fiduciary, a co-fiduciary to whom the provision does not apply may make the adjustment unless  
21 the exercise of the power by the remaining fiduciary or fiduciaries is not permitted by the terms  
22 of the trust.

23 (e) A fiduciary may release the entire power conferred by subsection (a) or may release

1 only the power to adjust from income to principal or the power to adjust from principal to  
2 income if the fiduciary is uncertain about whether possessing or exercising the power will cause  
3 a result described in subsection (c)(1) through (6) or (c)(8) or if the fiduciary determines that  
4 possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax  
5 burden not described in subsection (c). The release may be permanent or for a specified period,  
6 including a period measured by the life of an individual.

7 (f) Terms of the trust that limit the power of a fiduciary to make an adjustment between  
8 income and principal do not affect the application of this section unless it is clear from the terms  
9 of the trust that the terms are intended to deny the fiduciary the power of adjustment under  
10 subsection (a).

11 (g) The power under subsection (a):

12 (1) may be exercised at or after the end of the accounting period or at or before the  
13 beginning of the accounting period; and

14 (2) may apply to one or more accounting periods.

15 (h) A fiduciary's exercise of the power under subsection (a) must be:

16 (1) included in the report, if any, that is sent to beneficiaries under [Section  
17 813(c)] of [the Uniform Trust Code]; or

18 (2) otherwise reported at least annually to [the qualified beneficiaries determined  
19 under [Section 103(13)] of [the Uniform Trust Code], other than the Attorney General] [all  
20 beneficiaries that receive or are entitled to receive income from the trust or are entitled to receive  
21 a distribution of principal if the trust is terminated at the time the notice is sent, assuming no  
22 power of appointment is exercised].



1 (i) This section does not create or imply a duty to adjust under subsection (a) or to inform  
2 beneficiaries about the applicability of this section.

3 (j) A fiduciary that in good faith takes or fails to take any action under this section is not  
4 liable to a person affected by the action or inaction. The exclusive remedy of a person affected  
5 by a fiduciary’s good-faith action or inaction under this section is to obtain a court order directing  
6 the fiduciary to exercise or refrain from exercising the power under subsection (a).

7 *Legislative Note: Modify Section 203(h)(1) to refer to Section 813(c) of the Uniform Trust Code*  
8 *and modify Section 203(h)(2) to refer to Section 103(13) of the Uniform Trust Code, or modify*  
9 *those provisions appropriately if your state has not adopted the Uniform Trust Code.*

10 **[ARTICLE] 3**

11 **UNITRUST**

12 **SECTION 301. DEFINITIONS.** In this [Article]:

13 (1) “Applicable value” means the amount of the net fair market value of the trust taken  
14 into account under Section 307.

15 (2) “Net fair market value of the trust” means the fair market value of the assets of the  
16 trust, less the liabilities of the trust.

17 (3) “Special tax benefit” means:

18 (A) eligibility of a transfer to a trust for the exclusion from gifts described  
19 in Section 2503(b) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section  
20 2503(b)][, as amended] because of the qualification of an income interest in the trust as a present  
21 interest;

22 (B) qualification of a trust as a qualified subchapter S trust described in  
23 Section 1361(d) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section  
24 1361(d)][, as amended] at a time the trust holds stock of an S corporation defined in Section

1 1361(a)(1) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section 1361(a)(1)][,  
2 as amended];

3 (C) qualification of a transfer to a trust for an estate tax or gift tax marital  
4 deduction under Section 2056 or 2523 of the Internal Revenue Code of 1986[, as amended][, 26  
5 U.S.C. Section 2056 or 2523][, as amended] that depends or depended in whole or in part on the  
6 right of the transferor’s spouse to receive the net income of the trust;

7 (D) exemption in whole or in part of a trust from the federal generation-  
8 skipping transfer tax imposed by Section 2601 of the Internal Revenue Code of 1986[, as  
9 amended][, 26 U.S.C. Section 2601][, as amended] because the trust was irrevocable on  
10 September 25, 1985; or

11 (E) an inclusion ratio, as defined in Section 2642(a) of the Internal  
12 Revenue Code of 1986[, as amended][, 26 U.S.C. Section 2642(a)][, as amended], of the trust  
13 that is less than one, if there is any possibility that:

14 (i) a taxable distribution as defined in Section 2612(b) of the  
15 Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section 2612(b)][, as amended] could  
16 be made from the trust; or

17 (ii) a taxable termination as defined in Section 2612(a) of the  
18 Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section 2612(a)][, as amended] could  
19 occur with respect to the trust.

20 (4) “Unitrust” means a trust:

21 (A) for which net income is a unitrust amount; and

22 (B) that meets the requirements of a unitrust policy.

1                   (5) “Unitrust amount” means an amount computed by multiplying the applicable  
2 value by the unitrust rate.

3                   (6) “Unitrust policy” means the policy described in Sections 305 through 309 and  
4 adopted under Section 303.

5                   (7) “Unitrust rate” means the rate used to compute the unitrust amount under  
6 paragraph (5), determined pursuant to the unitrust policy.

7                   **SECTION 302. APPLICATION OF THIS [ARTICLE].**

8                   (a) This [Article] applies to an estate only to the extent a trust is a beneficiary of the  
9 estate.

10                  (b) This [Article] does not apply to a trust if:

11                   (1) the terms of the trust expressly prohibit the use of this [Article] by a specific  
12 reference to this [Article] or by an explicit expression of intent that income or net income not be  
13 calculated as a unitrust amount; or

14                   (2) the trust is a trust described in Section 170(f)(2)(B), 642(c)(5), 664(d),  
15 2702(a)(3), or 2702(b) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section  
16 170(f)(2)(B), 642(c)(5), 664(d), 2702(a)(3), or 2702(b)][, as amended].

17                   (c) A trust may be converted to a unitrust under this [Article] regardless of the terms of  
18 the trust concerning distributions. Conversion to a unitrust under this [Article] does not affect  
19 other terms of the trust concerning distributions of income or principal.

20                   **SECTION 303. AUTHORITY OF FIDUCIARY.**

21                   (a) A fiduciary may, without court approval, convert a trust to a unitrust, discontinue the  
22 status of a trust as a unitrust, or change the percentage or method used to calculate the unitrust  
23 amount if:

- 1 (1) the fiduciary is an independent person;
- 2 (2) the fiduciary adopts a unitrust policy in a record for the trust providing:
- 3 (A) for a trust that is not a unitrust:
- 4 (i) that in administering the trust in the future the net income of the
- 5 trust must be a unitrust amount rather than net income determined without regard to this
- 6 [Article]; and
- 7 (ii) the percentage and method used to calculate the unitrust
- 8 amount; or
- 9 (B) for a unitrust:
- 10 (i) that in administering the trust in the future the net income of the
- 11 trust must be net income determined without regard to this [Article] rather than a unitrust
- 12 amount; or
- 13 (ii) that the percentage or method used to calculate the unitrust
- 14 amount must be changed as stated in the unitrust policy;
- 15 (3) the fiduciary sends a notice described in Section 304;
- 16 (4) if the settlor of the trust is living, the fiduciary sends a copy of the notice
- 17 required under paragraph (3) to the settlor;
- 18 (5) at least one member of each class[ of qualified beneficiaries] receiving the
- 19 notice under paragraph (3) is:
- 20 (A) legally competent;
- 21 (B) in the case of a charitable organization, then existing; or
- 22 [(C) represented in the manner provided in Section 304(b)]; and

1                   (6) the fiduciary does not receive a written objection to the action proposed under  
2 this subsection from a person to whom the notice under paragraph (3) is sent by the date  
3 specified in the notice under Section 304(d)(4).

4                   (b) If a fiduciary receives a written objection described in Section 304(d)(3) not later than  
5 the date stated in the notice under Section 304(d)(4), the fiduciary or a beneficiary may petition  
6 the court to have the proposed action taken as proposed, taken with modifications, or denied. A  
7 person described in Section 304(a) may oppose the action proposed under subsection (a) in the  
8 proceeding under this subsection, regardless of whether the person has:

9                   (1) consented under Section 304(c); or

10                   (2) objected under Section 304(d)(3).

11                   (c) If a fiduciary decides not to take the action proposed under subsection (a), the  
12 fiduciary shall notify each person described in Section 304(a) of the decision not to take the  
13 action and the reasons for the decision.

14                   (d) If a fiduciary is not an independent person and one or more fiduciaries are  
15 independent persons, the fiduciaries that are independent persons may take the action described  
16 in subsection (a), (b), or (c).

17                   (e) If no fiduciary is an independent person, the fiduciary may appoint an independent  
18 person to take an action described in subsection (a), (b), or (c) in the independent person's sole  
19 discretion exercised in a fiduciary capacity.

20                   (f) If no fiduciary is an independent person, or if the fiduciary chooses not to take an  
21 action under subsection (a), (b), or (e), the fiduciary or a beneficiary may petition the court for  
22 approval of any of the actions described in subsection (a) or (b).

1 (g) In deciding whether and how to take any action authorized by this section, a fiduciary  
2 shall consider all factors relevant to the trust and its beneficiaries, including the relevant factors  
3 in Section 201(c).

4 (h) The fiduciary may release this power for the reasons and in the manner described in  
5 Section 203(e).

6 **Legislative Note:** *Modify Section 303(a)(5) to refer to Section 103(13) of the Uniform Trust*  
7 *Code, or modify that provision appropriately if your state has not adopted the Uniform Trust*  
8 *Code.*

9 **SECTION 304. NOTICE.**

10 (a) The notice required by Section 303(a)(3) shall be sent[, in a manner authorized under  
11 [Section 109] of [the Uniform Trust Code],] to:

12 (1) [the qualified beneficiaries determined under [Section 103(13)] of [the  
13 Uniform Trust Code], other than the Attorney General] [all beneficiaries that receive or are  
14 entitled to receive income from the trust or are entitled to receive a distribution of principal if the  
15 trust is terminated at the time the notice is sent, assuming no power of appointment is exercised];  
16 and

17 (2) each person acting as[ advisor or protector] of the trust.

18 [(b) The representation provisions of [Article 3] of [the Uniform Trust Code] apply to  
19 notice under this section.]

20 [(b)] The notice under Section 303(a)(3) need not be sent to a person that consents in a  
21 record to the action proposed under Section 303(a). The consent may be executed and delivered  
22 at any time before, when, or after the proposed action is taken.

23 [(c)] The notice required by Section 303(a)(3) must include:

24 (1) notice of the action proposed under Section 303(a);

1 (2) a copy of the unitrust policy under Section 303(a)(2);

2 (3) a statement that the person to which the notice is sent may object to the  
3 proposed action by stating the basis or reason for the objection in a record and mailing or  
4 delivering the record to the fiduciary;

5 (4) the date by which an objection under paragraph (3) must be made, which may  
6 not be less than 30 days after the date the notice is sent;

7 (5) the date on which the action is proposed to be taken and, if different, the date  
8 on which the action is proposed to take effect;

9 (6) the name and mailing address of the fiduciary; and

10 (7) the name and telephone number of a person that may be contacted for  
11 additional information.

12 *Legislative Note: Modify Section 304(a) to refer to Section 109 of the Uniform Trust Code,*  
13 *modify Section 304(a)(1) to refer to Section 103(13) of the Uniform Trust Code, and modify*  
14 *Section 304(b) to refer to Article 3 of the Uniform Trust Code; or modify those provisions*  
15 *appropriately if your state has not adopted the Uniform Trust Code.*

16 **SECTION 305. UNITRUST POLICY.**

17 (a) In administering a unitrust under this [Article], the fiduciary shall follow the unitrust  
18 policy adopted under Section 303(a)(2).

19 (b) A unitrust policy must provide for:

20 (1) the unitrust rate or the determination of the unitrust rate under Section 306;

21 and

22 (2) the determination of the applicable value under Section 307.

23 **SECTION 306. UNITRUST RATE.**

24 (a) A unitrust rate may be:

- 1 (1) a fixed unitrust rate; or
- 2 (2) a unitrust rate that is determined for each period using:
- 3 (A) a market index or other published data; or
- 4 (B) a mathematical blend of market indices or other published data over a
- 5 stated number of previous periods.

6 (b) A unitrust policy may provide for:

7 (1) a limit on how high the unitrust rate determined under subsection (a)(2) may

8 rise;

9 (2) a limit on how low the unitrust rate determined under subsection (a)(2) may

10 fall;

11 (3) a limit on how much the unitrust rate determined under subsection (a)(2) may

12 increase over the unitrust rate for the previous period or a mathematical blend of unitrust rates

13 over a stated number of previous periods;

14 (4) a limit on how much the unitrust rate determined under subsection (a)(2) may

15 decrease below the unitrust rate for the previous period or a mathematical blend of unitrust rates

16 over a stated number of previous periods; or

17 (5) a mathematical blend of any of the unitrust rates determined under subsection

18 (a)(2) and paragraphs (1) through (4).

19 **SECTION 307. APPLICABLE VALUE.**

20 (a) A unitrust policy must state the method for determining the fair market value of an

21 asset for purposes of determining the unitrust amount, including:

22 (1) the frequency of valuing an asset, which need not require a valuation in every

23 period; and



1 (2) the date for valuing an asset in each period in which the asset is valued.

2 (b) A unitrust policy may prescribe standards for:

3 (1) the exclusion of specific assets or groups or types of assets from the  
4 calculation of the unitrust amount;

5 (2) other exceptions or modifications of the treatment of specific assets or groups  
6 or types of assets in the calculation of the unitrust amount;

7 (3) how the net income attributable to an asset excluded under paragraph (1) or  
8 given special treatment under paragraph (2) must be determined and the effect of the net income  
9 on distributions;

10 (4) obtaining an appraisal of an asset for which market value is not readily  
11 available; or

12 (5) identification and treatment of cash or property held for distribution to  
13 determine the fair market value of the assets of the trust.

14 (c) A unitrust policy may prescribe methods for determining the amount of the fair market  
15 value to take into account in determining the applicable value, including:

16 (1) use of an average of applicable values over a stated number of previous  
17 periods;

18 (2) use of another mathematical blend of applicable values over a stated number  
19 of previous periods;

20 (3) a limit on how much the applicable value of all assets, groups of assets, or  
21 individual assets, may increase over:

22 (A) the corresponding applicable value for the previous period; or

1 (B) a mathematical blend of applicable values over a stated number of  
2 previous periods;

3 (4) a limit on how much the applicable value of all assets, groups of assets, or  
4 individual assets may decrease below:

5 (A) the corresponding applicable value for the previous period; or

6 (B) a mathematical blend of applicable values over a stated number of  
7 previous periods; or

8 (5) the treatment of accrued income and other financial features of an asset.

9 (d) A unitrust policy may prescribe methods for determining the liabilities of the trust,  
10 including treatment of liabilities to conform with the treatment of assets under subsections (a)  
11 through (c).

12 **SECTION 308. PERIOD.**

13 (a) A unitrust policy must prescribe the period used under Section 306(a)(2), 306(b)(3) or  
14 (4), or 307(a), which may be:

15 (1) a calendar year or quarter;

16 (2) a 12-month or three-month period other than a calendar year or quarter; or

17 (3) another period;

18 (b) A unitrust policy may prescribe standards for:

19 (1) using a fewer number of previous periods under Section 306(a)(2) or 306(b)(3)  
20 or (4) if the trust has not been in existence for the previous periods or market indices or other  
21 published data are not available;

22 (2) using a fewer number of previous periods under Section 307(a) if the trust has  
23 not been in existence for the previous periods or fair market values are not available; or

1 (3) prorating the unitrust amount[ on a daily basis] for a part of a period in which  
2 the trust or the administration of the trust as a unitrust or the interest of any beneficiary  
3 commences or terminates.

4 **SECTION 309. OTHER RULES; SPECIAL TAX BENEFITS.**

5 (a) A unitrust policy may prescribe methods and standards for:

6 (1) determining the timing of distributions;

7 (2) making distributions in cash or in kind or partly in cash and partly in kind; or

8 (3) correcting an underpayment or overpayment to a beneficiary based on the  
9 unitrust amount if there is an error in calculating the unitrust amount.

10 (b) A unitrust policy may prescribe other standards and rules the fiduciary determines  
11 serve the interests of the beneficiaries.

12 (c) If a trust qualifies for any special tax benefit:

13 (1) the unitrust rate established under Section 306(a)(1) may not be less than three  
14 percent or more than five percent;

15 (2) the only period that may be used under Section 308(a) is a calendar year; and

16 (3) no other provision of Section 305 through 308 applies, except Sections 305(a),  
17 307(a)(1), (b)(4) and (5), and (d), and 308(b)(2) and (3).

18 **SECTION 310. DUTIES AND REMEDIES.**

19 (a) This [Article] does not create or imply a duty to take action or to inform beneficiaries  
20 about the applicability of this [Article].

21 (b) A fiduciary or independent person that in good faith takes or fails to take any action  
22 under this [Article] is not liable to a person affected by the action or inaction, regardless of  
23 whether the affected person received written notice as provided in this [Article] or the affected

1 person was under a legal disability at the time of delivery of the notice. The exclusive remedy of  
2 a person affected by the good-faith action or inaction under this [Article] of a fiduciary or  
3 independent person is to obtain a court order directing the fiduciary to convert a trust to a  
4 unitrust, discontinue the status of a trust as a unitrust, or change the percentage or method used to  
5 calculate the unitrust amount.

6 **Legislative Note:** *In states in which the constitution, or other law, does not permit the phrase “as*  
7 *amended” when federal statutes are incorporated into state law, the phrase should be omitted.*  
8 *Modify Section 304(a) to refer to appropriate general provisions for sending notice. Modify*  
9 *Sections 304(a)(1) and 303(a)(5) to refer to Section 103(13) (defining “qualified beneficiary”)*  
10 *and related provisions of the Uniform Trust Code, or modify those provisions appropriately if*  
11 *your state has not adopted the Uniform Trust Code. Modify Section 304(a)(2) to refer to*  
12 *appropriate provisions defining and addressing trust advisors and trust protectors, perhaps in*  
13 *light of the Uniform Directed Trust Act, or modify or delete Section 304(a)(2) as appropriate if*  
14 *your state law has no such provisions. Modify Section 304(b) to refer to Article 3 and other*  
15 *provisions of the Uniform Trust Code defining and addressing representation, or modify or*  
16 *delete Section 304(b) as appropriate if your state has not adopted the Uniform Trust Code.*

17

18

## [ARTICLE] 4

19

### ALLOCATION OF RECEIPTS DURING ADMINISTRATION

20

#### [PART 1

21

#### RECEIPTS FROM ENTITIES]

22

#### SECTION 401. CHARACTER OF RECEIPTS.

23

(a) In this section, “entity” means a corporation, partnership, limited liability company,

24

regulated investment company, real estate investment trust, common trust fund, or any other

25

organization or arrangement in which a fiduciary has an interest, regardless of whether the entity

26

is a taxpayer for federal income tax purposes, other than a trust or estate to which Section 402

27

applies, a business or activity to which Section 403 applies, an asset-backed security to which

28

Section 414 applies, or an instrument or arrangement to which Section 415 applies.

29

(b) Except as otherwise provided in this section, a fiduciary shall allocate to income

1 money received from an entity.

2 (c) A fiduciary shall allocate the following receipts from an entity to principal:

3 (1) property, of more than insubstantial or immaterial value, other than money;

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

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

7 (4) money received from an entity that is:

8 (A) a regulated investment company or a real estate investment trust if the  
9 money distributed is a capital gain dividend for federal income tax purposes; or

10 (B) an entity or arrangement treated comparably for federal income tax  
11 purposes to the treatment describe in paragraph (4)(A).

12 (d) Money is presumed to be received in partial liquidation to the extent the entity, not  
13 later than the date on which the entity files a federal income tax return for the year in which the  
14 distribution was made, indicates that it is a distribution in partial liquidation. The fiduciary may  
15 determine that the circumstances require an allocation different from this presumption.

16 (e) If an entity does not indicate that a distribution is in partial liquidation and the total  
17 amount of money and property distributed in a distribution or series of related distributions to all  
18 owners or distributees is greater than 20 percent of the fair market value of the entity's assets, as  
19 shown by the entity's year-end financial statements immediately preceding the initial receipt, the  
20 distribution shall be treated as a distribution in partial liquidation except to the extent the  
21 fiduciary determines the distribution is substantially equivalent to income previously  
22 undistributed

23 (f) Money is not received in partial liquidation and is income to the extent it does not

1 exceed the amount of income tax a fiduciary or beneficiary must pay on taxable income of the  
2 entity that distributes the money.

3 (g) A fiduciary may rely on a statement made by an entity about the source or character of  
4 a distribution if the statement is made not later than the date on which the entity files a federal  
5 income tax return for the year in which the distribution was made by the entity's board of  
6 directors or other person or group of persons authorized to exercise powers to pay money or  
7 transfer property comparable to those of a corporation's board of directors, including the manager  
8 of a limited liability company and general partner of a partnership

9 **SECTION 402. DISTRIBUTION FROM TRUST OR ESTATE.** A fiduciary shall  
10 allocate to income an amount received as a distribution of income, including a unitrust  
11 distribution under [Article] 3, from a trust or an estate in which the trust has an interest other than  
12 a purchased interest, and shall allocate to principal an amount received as a distribution of  
13 principal from such a trust or estate. If a fiduciary purchases an interest in a trust that is an  
14 investment entity, or a decedent or donor transfers an interest in such a trust to a fiduciary,  
15 Section 401 or 414 applies to a receipt from the trust.

16 **SECTION 403. BUSINESS AND OTHER ACTIVITIES CONDUCTED BY**  
17 **FIDUCIARY.**

18 (a) If a fiduciary that conducts a business or other activity determines that it is in the best  
19 interest of all the beneficiaries to account separately for the business or activity instead of  
20 accounting for it as part of the trust's general accounting records rather than through an entity  
21 described in Section 401 whether or not the entity is a taxpayer for federal income tax purposes,  
22 the fiduciary may maintain separate accounting records for its transactions, whether or not its  
23 assets are segregated from other trust assets.

1 (b) A fiduciary that accounts separately for a business or other activity may determine the  
2 extent to which the net cash receipts of the business must be retained for working capital, the  
3 acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business  
4 or activity, and the extent to which the remaining net cash receipts are accounted for as principal  
5 or income in the trust's general accounting records. The fiduciary may make those  
6 determinations separately and differently from the fiduciary's decisions concerning distributions  
7 of income or principal. If a fiduciary sells assets of the business or other activity, other than in  
8 the ordinary course of the business or activity, the fiduciary shall account for the net amount  
9 received as principal in the trust's general accounting records to the extent the fiduciary  
10 determines that the amount received is no longer required in the conduct of the business.

11 (c) Activities for which a fiduciary may maintain separate accounting records include:

- 12 (1) retail, manufacturing, service, and other traditional business activities;
- 13 (2) farming;
- 14 (3) raising and selling livestock and other animals;
- 15 (4) management of rental properties;
- 16 (5) extraction of minerals and other natural resources;
- 17 (6) timber operations;
- 18 (7) activities to which Section 413 applies; and
- 19 (8) other operating businesses.

20 **[PART 2**

21 **RECEIPTS NOT NORMALLY ALLOCATED]**

22 **SECTION 404. PRINCIPAL RECEIPTS.** A fiduciary shall allocate to principal:

- 23 (1) to the extent not allocated to income under this [act], assets received from a transferor

1 during the transferor’s lifetime, a decedent’s estate, a trust with a terminating income interest, or  
2 a payor under a contract naming the fiduciary as beneficiary;

3 (2) money or other property received from the sale, exchange, liquidation, or change in  
4 form of a principal asset, subject to this [article];

5 (3) amounts recovered from third parties to reimburse the trust because of disbursements  
6 described in Section 502(a)(7) or for other reasons to the extent not based on the loss of income;

7 (4) proceeds of property taken by eminent domain, except that proceeds awarded for a  
8 loss of income for a period are income if a current income beneficiary had a mandatory income  
9 interest during the period;

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

12 (6) other receipts as provided in [Part 3].

13 **SECTION 405. RENTAL PROPERTY.** To the extent the fiduciary does not account  
14 separately under Section 403 for the management of rental properties, the fiduciary shall allocate  
15 to income an amount received as rent of real or personal property, including an amount received  
16 for cancellation or renewal of a lease. An amount received as a refundable deposit, including a  
17 security deposit or a deposit that is to be applied as rent for future periods, must be added to  
18 principal and held subject to the terms of the lease, except as otherwise provided by law, and is  
19 not available for distribution to a beneficiary until the fiduciary’s contractual obligations have  
20 been satisfied with respect to that amount.

21 **SECTION 406. RECEIPT ON AN OBLIGATION TO BE PAID IN MONEY .**

22 (a) An amount received as interest on an obligation to pay money to a fiduciary, including  
23 an amount received as consideration for prepaying principal, must be allocated to income without



1 any provision for amortization of premium.

2 (b) A fiduciary shall allocate to principal an amount received from the sale, redemption,  
3 or other disposition of an obligation to pay money to the fiduciary more than one year after it is  
4 purchased or acquired by the fiduciary, including an obligation whose purchase price or value  
5 when it is acquired is less than its value at maturity. If the obligation matures not later than one  
6 year after it is purchased or acquired by the fiduciary, an amount received that exceeds its  
7 purchase price or its value when acquired by the fiduciary must be allocated to income.

8 (c) This section does not apply to an obligation to which Section 408, 409, 410, 411, 413,  
9 or 414 applies.

10 **SECTION 407. INSURANCE POLICIES AND SIMILAR CONTRACTS.**

11 (a) Except as otherwise provided in subsection (b), a fiduciary shall allocate to principal  
12 the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary,  
13 including a contract that insures against loss for damage to, destruction of, or loss of title to an  
14 asset. The fiduciary shall allocate dividends on an insurance policy to income if the premiums on  
15 the policy are paid from income, and to principal if the premiums are paid from principal.

16 (b) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary  
17 against loss of occupancy or other use by a current income beneficiary, loss of income, or, subject  
18 to Section 403, loss of profits from a business.

19 (c) This section does not apply to a contract to which Section 408 applies.

1 [PART 3

2 RECEIPTS NORMALLY APPORTIONED]

3 SECTION 408. DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR  
4 PAYMENTS.

5 (a) In this section:

6 (1) "Payment" means an amount a fiduciary may receive over a fixed number of  
7 years or during the life of one or more individuals because of services rendered or property  
8 transferred to the payor in exchange for future receipts. The term includes an amount drawn in  
9 money or property from the payor's general assets or from a separate fund created by the payor.  
10 For purposes of subsections (e), (f), (g), and (h), the term also includes an amount drawn from  
11 any separate fund, regardless of the reason for the withdrawal.

12 (2) "Separate fund" includes a private or commercial annuity, an individual  
13 retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

14 (b) To the extent a payment is characterized by the payor as interest, a dividend, or a  
15 payment made in lieu of interest or a dividend, a fiduciary shall allocate the payment to income.  
16 The fiduciary shall allocate to principal the balance of the payment and any other payment  
17 received in the same accounting period that is not characterized as interest, a dividend, or an  
18 equivalent payment.

19 (c) If no part of a payment is characterized as interest, a dividend, or an equivalent  
20 payment, and all or part of the payment is required to be made, a fiduciary shall allocate to  
21 income a percentage of the part that is required to be made during the accounting period and shall  
22 allocate the balance to principal. If no part of a payment is required to be made or the payment  
23 received is the entire amount to which the fiduciary is entitled, the fiduciary shall allocate the

1 entire payment to principal. For purposes of this subsection, a payment is not required to be  
2 made to the extent it is made because the fiduciary exercises a right of withdrawal.

3 (d) The percentage used under subsection (c) must be 10 percent, unless the fiduciary  
4 selects a different percentage in a record.

5 (e) Except as otherwise provided in subsection (f), subsections (g) and (h) apply, and  
6 subsections (b) and (c) do not apply, in determining the allocation of a payment made from a  
7 separate fund to:

8 (1) a trust to which an election to qualify for a marital deduction under Section  
9 2056(b)(7) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section  
10 2056(b)(7)][, as amended], has been made; or

11 (2) a trust that qualifies for the marital deduction under Section 2056(b)(5) of the  
12 Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section 2056(b)(5)][, as amended].

13 (f) Subsections (e), (g), and (h) do not apply if and to the extent the series of payments  
14 would, without the application of subsection (e), qualify for the marital deduction under Section  
15 2056(b)(7)(C) of the Internal Revenue Code of 1986[, as amended][, 26 U.S.C. Section  
16 2056(b)(7)(C)][, as amended].

17 (g) A trustee shall determine the internal income of each separate fund for the accounting  
18 period as if the separate fund were a trust subject to this [act]. Upon request of the surviving  
19 spouse, the trustee shall demand that the person administering the separate fund distribute the  
20 internal income to the trust. The trustee shall allocate a payment from the separate fund to  
21 income to the extent of the internal income of the separate fund and distribute that amount to the  
22 surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon  
23 request of the surviving spouse, the trustee shall allocate principal to income to the extent the

1 internal income of the separate fund exceeds payments made from the separate fund to the trust  
2 during the accounting period.

3 (h) If a trustee cannot determine the internal income of a separate fund but can determine  
4 the value of the separate fund, the internal income of the separate fund is deemed to equal [insert  
5 number at least three percent and not more than five percent] of the fund's value, according to  
6 the most recent statement of value preceding the beginning of the accounting period. If the  
7 trustee can determine neither the internal income of the separate fund nor the fund's value, the  
8 internal income of the fund is deemed to equal the product of the interest rate and the present  
9 value of the expected future payments, as determined under Section 7520 of the Internal Revenue  
10 Code of 1986[, as amended][, 26 U.S.C. Section 7520][, as amended], for the month preceding  
11 the accounting period for which the computation is made.

12 (i) This section does not apply to a payment to which Section 409 applies.

13 **SECTION 409. CERTAIN ILLIQUID ASSETS.**

14 (a) In this section, "illiquid asset" means an asset whose value is volatile or difficult to  
15 determine or will diminish or terminate because the asset is expected to produce receipts for a  
16 period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and  
17 right to receive payments during a period of more than one year under an arrangement that does  
18 not provide for the payment of interest on the unpaid balance. The term does not include a  
19 payment subject to Section 408, resources subject to Section 410, timber subject to Section 411,  
20 an activity subject to Section 413, an asset subject to Section 414, or any asset for which the  
21 fiduciary establishes a reserve for depreciation under Section 503.

22 (b) A fiduciary shall allocate a percentage of the receipts from an illiquid asset to income  
23 and the balance to principal.

1 (c) The percentage used under subsection (b) must be 10 percent, unless the fiduciary  
2 selects a different percentage in a record.

3 **SECTION 410. MINERALS, WATER, AND OTHER NATURAL RESOURCES.**

4 (a) To the extent a fiduciary accounts pursuant to this section for receipts from an interest  
5 in minerals or other natural resources not accounted for as a business under Section 403, the  
6 fiduciary shall allocate them as follows:

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

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

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

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

18 (b) An amount received on account of an interest in water that is renewable must be  
19 allocated to income. If the water is not renewable, a percentage of the amount must be allocated  
20 to income and the balance to principal.

21 (c) The percentage used under subsection (a)(3), (a)(4), or (b) must be 10 percent, unless  
22 the fiduciary selects a different percentage in a record.

23 (d) This [act] applies whether or not a decedent or transferor was extracting minerals,

1 water, or other natural resources before the interest became subject to the trust.

2 (e) If a fiduciary owns an interest in minerals, water, or other natural resources on [the  
3 effective date of this [act]], the fiduciary may allocate receipts from the interest as provided in  
4 this [act] or in the manner used by the fiduciary before [the effective date of this [act]]. If the  
5 fiduciary acquires an interest in minerals, water, or other natural resources after [the effective  
6 date of this [act]], the fiduciary shall allocate receipts from the interest as provided in this [act].

7 **SECTION 411. TIMBER.**

8 (a) To the extent a fiduciary accounts for receipts from the sale of timber and related  
9 products pursuant to this section, the fiduciary shall allocate the net receipts:

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

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

15 (3) to or between income and principal if the net receipts are from the lease of  
16 land used for growing or cutting timber or from a contract to cut timber from land, by  
17 determining the amount of timber removed from the land under the lease or contract and  
18 applying the rules in paragraphs (1) and (2); or

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

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

23 (c) This [act] applies whether or not a decedent or transferor was harvesting timber from

1 the property before it became subject to the trust.

2 (d) This section does not prevent a tenant in possession of property from using wood the  
3 tenant cuts on the property for personal purposes, such as indoor or outdoor ornamentation,  
4 firewood, mending fences or building new fences, or making repairs to structures on the property.

5 (e) If a fiduciary owns an interest in land used for growing and cutting timber on [the  
6 effective date of this [act]], the fiduciary may allocate net receipts from the sale of timber and  
7 related products as provided in this [act] or in the manner used by the fiduciary before [the  
8 effective date of this [act]]. If the fiduciary acquires an interest in timberland after [the effective  
9 date of this [act]], the fiduciary shall allocate net receipts from the sale of timber and related  
10 products as provided in this [act].

11 **SECTION 412. MARITAL DEDUCTION PROPERTY NOT PRODUCTIVE OF**  
12 **INCOME.**

13 (a) The transferor’s spouse may require the trustee of a trust for which a gift or estate tax  
14 marital deduction was allowed to make property productive of income, convert property to  
15 productive property within a reasonable time, or exercise the power conferred by Section 203 if  
16 the trust assets otherwise do not provide the transferor’s spouse with sufficient income from or  
17 use of the trust assets to qualify for the deduction. The trustee may decide which action or  
18 combination of actions to take.

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

22 **SECTION 413. DERIVATIVES AND OPTIONS.**

23 (a) In this section, “derivative” means a contract or financial instrument or a combination

1 of contracts and financial instruments that gives a trust the right or obligation to participate in  
2 some or all changes in the price of a tangible or intangible asset or group of assets, or changes in  
3 a rate, an index of prices or rates, or other market indicator for an asset or group of assets.

4 (b) To the extent a fiduciary does not account under Section 403 for a transaction in  
5 derivatives, the fiduciary shall allocate to principal receipts from and disbursements made in  
6 connection with the transaction.

7 (c) If a fiduciary grants an option to buy property from the trust, whether or not the trust  
8 owns the property when the option is granted, grants an option that permits another person to sell  
9 property to the trust, or acquires an option to buy property for the trust or an option to sell an  
10 asset owned by the trust, and the fiduciary or other owner of the asset is required to deliver the  
11 asset if the option is exercised, an amount received for granting the option must be allocated to  
12 principal. An amount paid to acquire the option must be paid from principal. A gain or loss  
13 realized upon the exercise of an option, including an option granted to a settlor of the trust for  
14 services rendered, must be allocated to principal.

15 **SECTION 414. ASSET-BACKED SECURITIES.**

16 (a) In this section, “asset-backed security” means an asset whose value is based on the  
17 right it gives the owner to receive distributions from the proceeds of financial assets that provide  
18 collateral for the security. The term includes an asset that gives the owner the right to receive  
19 from the collateral financial assets only the interest or other current return or only the proceeds  
20 other than interest or current return. The term does not include an asset to which Section 401 or  
21 408 applies.

22 (b) If a trust receives a payment from interest or other current return and from other  
23 proceeds of the collateral financial assets, the fiduciary shall allocate to income the part of the



1 payment the payor identifies as being from interest or other current return and shall allocate the  
2 balance of the payment to principal.

3 (c) If a trust receives one or more payments in exchange for the trust's entire interest in an  
4 asset-backed security in one accounting period, the fiduciary shall allocate the payments to  
5 principal. If a payment is one of a series of payments that will result in the liquidation of the  
6 trust's interest in the security over more than one accounting period, the fiduciary shall allocate a  
7 percentage of the payment to income and the balance to principal.

8 (d) The percentage used under subsection (c) must be 10 percent, unless the fiduciary  
9 selects a different percentage in a record.

10 **SECTION 415. OTHER FINANCIAL INSTRUMENTS AND ARRANGEMENTS.**

11 A fiduciary shall allocate receipts from or related to financial instruments and arrangements not  
12 explicitly addressed by this [act] in a manner consistent with the rules prescribed and the  
13 principles reflected in Sections 413 and 414.

14 **SECTION 416. INSUBSTANTIAL ALLOCATIONS NOT REQUIRED.** If a  
15 fiduciary determines that an allocation between income and principal required by Section 408,  
16 409, 410, 411, or 414 is insubstantial, the fiduciary may allocate the entire amount to principal  
17 unless Section 203(c) applies to the allocation. This power may be exercised by a co-fiduciary in  
18 the circumstances described in Section 203(d) and may be released for the reasons and in the  
19 manner described in Section 203(e). An allocation is presumed to be insubstantial if:

20 (1) the amount of the allocation would increase or decrease net income in an accounting  
21 period, as determined before the allocation, by less than 10 percent; and

22 (2) the asset producing the receipt to be allocated has a fair market value less than 10  
23 percent of the total fair market value of the trust's assets at the beginning of the accounting

1 period.

2 **[ARTICLE] 5**

3 **ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION**

4 **SECTION 501. DISBURSEMENTS FROM INCOME.** A fiduciary shall make the  
5 following disbursements from income to the extent they are not disbursements to which Section  
6 601(2)(B) or (C) applies:

7 (1) one-half of:

8 (A) the regular compensation of the fiduciary and of any person providing  
9 fiduciary, investment advisory, or custodial services to the fiduciary; and

10 (B) all expenses for accountings, judicial and nonjudicial proceedings, or other  
11 matters that involve both the income and remainder interests;

12 (2) the balance of the disbursements described in paragraph (1) to the extent a fiduciary  
13 that is an independent person determines that making those disbursements from income would be  
14 in the interests of the beneficiaries because principal is illiquid or otherwise;

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

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

21 **SECTION 502. DISBURSEMENTS FROM PRINCIPAL.**

22 (a) A fiduciary shall make the following disbursements from principal:

23 (1) the remaining one-half of the disbursements described in Section 501(1) after

1 application of Section 501(2);

2 (2) all the fiduciary's compensation calculated on principal as a fee for acceptance,  
3 distribution, or termination, and disbursements made to prepare for or execute a sale or other  
4 disposition of the property.

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

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

8 (5) premiums paid on a policy of insurance not described in Section 501(4) of  
9 which the fiduciary is the owner and beneficiary;

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

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

19 (b) If a principal asset is encumbered with an obligation that requires income from that  
20 asset to be paid directly to the creditor, the fiduciary shall transfer from principal to income an  
21 amount equal to the income paid to the creditor in reduction of the principal balance of the  
22 obligation.

1           **SECTION 503. TRANSFERS FROM INCOME TO PRINCIPAL FOR**  
2 **DEPRECIATION.**

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

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

7                   (1) of the part of real property used or available for use by a beneficiary as a  
8 residence or of tangible personal property held or made available for the personal use or  
9 enjoyment of a beneficiary; or

10                   (2) under this section if the fiduciary is accounting under Section 403 for the  
11 business or activity in which the asset is used.

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

13           **SECTION 504. TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL.**

14           (a) If a fiduciary makes or expects to make a principal disbursement described in this  
15 section, the fiduciary may transfer an appropriate amount from income to principal in one or  
16 more accounting periods to reimburse principal or to provide a reserve for future principal  
17 disbursements.

18           (b) Principal disbursements to which subsection (a) applies include the following, but  
19 only to the extent the fiduciary has not been and does not expect to be reimbursed by a third  
20 party:

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

23                   (2) a capital improvement to a principal asset, whether in the form of changes to

1 an existing asset or the construction of a new asset, including special assessments;

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

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

7 (5) disbursements described in Section 502(a)(7).

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

11 **SECTION 505. INCOME TAXES.**

12 (a) A tax required to be paid by a fiduciary based on receipts allocated to income must be  
13 paid from income.

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

16 (c) A tax required to be paid by a fiduciary on the trust's share of an entity's taxable  
17 income must be paid from principal to the extent the tax exceeds the total receipts from the  
18 entity.

19 **SECTION 506. ADJUSTMENTS BETWEEN INCOME AND PRINCIPAL**  
20 **BECAUSE OF TAXES.**

21 (a) A fiduciary may make adjustments between income and principal to offset the shifting  
22 of economic interests or tax benefits between current income beneficiaries and successor  
23 beneficiaries that arise from:

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

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

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

7                   (b) If the amount of an estate-tax marital deduction or charitable-contribution deduction is  
8 reduced because a fiduciary deducts an amount paid from principal for income tax purposes  
9 instead of deducting it for estate-tax purposes, and as a result estate taxes paid from principal are  
10 increased and income taxes paid by a trust or beneficiary are decreased, each trust or beneficiary  
11 that benefits from the decrease in income tax shall reimburse the principal from which the  
12 increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to  
13 the extent the principal used to pay the increase would have qualified for a marital deduction or  
14 charitable contribution deduction but for the payment. The proportionate share of the  
15 reimbursement for each trust or beneficiary whose income taxes are reduced must be the same as  
16 its proportionate share of the total decrease in income tax. A trust shall reimburse principal from  
17 income.

18                   (c) After applying Section 505, the fiduciary shall adjust income or principal receipts to  
19 the extent the trust's taxes are reduced because the trust receives a deduction for payments made  
20 to a beneficiary.

1 [ARTICLE] 6

2 DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

3 SECTION 601. DETERMINATION AND DISTRIBUTION OF NET INCOME.

4 (a) The rules in this section apply after a decedent dies in the case of an estate or after an  
5 income interest in a trust ends.

6 (b) A fiduciary of an estate or a terminating income interest shall determine the amount of  
7 net income and net principal receipts received from property specifically given to a beneficiary  
8 under the rules in [Articles] 4, 5, and 7 and the rules in paragraph (5). The fiduciary shall  
9 distribute the net income and net principal receipts to the beneficiary who is to receive the  
10 specific property.

11 (c) A fiduciary shall determine the income and net income of a decedent's estate or a  
12 terminating income interest, other than the amount of net income determined under subsection

13 (b), under the rules in [Articles] 4, 5, and 7 and by:

14 (1) including in net income all income from property used or sold to discharge  
15 liabilities;

16 (2) paying from income or principal, in the fiduciary's discretion, fees of  
17 attorneys, accountants, and fiduciaries, court costs and other expenses of administration, and  
18 interest on estate and inheritance taxes, but the fiduciary may pay those expenses from income of  
19 property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable  
20 deduction only to the extent the payment of those expenses from income will not cause the  
21 reduction or loss of the deduction; and

22 (3) paying from principal all other disbursements made or incurred in connection  
23 with the settlement of a decedent's estate or the winding up of a terminating income interest,

1 including, to the extent authorized by the decedent's will, the terms of the trust, or applicable law,  
2 debts, funeral expenses, disposition of remains, family allowances, and estate and inheritance  
3 taxes and related penalties that are apportioned to the estate or terminating income interest by the  
4 decedent's will, the terms of the trust, or applicable law.

5 (d) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright  
6 the interest or any other amount provided by the decedent's will, the terms of the trust, or  
7 applicable law from net income determined under paragraph (2) or from principal to the extent  
8 net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust  
9 after an income interest ends and no interest or other amount is provided for by the terms of the  
10 trust or applicable law, the fiduciary shall distribute the interest or other amount to which the  
11 beneficiary would be entitled under applicable law if the pecuniary amount were required to be  
12 paid under a will.

13 (e) A fiduciary shall distribute the net income remaining after distributions required by  
14 subsection (d) in the manner described in Section 602 to all other beneficiaries, including a  
15 beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified  
16 power to withdraw assets from the trust or other presently exercisable general power of  
17 appointment over the trust.

18 (f) A fiduciary may not reduce principal or income receipts from property described in  
19 subsection (b) because of a payment described in Section 501 or 502 to the extent the decedent's  
20 will, the terms of the trust, or applicable law requires the fiduciary to make the payment from  
21 assets other than the property or to the extent the fiduciary recovers or expects to recover the  
22 payment from a third party. The net income and principal receipts from the property are  
23 determined by including all amounts the fiduciary receives or pays with respect to the property,



1 whether those amounts accrued or became due before, on, or after the date of a decedent's death  
2 or an income interest's terminating event, and by making a reasonable provision for amounts the  
3 fiduciary believes the estate or terminating income interest may become obligated to pay after the  
4 property is distributed.

5 **SECTION 602. DISTRIBUTION TO RESIDUARY AND REMAINDER**  
6 **BENEFICIARIES.**

7 (a) Each beneficiary described in Section 601(e) is entitled to receive a part of the net  
8 income equal to the beneficiary's fractional interest in undistributed principal assets, using values  
9 as of the distribution date. If a fiduciary makes more than one distribution of assets to  
10 beneficiaries to whom this section applies, each beneficiary, including one who does not receive  
11 part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has  
12 received after the date of the decedent's death or an income interest's terminating event or  
13 previous distribution date.

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

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

18 (2) The beneficiary's fractional interest in the undistributed principal assets must  
19 be calculated without regard to:

20 (A) property specifically given to a beneficiary under the decedent's will  
21 or the terms of the trust; and

22 (B) property required to pay pecuniary amounts not in trust.

23 (3) The beneficiary's fractional interest in the undistributed principal assets must

1 be calculated on the basis of the aggregate value of those assets as of the distribution date without  
2 reducing the value by any unpaid principal obligation.

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

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

9 (d) A fiduciary may apply the rules in this section, to the extent the fiduciary considers it  
10 appropriate, to net gain or loss realized after the date of the decedent's death or an income  
11 interest's terminating event or earlier distribution date from the disposition of a principal asset if  
12 this section applies to the income from the asset.

13 **[ARTICLE] 7**

14 **APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST**

15 **SECTION 701. WHEN RIGHT TO INCOME BEGINS AND ENDS.**

16 (a) A current income beneficiary or successor beneficiary is entitled to net income from  
17 the date on which the income interest begins. An income interest begins on the date specified in  
18 the terms of the trust or, if no date is specified, on the date an asset:

19 (1) becomes subject to the trust in the case of the current income beneficiary; or

20 (2) becomes subject to a successive income interest in the case of a successor  
21 beneficiary.

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

23 (1) on the date the asset is transferred to the trust in the case of an asset that is

1 transferred to a trust during the transferor's life;

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

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

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

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

13 **SECTION 702. APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS**  
14 **WHEN DECEDENT DIES OR INCOME INTEREST BEGINS.**

15 (a) A fiduciary shall allocate an income receipt or disbursement other than one to which  
16 Section 601(1) applies to principal if its due date occurs before the date on which a decedent dies  
17 in the case of an estate or before the date on which an income interest begins in the case of a trust  
18 or successive income interest.

19 (b) A fiduciary shall allocate a periodic income receipt or disbursement to income if its  
20 due date occurs on or after the date on which a decedent dies or an income interest begins. A  
21 receipt or disbursement is periodic if it must be paid at regular intervals under an obligation to  
22 make payments or if a payor customarily makes payments at regular intervals. An income receipt  
23 or disbursement must be treated as accruing from day to day if it is not periodic or it has no due

1 date. The part of the receipt or disbursement accruing before the date on which a decedent dies  
2 or an income interest begins must be allocated to principal, and the balance must be allocated to  
3 income.

4 (c) An item of income or an obligation is due on the date the payor is required to make a  
5 payment. If a payment date is not stated, there is no due date for purposes of this [act].

6 Distributions to shareholders or other owners from an entity to which Section 401 applies are  
7 deemed to be due on the date fixed by the entity for determining who is entitled to receive the  
8 distribution or, if no date is fixed, on the declaration date for the distribution.

9 **SECTION 703. APPORTIONMENT WHEN INCOME INTEREST ENDS.**

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

14 (b) When a mandatory income interest ends, the fiduciary shall pay to a mandatory  
15 income beneficiary who survives that date, or the estate of a deceased mandatory income  
16 beneficiary whose death causes the interest to end, the beneficiary’s share of the undistributed  
17 income that is not disposed of under the terms of the trust unless the beneficiary has an  
18 unqualified power to withdraw more than five percent of the trust immediately before the income  
19 interest ends. If the beneficiary has an unqualified power to withdraw more than five percent of  
20 the trust immediately before the income interest ends, the undistributed income from the part of  
21 the trust that may be withdrawn must be added to principal.

22 (c) When a fiduciary’s obligation to pay a fixed annuity or a fixed fraction of the value of  
23 the trust’s assets ends, the fiduciary shall prorate the final payment if and to the extent required

1 by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate,  
2 or other tax requirements.

3 **[ARTICLE] 8**

4 **MISCELLANEOUS PROVISIONS**

5 **SECTION 801. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
6 applying and construing this uniform act, consideration must be given to the need to promote  
7 uniformity of the law with respect to its subject matter among states that enact it.

8 **SECTION 802. APPLICATION OF [ACT] TO EXISTING TRUSTS AND**  
9 **ESTATES.** This [act] applies to every trust or decedent's estate existing on [the effective date of  
10 this [act]] except as otherwise expressly provided in the terms of the trust or in this [act].

11 **Alternative A**

12 **SECTION 803. TRANSITIONAL MATTERS.** Section 408, as amended by this  
13 [amendment], applies to a trust described in Section 408(e) on and after the following dates:

14 (1) If the trust is not funded as of [the effective date of this [amendment]], the date of the  
15 decedent's death.

16 (2) If the trust is initially funded in the calendar year beginning January 1, \_\_\_\_\_ [insert  
17 year in which this [amendment] takes effect], the date of the decedent's death.

18 (3) If the trust is not described in paragraph (1) or (2), January 1, \_\_\_\_\_ [insert year in  
19 which this [amendment] take effect].

20 **Alternative B**

21 **SECTION 803. TRANSITIONAL MATTERS.** Section 408 applies to a trust  
22 described in Section 408(e) on and after the following dates:

23 (1) If the trust is not funded as of [the effective date of this [act]], the date of the

1 decedent's death.

2 (2) If the trust is initially funded in the calendar year beginning January 1, \_\_\_\_\_ [insert  
3 year in which this [act] takes effect], the date of the decedent's death.

4 (3) If the trust is not described in paragraph (1) or (2), January 1, \_\_\_\_\_ [insert year in  
5 which this [act] takes effect].

6 **End of Alternatives**

7 **Legislative Note:** Use Alternative A if your state has already enacted the Uniform Principal and  
8 Income Act. Use Alternative B if your state has not enacted the Uniform Principal and Income  
9 Act.

10

11 *If your state has not adopted the Uniform Principal and Income Act, use the text of*  
12 *Sections 408 and 505, as amended by these amendments, instead of the text of the previous*  
13 *version of those Sections.*

14

15 **[SECTION 804. SEVERABILITY CLAUSE.** If any provision of this [act] or its  
16 application to any person or circumstance is held invalid, the invalidity does not affect other  
17 provisions or applications of this [act] which can be given effect without the invalid provision or  
18 application, and to this end the provisions of this [act] are severable.]

19 **Legislative Note:** Include this section only if this state lacks a general severability statute or a  
20 decision by the highest court of this state stating a general rule of severability.

21 **SECTION 805. REPEALS; CONFORMING AMENDMENTS.**

22 (a) . . . .

23 (b) . . . .

24 (c) . . . .

25 **SECTION 806. EFFECTIVE DATE.** This act takes effect . . . .