

# As Passed by the Senate

124th General Assembly

Regular Session

2001-2002

Sub. H. B. No. 522

REPRESENTATIVES Willamowski, Seitz, Reidelbach, Salerno, Schmidt,

Setzer, Raga, Fessler, Gilb, Manning, Calvert, Coates, Patton,

Womer Benjamin

SENATORS Carnes, Harris

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## A BILL

To amend sections 151.01, 1340.031, 1340.35, and 1  
2109.68; to amend, for the purpose of adopting a 2  
new section number as indicated in parentheses, 3  
section 1340.031 (1339.69); to enact sections 4  
1340.40 to 1340.42, 1340.46, 1340.47, 1340.51 to 5  
1340.53, 1340.57 to 1340.59, 1340.63 to 1340.66, 6  
1340.70 to 1340.77, 1340.81 to 1340.86, 1340.90, 7  
and 1340.91; and to repeal sections 1340.01, 8  
1340.02, 1340.03, 1340.04, 1340.05, 1340.06, 9  
1340.07, 1340.08, 1340.09, 1340.10, 1340.11, 10  
1340.12, 1340.13, 2109.66, and 2109.67 of the 11  
Revised Code to revise Fiduciary Law by adopting 12  
the Uniform Principal and Income Act (1997) 13  
regarding the apportionment and distribution of 14  
income to trust beneficiaries and regarding a 15  
fiduciary's allocation of receipts and 16  
disbursements to or between principal and income, 17  
and by specifying the extent of a trustee's 18  
liability with respect to authorized adjustments 19  
between principal and income, to limit the holding 20  
in *Sherman v. Sherman* (1966), 5 Ohio St. 2d 27, to 21  
modify state bond law, and to declare an emergency. 22

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 151.01, 1340.031, 1340.35, and 24  
2109.68 be amended; section 1340.031 (1339.69), for the purpose of 25  
adopting a new section number as indicated in the parentheses be 26  
amended; and sections 1340.40, 1340.41, 1340.42, 1340.46, 1340.47, 27  
1340.51, 1340.52, 1340.53, 1340.57, 1340.58, 1340.59, 1340.63, 28  
1340.64, 1340.65, 1340.66, 1340.70, 1340.71, 1340.72, 1340.73, 29  
1340.74, 1340.75, 1340.76, 1340.77, 1340.81, 1340.82, 1340.83, 30  
1340.84, 1340.85, 1340.86, 1340.90, and 1340.91 of the Revised 31  
Code be enacted to read as follows: 32

**Sec. 151.01.** (A) As used in sections 151.01 to 151.09 and 33  
151.40 of the Revised Code and in the applicable bond proceedings 34  
unless otherwise provided: 35

(1) "Bond proceedings" means the resolutions, orders, 36  
agreements, and credit enhancement facilities, and amendments and 37  
supplements to them, or any one or more or combination of them, 38  
authorizing, awarding, or providing for the terms and conditions 39  
applicable to or providing for the security or liquidity of, the 40  
particular obligations, and the provisions contained in those 41  
obligations. 42

(2) "Bond service fund" means the respective bond service 43  
fund created by section 151.03, 151.04, 151.05, 151.06, 151.07, 44  
151.08, 151.09, or 151.40 of the Revised Code, and any accounts in 45  
that fund, including all moneys and investments, and earnings from 46  
investments, credited and to be credited to that fund and accounts 47  
as and to the extent provided in the applicable bond proceedings. 48

(3) "Capital facilities" means capital facilities or projects 49  
as referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 50

151.08, 151.09, or 151.40 of the Revised Code.

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(4) "Costs of capital facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing capital facilities, and of the financing of those costs. "Costs of capital facilities" includes, without limitation, and in addition to costs referred to in section 151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 of the Revised Code, the cost of clearance and preparation of the site and of any land to be used in connection with capital facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the issuing authority, costs of engineering and architectural services, designs, plans, specifications, surveys, and estimates of cost, financing costs, interest on obligations from their date to the time when interest is to be paid from sources other than proceeds of obligations, amounts necessary to establish any reserves as required by the bond proceedings, the reimbursement of all moneys advanced or applied by or borrowed from any person or governmental agency or entity for the payment of any item of costs of capital facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to capital facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of capital facilities, the financing of those costs, and the placing of the capital facilities in use and operation, including any one, part of, or combination of those classes of costs and expenses.

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(5) "Credit enhancement facilities," "financing costs," and "interest" or "interest equivalent" have the same meanings as in section 133.01 of the Revised Code.

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(6) "Debt service" means principal, including any mandatory sinking fund or redemption requirements for retirement of obligations, interest and other accreted amounts, interest equivalent, and any redemption premium, payable on obligations. If not prohibited by the applicable bond proceedings, debt service includes costs relating to credit enhancement facilities that are related to and represent, or are intended to provide a source of payment of or limitation on, other debt service.

(7) "Issuing authority" means the Ohio public facilities commission created in section 151.02 of the Revised Code for obligations issued under section 151.03, 151.04, 151.05, 151.07, or 151.09 of the Revised Code, or the treasurer of state, or the officer who by law performs the functions of that office, for obligations issued under section 151.06, 151.08, or 151.40 of the Revised Code.

(8) "Net proceeds" means amounts received from the sale of obligations, excluding amounts used to refund or retire outstanding obligations, amounts required to be deposited into special funds pursuant to the applicable bond proceedings, and amounts to be used to pay financing costs.

(9) "Obligations" means bonds, notes, or other evidences of obligation of the state, including any appertaining interest coupons, issued under Section 2k, 2l, 2m, 2n, 2o or 15 of Article VIII, Ohio Constitution, and pursuant to sections 151.01 to 151.09 or 151.40 of the Revised Code or other general assembly authorization.

(10) "Principal amount" means the aggregate of the amount as stated or provided for in the applicable bond proceedings as the amount on which interest or interest equivalent on particular obligations is initially calculated. Principal amount does not include any premium paid to the state by the initial purchaser of the obligations. "Principal amount" of a capital appreciation

bond, as defined in division (C) of section 3334.01 of the Revised Code, means its face amount, and "principal amount" of a zero coupon bond, as defined in division (J) of section 3334.01 of the Revised Code, means the discounted offering price at which the bond is initially sold to the public, disregarding any purchase price discount to the original purchaser, if provided for pursuant to the bond proceedings.

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(11) "Special funds" or "funds," unless the context indicates otherwise, means the bond service fund, and any other funds, including any reserve funds, created under the bond proceedings and stated to be special funds in those proceedings, including moneys and investments, and earnings from investments, credited and to be credited to the particular fund. Special funds do not include the school building program assistance fund created by section 3318.25 of the Revised Code, the higher education improvement fund created by division (F) of section 154.21 of the Revised Code, the highway capital improvement bond fund created by section 5528.53 of the Revised Code, the state parks and natural resources fund created by section 1557.02 of the Revised Code, the coal research and development fund created by section 1555.15 of the Revised Code, the clean Ohio conservation fund created by section 164.27 of the Revised Code, the clean Ohio revitalization fund created by section 122.658 of the Revised Code, or other funds created by the bond proceedings that are not stated by those proceedings to be special funds.

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(B) Subject to Section 2l, 2m, 2n, 2o, or 15, and Section 17, of Article VIII, Ohio Constitution, the state, by the issuing authority, is authorized to issue and sell, as provided in sections 151.03 to 151.09 or 151.40 of the Revised Code, and in respective aggregate principal amounts as from time to time provided or authorized by the general assembly, general obligations of this state for the purpose of paying costs of

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capital facilities or projects identified by or pursuant to  
general assembly action.

(C) Each issue of obligations shall be authorized by  
resolution or order of the issuing authority. The bond proceedings  
shall provide for or authorize the manner for determining the  
principal amount or maximum principal amount of obligations of an  
issue, the principal maturity or maturities, the interest rate or  
rates, the date of and the dates of payment of interest on the  
obligations, their denominations, and the place or places of  
payment of debt service which may be within or outside the state.  
Unless otherwise provided by law, the latest principal maturity  
may not be later than the earlier of the thirty-first day of  
December of the twenty-fifth calendar year after the year of  
issuance of the particular obligations or of the twenty-fifth  
calendar year after the year in which the original obligation to  
pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982,  
and 9.983 of the Revised Code apply to obligations. The purpose of  
the obligations may be stated in the bond proceedings in general  
terms, such as, as applicable, "financing or assisting in the  
financing of projects as provided in Section 2l of Article VIII,  
Ohio Constitution," "financing or assisting in the financing of  
highway capital improvement projects as provided in Section 2m of  
Article VIII, Ohio Constitution," "paying costs of capital  
facilities for a system of common schools throughout the state as  
authorized by Section 2n of Article VIII, Ohio Constitution,"  
"paying costs of capital facilities for state-supported and  
state-assisted institutions of higher education as authorized by  
Section 2n of Article VIII, Ohio Constitution," "paying costs of  
coal research and development as authorized by Section 15 of  
Article VIII, Ohio Constitution," "financing or assisting in the  
financing of local subdivision capital improvement projects as  
authorized by Section 2m of Article VIII, Ohio Constitution,"

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"paying costs of conservation projects as authorized by Section 2o  
of Article VIII, Ohio Constitution," or "paying costs of  
revitalization projects as authorized by Section 2o of Article  
VIII, Ohio Constitution." 179  
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(D) The issuing authority may appoint or provide for the 183  
appointment of paying agents, bond registrars, securities 184  
depositories, clearing corporations, and transfer agents, and may 185  
without need for any other approval retain or contract for the 186  
services of underwriters, investment bankers, financial advisers, 187  
accounting experts, marketing, remarketing, indexing, and 188  
administrative agents, other consultants, and independent 189  
contractors, including printing services, as are necessary in the 190  
judgment of the issuing authority to carry out the issuing 191  
authority's functions under this chapter. When the issuing 192  
authority is the Ohio public facilities commission, the issuing 193  
authority also may without need for any other approval retain or 194  
contract for the services of attorneys and other professionals for 195  
that purpose. Financing costs are payable, as may be provided in 196  
the bond proceedings, from the proceeds of the obligations, from 197  
special funds, or from other moneys available for the purpose. 198

(E) The bond proceedings may contain additional provisions 199  
customary or appropriate to the financing or to the obligations or 200  
to particular obligations including, but not limited to, 201  
provisions for: 202

(1) The redemption of obligations prior to maturity at the 203  
option of the state or of the holder or upon the occurrence of 204  
certain conditions, and at particular price or prices and under 205  
particular terms and conditions; 206

(2) The form of and other terms of the obligations; 207

(3) The establishment, deposit, investment, and application 208  
of special funds, and the safeguarding of moneys on hand or on 209

deposit, in lieu of the applicability of provisions of Chapter 210  
131. or 135. of the Revised Code, but subject to any special 211  
provisions of sections 151.01 to 151.09 or 151.40 of the Revised 212  
Code with respect to the application of particular funds or 213  
moneys. Any financial institution that acts as a depository of any 214  
moneys in special funds or other funds under the bond proceedings 215  
may furnish indemnifying bonds or pledge securities as required by 216  
the issuing authority. 217

(4) Any or every provision of the bond proceedings being 218  
binding upon the issuing authority and upon such governmental 219  
agency or entity, officer, board, commission, authority, agency, 220  
department, institution, district, or other person or body as may 221  
from time to time be authorized to take actions as may be 222  
necessary to perform all or any part of the duty required by the 223  
provision; 224

(5) The maintenance of each pledge or instrument comprising 225  
part of the bond proceedings until the state has fully paid or 226  
provided for the payment of the debt service on the obligations or 227  
met other stated conditions; 228

(6) In the event of default in any payments required to be 229  
made by the bond proceedings, or by any other agreement of the 230  
issuing authority made as part of a contract under which the 231  
obligations were issued or secured, including a credit enhancement 232  
facility, the enforcement of those payments by mandamus, a suit in 233  
equity, an action at law, or any combination of those remedial 234  
actions; 235

(7) The rights and remedies of the holders or owners of 236  
obligations or of book-entry interests in them, and of third 237  
parties under any credit enhancement facility, and provisions for 238  
protecting and enforcing those rights and remedies, including 239  
limitations on rights of individual holders or owners; 240



(8) The replacement of mutilated, destroyed, lost, or stolen obligations;	241 242
(9) The funding, refunding, or advance refunding, or other provision for payment, of obligations that will then no longer be outstanding for purposes of this section or of the applicable bond proceedings;	243 244 245 246
(10) Amendment of the bond proceedings;	247
(11) Any other or additional agreements with the owners of obligations, and such other provisions as the issuing authority determines, including limitations, conditions, or qualifications, relating to any of the foregoing.	248 249 250 251
(F) The great seal of the state or a facsimile of it may be affixed to or printed on the obligations. The obligations requiring execution by or for the issuing authority shall be signed as provided in the bond proceedings. Any obligations may be signed by the individual who on the date of execution is the authorized signer although on the date of these obligations that individual is not an authorized signer. In case the individual whose signature or facsimile signature appears on any obligation ceases to be an authorized signer before delivery of the obligation, that signature or facsimile is nevertheless valid and sufficient for all purposes as if that individual had remained the authorized signer until delivery.	252 253 254 255 256 257 258 259 260 261 262 263
(G) Obligations are investment securities under Chapter 1308. of the Revised Code. Obligations may be issued in bearer or in registered form, registrable as to principal alone or as to both principal and interest, or both, or in certificated or uncertificated form, as the issuing authority determines. Provision may be made for the exchange, conversion, or transfer of obligations and for reasonable charges for registration, exchange, conversion, and transfer. Pending preparation of final	264 265 266 267 268 269 270 271

obligations, the issuing authority may provide for the issuance of  
interim instruments to be exchanged for the final obligations.

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(H) Obligations may be sold at public sale or at private  
sale, in such manner, and at such price at, above or below par,  
all as determined by and provided by the issuing authority in the  
bond proceedings.

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(I) Except to the extent that rights are restricted by the  
bond proceedings, any owner of obligations or provider of a credit  
enhancement facility may by any suitable form of legal proceedings  
protect and enforce any rights relating to obligations or that  
facility under the laws of this state or granted by the bond  
proceedings. Those rights include the right to compel the  
performance of all applicable duties of the issuing authority and  
the state. Each duty of the issuing authority and that authority's  
officers, staff, and employees, and of each state entity or  
agency, or using district or using institution, and its officers,  
members, staff, or employees, undertaken pursuant to the bond  
proceedings, is hereby established as a duty of the entity or  
individual having authority to perform that duty, specifically  
enjoined by law and resulting from an office, trust, or station  
within the meaning of section 2731.01 of the Revised Code. The  
individuals who are from time to time the issuing authority,  
members or officers of the issuing authority, or those members'  
designees acting pursuant to section 154.02 of the Revised Code,  
or the issuing authority's officers, staff, or employees, are not  
liable in their personal capacities on any obligations or  
otherwise under the bond proceedings.

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(J)(1) Subject to Section 2k, 2l, 2m, 2n, 2o, or 15, and  
Section 17, of Article VIII, Ohio Constitution and sections 151.01  
to 151.09 or 151.40 of the Revised Code, the issuing authority  
may, in addition to the authority referred to in division (B) of  
this section, authorize and provide for the issuance of:

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(a) Obligations in the form of bond anticipation notes, and 304  
may provide for the renewal of those notes from time to time by 305  
the issuance of new notes. The holders of notes or appertaining 306  
interest coupons have the right to have debt service on those 307  
notes paid solely from the moneys and special funds that are or 308  
may be pledged to that payment, including the proceeds of bonds or 309  
renewal notes or both, as the issuing authority provides in the 310  
bond proceedings authorizing the notes. Notes may be additionally 311  
secured by covenants of the issuing authority to the effect that 312  
the issuing authority and the state will do all things necessary 313  
for the issuance of bonds or renewal notes in such principal 314  
amount and upon such terms as may be necessary to provide moneys 315  
to pay when due the debt service on the notes, and apply their 316  
proceeds to the extent necessary, to make full and timely payment 317  
of debt service on the notes as provided in the applicable bond 318  
proceedings. In the bond proceedings authorizing the issuance of 319  
bond anticipation notes the issuing authority shall set forth for 320  
the bonds anticipated an estimated schedule of annual principal 321  
payments the latest of which shall be no later than provided in 322  
division (C) of this section. While the notes are outstanding 323  
there shall be deposited, as shall be provided in the bond 324  
proceedings for those notes, from the sources authorized for 325  
payment of debt service on the bonds, amounts sufficient to pay 326  
the principal of the bonds anticipated as set forth in that 327  
estimated schedule during the time the notes are outstanding, 328  
which amounts shall be used solely to pay the principal of those 329  
notes or of the bonds anticipated. 330

(b) Obligations for the refunding, including funding and 331  
retirement, and advance refunding with or without payment or 332  
redemption prior to maturity, of any obligations previously 333  
issued. Refunding obligations may be issued in amounts sufficient 334  
to pay or to provide for repayment of the principal amount, 335

including principal amounts maturing prior to the redemption of 336  
the remaining prior obligations, any redemption premium, and 337  
interest accrued or to accrue to the maturity or redemption date 338  
or dates, payable on the prior obligations, and related financing 339  
costs and any expenses incurred or to be incurred in connection 340  
with that issuance and refunding. Subject to the applicable bond 341  
proceedings, the portion of the proceeds of the sale of refunding 342  
obligations issued under division (J)(1)(b) of this section to be 343  
applied to debt service on the prior obligations shall be credited 344  
to an appropriate separate account in the bond service fund and 345  
held in trust for the purpose by the issuing authority or by a 346  
corporate trustee. Obligations authorized under this division 347  
shall be considered to be issued for those purposes for which the 348  
prior obligations were issued. 349

(2) Except as otherwise provided in sections 151.01 to 151.09 350  
or 151.40 of the Revised Code, bonds or notes authorized pursuant 351  
to division (J) of this section are subject to the provisions of 352  
those sections pertaining to obligations generally. 353

(3) The principal amount of refunding or renewal obligations 354  
issued pursuant to division (J) of this section shall be in 355  
addition to the amount authorized by the general assembly as 356  
referred to in division (B) of the following sections: section 357  
151.03, 151.04, 151.05, 151.06, 151.07, 151.08, 151.09, or 151.40 358  
of the Revised Code. 359

(K) Obligations are lawful investments for banks, savings and 360  
loan associations, credit union share guaranty corporations, trust 361  
companies, trustees, fiduciaries, insurance companies, including 362  
domestic for life and domestic not for life, trustees or other 363  
officers having charge of sinking and bond retirement or other 364  
special funds of the state and political subdivisions and taxing 365  
districts of this state, the sinking fund, the administrator of 366  
workers' compensation subject to the approval of the workers' 367

compensation board, the state teachers retirement system, the 368  
public employees retirement system, the school employees 369  
retirement system, and the Ohio police and fire pension fund, 370  
notwithstanding any other provisions of the Revised Code or rules 371  
adopted pursuant to those provisions by any state agency with 372  
respect to investments by them, and are also acceptable as 373  
security for the repayment of the deposit of public moneys. The 374  
exemptions from taxation in Ohio as provided for in particular 375  
sections of the Ohio Constitution and section 5709.76 of the 376  
Revised Code apply to the obligations. 377

(L)(1) Unless otherwise provided or provided for in any 378  
applicable bond proceedings, moneys to the credit of or in a 379  
special fund shall be disbursed on the order of the issuing 380  
authority. No such order is required for the payment, from the 381  
bond service fund or other special fund, when due of debt service 382  
or required payments under credit enhancement facilities. 383

(2) Payments received by the state under interest rate hedges 384  
entered into as credit enhancement facilities under this chapter 385  
shall be deposited to the credit of the bond service fund for the 386  
obligations to which those credit enhancement facilities relate. 387

(M) The full faith and credit, revenue, and taxing power of 389  
the state are and shall be pledged to the timely payment of debt 390  
service on outstanding obligations as it comes due, all in 391  
accordance with Section 2k, 2l, 2m, 2n, 2o, or 15 of Article VIII, 392  
Ohio Constitution, and section 151.03, 151.04, 151.05, 151.06, 393  
151.07, 151.08, or 151.09 of the Revised Code. Moneys referred to 394  
in Section 5a of Article XII, Ohio Constitution, may not be 395  
pledged or used for the payment of debt service except on 396  
obligations referred to in section 151.06 of the Revised Code. Net 397  
state lottery proceeds, as provided for and referred to in section 398  
3770.06 of the Revised Code, may not be pledged or used for the 399

payment of debt service except on obligations referred to in 400  
section 151.03 of the Revised Code. The state covenants, and that 401  
covenant shall be controlling notwithstanding any other provision 402  
of law, that the state and the applicable officers and agencies of 403  
the state, including the general assembly, shall, so long as any 404  
obligations are outstanding in accordance with their terms, 405  
maintain statutory authority for and cause to be levied, collected 406  
and applied sufficient pledged excises, taxes, and revenues of the 407  
state so that the revenues shall be sufficient in amounts to pay 408  
debt service when due, to establish and maintain any reserves and 409  
other requirements, and to pay financing costs, including costs of 410  
or relating to credit enhancement facilities, all as provided for 411  
in the bond proceedings. Those excises, taxes, and revenues are 412  
and shall be deemed to be levied and collected, in addition to the 413  
purposes otherwise provided for by law, to provide for the payment 414  
of debt service and financing costs in accordance with sections 415  
151.01 to 151.09 of the Revised Code and the bond proceedings. 416

(N) The general assembly may from time to time repeal or 417  
reduce any excise, tax, or other source of revenue pledged to the 418  
payment of the debt service pursuant to Section 2k, 2l, 2m, 2n, 419  
2o, or 15 of Article VIII, Ohio Constitution, and sections 151.01 420  
to 151.09 or 151.40 of the Revised Code, and may levy, collect and 421  
apply any new or increased excise, tax, or revenue to meet the 422  
pledge, to the payment of debt service on outstanding obligations, 423  
of the state's full faith and credit, revenue and taxing power, or 424  
of designated revenues and receipts, except fees, excises or taxes 425  
referred to in Section 5a of Article XII, Ohio Constitution, for 426  
other than obligations referred to in section 151.06 of the 427  
Revised Code and except net state lottery proceeds for other than 428  
obligations referred to in section 151.03 of the Revised Code. 429  
Nothing in division (N) of this section authorizes any impairment 430  
of the obligation of this state to levy and collect sufficient 431  
excises, taxes, and revenues to pay debt service on obligations 432

outstanding in accordance with their terms. 433

(O) Each bond service fund is a trust fund and is hereby 434  
pledged to the payment of debt service on the applicable 435  
obligations. Payment of that debt service shall be made or 436  
provided for by the issuing authority in accordance with the bond 437  
proceedings without necessity for any act of appropriation. The 438  
bond proceedings may provide for the establishment of separate 439  
accounts in the bond service fund and for the application of those 440  
accounts only to debt service on specific obligations, and for 441  
other accounts in the bond service fund within the general 442  
purposes of that fund. 443

(P) Subject to the bond proceedings pertaining to any 444  
obligations then outstanding in accordance with their terms, the 445  
issuing authority may in the bond proceedings pledge all, or such 446  
portion as the issuing authority determines, of the moneys in the 447  
bond service fund to the payment of debt service on particular 448  
obligations, and for the establishment and maintenance of any 449  
reserves for payment of particular debt service. 450

(Q) The issuing authority shall by the fifteenth day of July 451  
of each fiscal year, certify or cause to be certified to the 452  
office of budget and management the total amount of moneys 453  
required during the current fiscal year to meet in full all debt 454  
service on the respective obligations and any related financing 455  
costs payable from the applicable bond service fund and not from 456  
the proceeds of refunding or renewal obligations. The issuing 457  
authority shall make or cause to be made supplemental 458  
certifications to the office of budget and management for each 459  
debt service payment date and at such other times during each 460  
fiscal year as may be provided in the bond proceedings or 461  
requested by that office. Debt service, costs of credit 462  
enhancement facilities, and other financing costs shall be set 463  
forth separately in each certification. If and so long as the 464

moneys to the credit of the bond service fund, together with any  
other moneys available for the purpose, are insufficient to meet  
in full all payments when due of the amount required as stated in  
the certificate or otherwise, the office of budget and management  
shall at the times as provided in the bond proceedings, and  
consistent with any particular provisions in sections 151.03 to  
151.09 and 151.40 of the Revised Code, transfer a sufficient  
amount to the bond service fund from the pledged revenues in the  
case of obligations issued pursuant to section 151.40 of the  
Revised Code, and in the case of other obligations from the  
revenues derived from excises, taxes, and other revenues,  
including net state lottery proceeds in the case of obligations  
referred to in section 151.03 of the Revised Code.

(R) Unless otherwise provided in any applicable bond  
proceedings, moneys to the credit of special funds may be invested  
by or on behalf of the state only in one or more of the following:

(1) Notes, bonds, or other direct obligations of the United  
States or of any agency or instrumentality of the United States,  
or in no-front-end-load money market mutual funds consisting  
exclusively of those obligations, or in repurchase agreements,  
including those issued by any fiduciary, secured by those  
obligations, or in collective investment funds consisting  
exclusively of those obligations;

(2) Obligations of this state or any political subdivision of  
this state;

(3) Certificates of deposit of any national bank located in  
this state and any bank, as defined in section 1101.01 of the  
Revised Code, subject to inspection by the superintendent of  
financial institutions;

(4) The treasurer of state's pooled investment program under  
section 135.45 of the Revised Code.



The income from investments referred to in division (R) of 496  
this section shall, unless otherwise provided in sections 151.01 497  
to 151.09 or 151.40 of the Revised Code, be credited to special 498  
funds or otherwise as the issuing authority determines in the bond 499  
proceedings. Those investments may be sold or exchanged at times 500  
as the issuing authority determines, provides for, or authorizes. 501

(S) The treasurer of state shall have responsibility for 502  
keeping records, making reports, and making payments, relating to 503  
any arbitrage rebate requirements under the applicable bond 504  
proceedings. 505

**Sec. ~~1340.031~~ 1339.69.** (A) For purposes of this section, both 506  
of the following apply: 507

(1) "Qualified beneficiary" means a beneficiary who is 508  
entitled or eligible to receive a distribution of income or 509  
principal whether presently or at some future time that is 510  
predicated upon the happening of an event that is certain. An 511  
event that is certain includes, but is not limited to, the 512  
termination of an intervening life estate. If a trust is subject 513  
to amendment, appointment, or revocation by the grantor, then only 514  
the grantor shall be deemed to be a qualified beneficiary. 515

(2) "Legal representative" includes, but is not limited to, a 516  
parent as a natural guardian of a minor child under section 517  
2111.08 of the Revised Code, an attorney-at-law, a guardian 518  
appointed pursuant to court order, including a guardian of the 519  
person or a guardian of the estate, or a guardian ad litem. 520

(B)(1) Not more than once every six months, a qualified 521  
beneficiary or, if a qualified beneficiary is under a legal 522  
disability, a legal representative of the qualified beneficiary 523  
may request in writing that an inter vivos trustee furnish the 524  
qualified beneficiary or legal representative a report of the 525  
management of the inter vivos trust as provided in this section. 526

(2) Within thirty days after receiving the written request 527  
for a report of the management of the inter vivos trust, the inter 528  
vivos trustee shall furnish the qualified beneficiary or legal 529  
representative that made the request a report that is current to 530  
within five months prior to the date of the request and that shows 531  
an inventory of the trust property and the receipts credited and 532  
expenditures charged to income or principal with respect to the 533  
inter vivos trust for the two years prior to the preparation of 534  
the report. 535

(3) If the inter vivos trustee does not comply with the 536  
request for a report under this section, the qualified beneficiary 537  
or legal representative that made the request may file an 538  
appropriate action in a court of competent jurisdiction to compel 539  
the inter vivos trustee to furnish the report. 540

~~(B)~~(C) A current report furnished by an inter vivos trustee 541  
under this section or during the usual course of business has 542  
binding legal effect regarding matters described or disclosed in 543  
the report on the qualified beneficiary who received the report, 544  
on the legal representative who received the report on behalf of 545  
the qualified beneficiary who is under legal disability, and on 546  
the heirs and assigns of the qualified beneficiary who received 547  
the report unless, notwithstanding section 2305.22 of the Revised 548  
Code, the qualified beneficiary, the legal representative of the 549  
qualified beneficiary, or any of the heirs or assigns of the 550  
qualified beneficiary institutes an action regarding matters 551  
described or disclosed in the report against the inter vivos 552  
trustee within two years from the date the report is furnished to 553  
the qualified beneficiary or legal representative of the qualified 554  
beneficiary. 555

~~(C)~~(D) No provision in this section eliminates any other 556  
rights or causes of action that a qualified beneficiary of an 557  
inter vivos trust, a legal representative of a qualified 558

beneficiary of an inter vivos trust, or any of the heirs or 559  
assigns of a qualified beneficiary of an inter vivos trust may 560  
have against the inter vivos trustee under any other section of 561  
the Revised Code. 562

**Sec. 1340.35.** Nothing in ~~section 2109.67,~~ sections ~~1340.01~~ 563  
1340.40 to ~~1340.13~~ 1340.91, or any other section of the Revised 564  
Code limits or restricts the definition of income in division (A) 565  
of section 1340.32 of the Revised Code or limits or restricts a 566  
governing board of an institution from requesting, or a trustee 567  
from making, distributions from an institutional trust fund in 568  
accordance with sections 1340.31 to 1340.37 of the Revised Code. 569

**Sec. 1340.40.** As used in sections 1340.40 to 1340.91 of the 570  
Revised Code: 571

(A) "Accounting period" means a calendar year unless another 572  
twelve-month period is selected by a fiduciary. "Accounting 573  
period" includes a portion of a calendar year or other 574  
twelve-month period that begins when an income interest begins or 575  
ends when an income interest ends. 576

(B) "Beneficiary" includes, in the case of a decedent's 577  
estate, an heir, legatee, and devisee and, in the case of a trust, 578  
an income beneficiary and a remainder beneficiary. 579

(C) "Fiduciary" means a personal representative or a trustee. 580  
The term includes an executor, administrator, successor personal 581  
representative, special administrator, and a person performing 582  
substantially the same function. 583

(D) "Income" means money or property that a fiduciary 584  
receives as current return from a principal asset. "Income" 585  
includes a portion of receipts from a sale, exchange, or 586  
liquidation of a principal asset, to the extent provided in 587  
sections 1340.57 to 1340.77 of the Revised Code. 588

(E) "Income beneficiary" means a person to whom net income of a trust is or may be payable. 589  
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(F) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require or authorize it to be distributed in the trustee's discretion. 591  
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(G) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute. 595  
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(H) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under sections 1340.40 to 1340.91 of the Revised Code to or from income during the period. 598  
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(I) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity. 603  
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(J) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates. 608  
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(K) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends. 610  
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(L) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct. 612  
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(M) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court. 616  
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Sec. 1340.41. (A) In allocating receipts and disbursements to 618  
or between principal and income, and with respect to any matter 619  
within the scope of sections 1340.46 to 1340.53 of the Revised 620  
Code, all of the following apply: 621

(1) A fiduciary shall administer a trust or estate in 622  
accordance with the terms of the trust or the will, even if there 623  
is a different provision in sections 1340.40 to 1340.91 of the 624  
Revised Code. 625

(2) A fiduciary may administer a trust or estate by the 626  
exercise of a discretionary power of administration given to the 627  
fiduciary by the terms of the trust or the will, even if the 628  
exercise of the power produces a result different from a result 629  
required or permitted by any provision of sections 1340.40 to 630  
1340.91 of the Revised Code. 631

(3) A fiduciary shall administer a trust or estate in 632  
accordance with sections 1340.40 to 1340.91 of the Revised Code if 633  
the terms of the trust or the will do not contain a different 634  
provision or do not give the fiduciary a discretionary power of 635  
administration. 636

(4) A fiduciary shall add a receipt, or charge a 637  
disbursement, to principal to the extent that the terms of the 638  
trust and any provision of sections 1340.40 to 1340.91 of the 639  
Revised Code do not provide for allocating the receipt or 640  
disbursement to or between principal and income. 641

(B) In exercising the power to adjust under division (A) of 642  
section 1340.42 of the Revised Code or a discretionary power of 643  
administration regarding a matter within the scope of sections 644  
1340.40 to 1340.91 of the Revised Code, whether granted by the 645  
terms of a trust, a will, or a provision of any such section, a 646  
fiduciary shall administer a trust or estate impartially, based on 647  
what is fair and reasonable to all of the beneficiaries, except to 648

the extent that the terms of the trust or the will clearly  
manifest an intention that the fiduciary shall or may favor one or  
more of the beneficiaries. A determination in accordance with  
sections 1340.40 to 1340.91 of the Revised Code is presumed to be  
fair and reasonable to all of the beneficiaries.

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(C) In allocating receipts and disbursements to or between  
principal and income, a fiduciary may credit a receipt or charge  
an expenditure to income or principal with respect to a decedent's  
estate, a trust, or property passing to a trust, that is eligible  
for a federal estate tax marital deduction or Ohio estate tax  
marital deduction, or for a federal estate tax charitable  
deduction or Ohio estate tax charitable deduction, or for a  
federal gift tax marital deduction or federal gift tax charitable  
deduction only to the extent that the credit of the receipt or  
charge of the expenditure will not cause the reduction or loss of  
the deduction.

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(D) As used in division (C) of this section:

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(1) "Federal estate tax charitable deduction" means the  
estate tax charitable deduction allowed by subtitle B, Chapter 11  
of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2055, as  
amended.

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(2) "Federal estate tax marital deduction" means the estate  
tax marital deduction allowed by subtitle B, Chapter 11 of the  
"Internal Revenue Code of 1986," 26 U.S.C.A. 2056, as amended.

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(3) "Federal gift tax charitable deduction" means the gift  
tax charitable deduction allowed by subtitle B, Chapter 12 of the  
"Internal Revenue Code of 1986," 26 U.S.C.A. 2522, as amended.

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(4) "Federal gift tax marital deduction" means the gift tax  
marital deduction allowed by subtitle B, Chapter 12 of the  
"Internal Revenue Code of 1986," 26 U.S.C.A. 2523, as amended.

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(5) "Ohio estate tax charitable deduction" means the estate

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tax charitable deduction allowed by division (A) of section 680  
5731.17 of the Revised Code. 681

(6) "Ohio estate tax marital deduction" means the estate tax 682  
marital deduction allowed by section 5731.15 of the Revised Code. 683

**Sec. 1340.42.** (A) A trustee may adjust between principal and 684  
income to the extent the trustee considers necessary if the 685  
trustee invests and manages the trust assets as a prudent 686  
investor, the terms of the trust describe the amount that may or 687  
must be distributed to a beneficiary by referring to the trust's 688  
income, and the trustee determines, after applying division (A) of 689  
section 1340.41 of the Revised Code, that the trustee is unable to 690  
comply with division (B) of that section. 691

(B) In deciding whether and to what extent to exercise the 692  
power conferred by division (A) of this section, a trustee shall 693  
consider all factors relevant to the trust and its beneficiaries, 694  
including all of the following factors to the extent they are 695  
relevant: 696

(1) The nature, purpose, and expected duration of the trust; 697

(2) The intent of the settlor; 698

(3) The identity and circumstances of the beneficiaries; 699

(4) The needs for liquidity, regularity of income, and 700  
preservation and appreciation of capital; 701

(5) The assets held in the trust; the extent to which they 702  
consist of financial assets, interests in closely held 703  
enterprises, tangible and intangible personal property, or real 704  
property; the extent to which an asset is used by a beneficiary; 705  
and whether an asset was purchased by the trustee or received from 706  
the settlor; 707

(6) The net amount allocated to income under sections 708

1340.40, 1340.41, and 1340.46 to 1340.91 of the Revised Code; and 709  
the increase or decrease in the value of the principal assets, 710  
which the trustee may estimate as to assets for which market 711  
values are not readily available; 712

(7) Whether and to what extent the terms of the trust give 713  
the trustee the power to invade principal or accumulate income or 714  
prohibit the trustee from invading principal or accumulating 715  
income, and the extent to which the trustee has exercised a power 716  
from time to time to invade principal or accumulate income; 717

(8) The actual and anticipated effect of economic conditions 718  
on principal and income and effects of inflation and deflation; 719

(9) The anticipated tax consequences of an adjustment. 720

(C) A trustee shall not make an adjustment if any of the 721  
following applies: 722

(1) The adjustment diminishes the income interest in a trust 723  
that requires all of the income to be paid at least annually to a 724  
spouse and for which an estate tax or gift tax marital deduction 725  
would be allowed, in whole or in part, if the trustee did not have 726  
the power to make the adjustment. 727

(2) The adjustment reduces the actuarial value of the income 728  
interest in a trust to which a person transfers property with the 729  
intent to qualify for a gift tax exclusion. 730

(3) The adjustment changes the amount payable to a 731  
beneficiary as a fixed annuity or a fixed fraction of the value of 732  
the trust assets. 733

(4) The adjustment is from any amount that is permanently set 734  
aside for charitable purposes under a will or the terms of a trust 735  
unless both income and principal are so set aside. 736

(5) If possessing or exercising the power to make the 737  
adjustment causes an individual to be treated as the owner of all 738



or part of the trust for income tax purposes, and the individual 739  
would not be treated as the owner if the trustee did not possess 740  
the power to make the adjustment; 741

(6) If possessing or exercising the power to make the 742  
adjustment causes all or part of the trust assets to be included 743  
for estate tax purposes in the estate of an individual who has the 744  
power to remove a trustee or appoint a trustee, or both, and the 745  
assets would not be included in the estate of the individual if 746  
the trustee did not possess the power to make the adjustment; 747

(7) If the trustee is a beneficiary of the trust; 748

(8) If the trustee is not a beneficiary, but the adjustment 749  
would benefit the trustee directly or indirectly. 750

(D) If division (C)(5), (6), (7), or (8) of this section 751  
applies to a trustee and there is more than one trustee, a 752  
cotrustee to whom the provision does not apply may make the 753  
adjustment unless the exercise of the power by the remaining 754  
trustee or trustees is not permitted by the terms of the trust. 755

(E) A trustee may release the entire power conferred by 756  
division (A) of this section or may release only the power to 757  
adjust from income to principal or the power to adjust from 758  
principal to income if the trustee is uncertain about whether 759  
possessing or exercising the power will cause a result described 760  
in division (C)(1), (2), (3), (4), (5), (6), or (8) of this 761  
section or if the trustee determines that possessing or exercising 762  
the power will or may deprive the trust of a tax benefit or impose 763  
a tax burden not described in division (C) of this section. The 764  
release may be permanent or for a specified period, including a 765  
period measured by the life of an individual. 766

(F) Terms of a trust that limit the power of a trustee to 767  
make an adjustment between principal and income do not affect the 768  
application of this section unless it is clear from the terms of 769

the trust that the terms are intended to deny the trustee the 770  
power of adjustment conferred by division (A) of this section. 771

(G) The liability of a trustee relative to the exercise of 772  
adjustment authority conferred by divisions (A) to (F) of this 773  
section shall be limited in the following manner: 774

(1) Unless a court determines that a trustee has acted in bad 775  
faith, no trustee shall be held liable for damages for choosing 776  
not to make an adjustment. 777

(2) Unless a court determines that a trustee has acted in bad 778  
faith with respect to an adjustment, the sole remedy to be ordered 779  
by a court shall be a prospective correction of the adjustment. 780

(3) For purposes of this section, and subject to division (C) 782  
of this section, from time to time a trustee may make a 783  
safe-harbor adjustment to increase net trust accounting income up 784  
to and including an amount equal to four per cent of the trust's 785  
fair market value determined as of the first business day of the 786  
current year. If a trustee determines to make this safe-harbor 787  
adjustment, the propriety of this adjustment shall be conclusively 788  
presumed. Nothing in division (G)(3) of this section prohibits any 789  
other type of adjustment authorized under any provision of this 790  
section. 791

**Sec. 1340.46.** After a decedent dies, in the case of an 792  
estate, or after an income interest in a trust ends, all of the 793  
following apply: 794

(A) The fiduciary of the estate or of the terminating income 795  
interest shall determine, under the provisions of sections 1340.51 796  
to 1340.86 of the Revised Code that apply to trustees and under 797  
division (E) of this section, the amount of net income and net 798  
principal receipts received from property specifically given to a 799

beneficiary. The fiduciary shall distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

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(B) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the provisions of sections 1340.51 to 1340.86 of the Revised Code that apply to trustees and by doing all of the following:

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(1) Including in net income all income from property used to discharge liabilities;

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

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(3) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

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(C) A fiduciary shall distribute to a beneficiary that receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under division (B) of this section or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other

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amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

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(D) A fiduciary shall distribute the net income remaining after distributions required by division (C) of this section, in the manner described in section 1340.47 of the Revised Code, to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable, general power of appointment over the trust.

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(E) A fiduciary shall not reduce principal or income receipts from property described in division (A) of this section because of a payment described in section 1340.81 or 1340.82 of the Revised Code to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

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**Sec. 1340.47.** (A) Each beneficiary described in division (D) of section 1340.46 of the Revised Code is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the

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distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one that does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of the decedent's death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

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(B) In determining a beneficiary's share of net income for the purpose of this section, all of the following apply:

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

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

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

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

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(C) If a fiduciary does not distribute all of the collected but undistributed net income described in divisions (A) and (B) of this section to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest

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of each. 893

(D) To the extent that a fiduciary considers it appropriate, 894  
the fiduciary may apply the provisions of divisions (A) to (C) of 895  
this section to any net gain or loss, realized after the date of 896  
the decedent's death or an income interest termination or earlier 897  
distribution date, from the disposition of a principal asset to 898  
which such provisions apply. 899

**Sec. 1340.51.** (A) An income beneficiary is entitled to net 900  
income from the date on which the income interest begins. An 901  
income interest begins on the date specified in the terms of the 902  
trust or, if no date is specified, on the date an asset becomes 903  
subject to a trust or successive income interest. 904

(B) An asset becomes subject to a trust on any of the 905  
following dates: 906

(1) The date it is transferred to the trust, in the case of 907  
an asset that is transferred to a trust during the transferor's 908  
life; 909

(2) The date of a testator's death, in the case of an asset 910  
that becomes subject to a trust by reason of a will, even if there 911  
is an intervening period of administration of the testator's 912  
estate; 913

(3) The date of an individual's death, in the case of an 914  
asset that is transferred to a fiduciary by a third party because 915  
of the individual's death. 916

(C) An asset becomes subject to a successive income interest 917  
on the day after the preceding income interest ends, as determined 918  
under division (D) of this section, even if there is an 919  
intervening period of administration to wind up the preceding 920  
income interest. 921

(D) An income interest ends on the day before an income 922

beneficiary dies or another terminating event occurs, or on the  
last day of a period during which there is no beneficiary to whom  
a trustee may distribute income.

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Sec. 1340.52. (A) A trustee shall allocate to principal an  
income receipt or disbursement other than one to which division  
(A) of section 1340.46 of the Revised Code applies, if its due  
date occurs before a decedent dies in the case of an estate or  
before an income interest begins in the case of a trust or  
successive income interest.

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

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(C) For the purposes of this section, an item of income or an  
obligation is due on the date the payer is required to make a  
payment. If a payment date is not stated, there is no due date.  
Distributions to shareholders or other owners from an entity to  
which section 1340.57 of the Revised Code applies are deemed to be  
due on the date fixed by the entity for determining who is  
entitled to receive the distribution or, if no date is fixed, on  
the declaration date for the distribution. A due date is periodic  
for receipts or disbursements that must be paid at regular  
intervals under a lease or an obligation to pay interest or if an  
entity customarily makes distributions at regular intervals.

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Sec. 1340.53. (A) As used in this section, "undistributed

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income" means net income received before the date on which an 953  
income interest ends. "Undistributed income" excludes an item of 954  
income or expense that is due or accrued or net income that has 955  
been added or is required to be added to principal under the terms 956  
of the trust. 957

(B) When a mandatory income interest ends, the trustee shall 958  
pay to a mandatory income beneficiary that survives that date, or 959  
the estate of a deceased mandatory income beneficiary whose death 960  
causes the interest to end, the beneficiary's share of the 961  
undistributed income that is not disposed of under the terms of 962  
the trust, unless the beneficiary has an unqualified power to 963  
revoke more than five per cent of the trust immediately before the 964  
income interest ends. If the beneficiary has such power, the 965  
undistributed income from the portion of the trust that may be 966  
revoked shall be added to principal. 967

(C) When a trustee's obligation to pay a fixed annuity or a 968  
fixed fraction of the value of the trust's assets ends, the 969  
trustee shall prorate the final payment if and to the extent 970  
required by applicable law to accomplish a purpose of the trust or 971  
its settlor relating to income, gift, estate, or other tax 972  
requirements. 973

**Sec. 1340.57.** (A) As used in this section, "entity" means a 974  
corporation, partnership, limited liability company, regulated 975  
investment company, real estate investment trust, common trust 976  
fund, or any other organization in which a trustee has an interest 977  
other than a trust or estate to which section 1340.58 of the 978  
Revised Code applies, a business or activity to which section 979  
1340.59 of the Revised Code applies, or an asset-backed security 980  
to which section 1340.77 of the Revised Code applies. 981

(B) Except as otherwise provided in this section, a trustee 982



<u>shall allocate to income money received from an entity.</u>	983
<u>(C) A trustee shall allocate all of the following receipts</u>	984
<u>from an entity to principal:</u>	985
<u>(1) Property other than money;</u>	986
<u>(2) Money received in one distribution or a series of related</u>	987
<u>distributions in exchange for part or all of a trust's interest in</u>	988
<u>the entity;</u>	989
<u>(3) Money received in total or partial liquidation of the</u>	990
<u>entity;</u>	991
<u>(4) Money received from an entity that is a regulated</u>	992
<u>investment company or a real estate investment trust if the money</u>	993
<u>distributed is a capital gain dividend for federal income tax</u>	994
<u>purposes.</u>	995
<u>(D) Money is received in partial liquidation in either of the</u>	996
<u>following circumstances:</u>	997
<u>(1) To the extent that the entity, at or near the time of a</u>	998
<u>distribution, indicates that it is a distribution in partial</u>	999
<u>liquidation;</u>	1000
<u>(2) If the total amount of money and property received in a</u>	1001
<u>distribution or series of related distributions is greater than</u>	1002
<u>twenty per cent of the entity's gross assets, as shown by the</u>	1003
<u>entity's year-end financial statements immediately preceding the</u>	1004
<u>initial receipt.</u>	1005
<u>(E) Money is not received in partial liquidation, nor shall</u>	1006
<u>it be taken into account under division (D)(2) of this section, to</u>	1007
<u>the extent that it does not exceed the amount of income tax that a</u>	1008
<u>trustee or beneficiary must pay on taxable income of the entity</u>	1009
<u>that distributes the money.</u>	1010
<u>(F) A trustee may rely upon a statement made by an entity</u>	1011
<u>about the source or character of a distribution if the statement</u>	1012

is made at or near the time of distribution by the entity's board 1013  
of directors or other person or group of persons authorized to 1014  
exercise powers to pay money or transfer property comparable to 1015  
those of a corporation's board of directors. 1016

**Sec. 1340.58.** A trustee shall allocate to income an amount 1017  
received as a distribution of income from a trust or an estate in 1018  
which the trust has an interest other than a purchased interest, 1019  
and shall allocate to principal an amount received as a 1020  
distribution of principal from such a trust or estate. If a 1021  
trustee purchases an interest in a trust that is an investment 1022  
entity, or a decedent or donor transfers an interest in such a 1023  
trust to a trustee, section 1340.57 or 1340.77 of the Revised Code 1024  
applies to a receipt from the trust. 1025

**Sec. 1340.59.** (A) If a trust that conducts a business or 1026  
other activity determines that it is in the best interest of all 1027  
the beneficiaries to account separately for the business or 1028  
activity instead of accounting for it as part of the trust's 1029  
general accounting records, the trustee may maintain separate 1030  
accounting records for its transactions, whether or not its assets 1031  
are segregated from other trust assets. 1032

(B) A trustee that accounts separately for a business or 1033  
other activity may determine the extent to which its net cash 1034  
receipts must be retained for working capital, the acquisition or 1035  
replacement of fixed assets, and other reasonably foreseeable 1036  
needs of the business or activity, and the extent to which the 1037  
remaining net cash receipts are accounted for as principal or 1038  
income in the trust's general accounting records. If a trustee 1039  
sells assets of the business or other activity, other than in the 1040  
ordinary course of the business or activity, the trustee shall 1041  
account for the net amount received as principal in the trust's 1042  
general accounting records to the extent the trustee determines 1043

<u>that the amount received is no longer required in the conduct of</u>	1044
<u>the business.</u>	1045
<u>(C) Activities for which a trustee may maintain separate</u>	1046
<u>accounting records under this section include all of the</u>	1047
<u>following:</u>	1048
<u>(1) Retail, manufacturing, service, and other traditional</u>	1049
<u>business activities;</u>	1050
<u>(2) Farming;</u>	1051
<u>(3) Raising and selling livestock and other animals;</u>	1052
<u>(4) Management of rental properties;</u>	1053
<u>(5) Extraction of minerals and other natural resources;</u>	1054
<u>(6) Timber operations;</u>	1055
<u>(7) Activities to which section 1340.76 of the Revised Code</u>	1056
<u>applies.</u>	1057
<b><u>Sec. 1340.63. A trustee shall allocate to principal all of</u></b>	1058
<b><u>the following:</u></b>	1059
<u>(A) To the extent not allocated to income under sections</u>	1060
<u>1340.40 to 1340.91 of the Revised Code, assets received from a</u>	1061
<u>transferor during the transferor's lifetime, a decedent's estate,</u>	1062
<u>a trust with a terminating income interest, or a payer under a</u>	1063
<u>contract naming the trust or its trustee as beneficiary;</u>	1064
<u>(B) Money or other property received from the sale, exchange,</u>	1065
<u>liquidation, or change in form of a principal asset, including</u>	1066
<u>realized profit, subject to sections 1340.57 to 1340.77 of the</u>	1067
<u>Revised Code;</u>	1068
<u>(C) Amounts recovered from third parties to reimburse the</u>	1069
<u>trust because of disbursements described in division (A)(7) of</u>	1070
<u>section 1340.82 of the Revised Code or for other reasons to the</u>	1071

extent not based on the loss of income; 1072

(D) Proceeds of property taken by eminent domain, but a 1073  
separate award made for the loss of income with respect to an 1074  
accounting period during which a current income beneficiary had a 1075  
mandatory income interest is income; 1076

(E) Net income received in an accounting period during which 1077  
there is no beneficiary to whom a trustee may or must distribute 1078  
income; 1079

(F) Other receipts as provided in sections 1340.70 to 1340.77 1080  
of the Revised Code. 1081

**Sec. 1340.64.** To the extent that a trustee accounts for 1082  
receipts from rental property pursuant to this section, the 1083  
trustee shall allocate to income an amount received as rent of 1084  
real or personal property, including an amount received for 1085  
cancellation or renewal of a lease. An amount received as a 1086  
refundable deposit, including a security deposit or a deposit that 1087  
is to be applied as rent for future periods, shall be added to 1088  
principal and held subject to the terms of the lease and shall not 1089  
be available for distribution to a beneficiary until the trustee's 1090  
contractual obligations have been satisfied with respect to that 1091  
amount. 1092

**Sec. 1340.65.** (A) An amount received as interest, whether 1093  
determined at a fixed, variable, or floating rate, on an 1094  
obligation to pay money to the trustee, including an amount 1095  
received as consideration for prepaying principal, shall be 1096  
allocated to income without any provision for amortization of 1097  
premium. 1098

(B) A trustee shall allocate to principal an amount received 1099  
from the sale, redemption, or other disposition of an obligation 1100  
to pay money to the trustee more than one year after the date it 1101

is purchased or acquired by the trustee, including an obligation 1102  
whose purchase price or value when it is acquired is less than its 1103  
value at maturity. If the obligation matures within one year after 1104  
the date it is purchased or acquired by the trustee, an amount 1105  
received in excess of its purchase price or its value when 1106  
acquired by the trust shall be allocated to income. 1107

(C) This section does not apply to an obligation to which 1108  
section 1340.71, 1340.72, 1340.73, 1340.74, 1340.76, or 1340.77 of 1109  
the Revised Code applies. 1110

**Sec. 1340.66.** (A) Except as otherwise provided in division 1111  
(B) of this section, a trustee shall allocate to principal the 1112  
proceeds of a life insurance policy or other contract in which the 1113  
trust or its trustee is named as beneficiary, including a contract 1114  
that insures the trust or its trustee against loss for damage to, 1115  
destruction of, or loss of title to a trust asset. The trustee 1116  
shall allocate dividends on an insurance policy to income if the 1117  
premiums on the policy are paid from income, and to principal if 1118  
the premiums are paid from principal. 1119

(B) A trustee shall allocate to income proceeds of a contract 1120  
that insures the trustee against loss of occupancy or other use by 1121  
an income beneficiary, loss of income, or, subject to section 1122  
1340.59 of the Revised Code, loss of profits from a business. 1123

(C) This section does not apply to a contract to which 1125  
section 1340.71 of the Revised Code applies. 1126

**Sec. 1340.70.** If a trustee determines that an allocation 1128  
between principal and income required by section 1340.71, 1340.72, 1129  
1340.73, 1340.74, or 1340.77 of the Revised Code is insubstantial, 1130  
the trustee may allocate the entire amount to principal unless one 1131  
of the circumstances described in division (C) of section 1340.42 1132

of the Revised Code applies to the allocation. This power may be 1133  
exercised by a cotrustee in the circumstances described in 1134  
division (D) of that section and may be released for the reasons 1135  
and in the manner described in division (E) of the section. An 1136  
allocation is presumed to be insubstantial if either of the 1137  
following applies: 1138

(A) The amount of the allocation would increase or decrease 1139  
net income in an accounting period, as determined before the 1140  
allocation, by less than ten per cent. 1141

(B) The value of the asset producing the receipt for which 1142  
the allocation would be made is less than ten per cent of the 1143  
total value of the trust's assets at the beginning of the 1144  
accounting period. 1145

**Sec. 1340.71.** (A) As used in this section, "payment" means a 1146  
payment that a trustee may receive over a fixed number of years or 1147  
during the life of one or more individuals because of services 1148  
rendered or property transferred to the payer in exchange for 1149  
future payments. "Payment" includes a payment made in money or 1150  
property from the payer's general assets or from a separate fund 1151  
created by the payer, including a private or commercial annuity, 1152  
an individual retirement account, or a pension, profit-sharing, 1153  
stock-bonus, or stock-ownership plan. 1154

(B) To the extent that a payment is characterized as interest 1155  
or a dividend or a payment made in lieu of interest or a dividend, 1156  
a trustee shall allocate it to income. The trustee shall allocate 1157  
to principal the balance of the payment and any other payment 1158  
received in the same accounting period that is not characterized 1159  
as interest, a dividend, or an equivalent payment. 1160

(C) If no part of a payment is characterized as interest, a 1161  
dividend, or an equivalent payment, and all or part of the payment 1162

is required to be made, a trustee shall allocate to income ten per cent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this division, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal. 1163  
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(D) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than is provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction. 1171  
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(E) This section does not apply to payments to which section 1340.72 of the Revised Code applies. 1175  
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**Sec. 1340.72.** (A) As used in this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. "Liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. "Liquidating asset" excludes a payment subject to section 1340.71 of the Revised Code, resources subject to section 1340.73 of the Revised Code, timber subject to section 1340.74 of the Revised Code, an activity subject to section 1340.76 of the Revised Code, an asset subject to section 1340.77 of the Revised Code, or any asset for which the trustee establishes a reserve for depreciation under section 1340.83 of the Revised Code. 1177  
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(B) A trustee shall allocate to income ten per cent of the receipts from a liquidating asset and the balance to principal. 1191  
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Sec. 1340.73. (A) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate the receipts in accordance with all of the following: 1193  
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(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income. 1197  
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(2) If received from a production payment, a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal. 1199  
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(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety per cent shall be allocated to principal and the balance to income. 1203  
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(4) If an amount is received from a working interest or any other interest not provided for in division (A)(1), (2), or (3) of this section, ninety per cent of the net amount received shall be allocated to principal and the balance to income. 1207  
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(B) An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, ninety per cent of the amount shall be allocated to principal and the balance to income. 1211  
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(C) This section applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust. 1215  
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(D) If a trust owns an interest in minerals, water, or other natural resources on the effective date of this section, the trustee may allocate receipts from the interest as provided in this section or in the manner used by the trustee before that date. If the trust acquires an interest in minerals, water, or 1218  
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other natural resources after the effective date of this section, 1223  
the trustee shall allocate receipts from the interest as provided 1224  
in this section. 1225

Sec. 1340.74. (A) To the extent that a trustee accounts for 1226  
receipts from the sale of timber and related products pursuant to 1227  
this section, the trustee shall allocate the net receipts in 1228  
accordance with all of the following: 1229

(1) To income, to the extent that the amount of timber 1230  
removed from the land does not exceed the rate of growth of the 1231  
timber during the accounting periods in which a beneficiary has a 1232  
mandatory income interest; 1233

(2) To principal, to the extent that the amount of timber 1234  
removed from the land exceeds the rate of growth of the timber or 1235  
the net receipts are from the sale of standing timber; 1236

(3) To or between income and principal, if the net receipts 1237  
are from the lease of timberland or from a contract to cut timber 1238  
from land owned by a trust, by determining the amount of timber 1239  
removed from the land under the lease or contract and applying 1240  
divisions (A)(1) and (2) of this section; 1241

(4) To principal, to the extent that advance payments, 1242  
bonuses, and other payments are not allocated pursuant to division 1243  
(A)(1), (2), or (3) of this section. 1244

(B) In determining net receipts to be allocated pursuant to 1245  
division (A) of this section, a trustee shall deduct and transfer 1246  
to principal a reasonable amount for depletion. 1247

(C) This section applies whether or not a decedent or 1248  
transferor was harvesting timber from the property before it 1249  
became subject to the trust. 1250

(D) If a trust owns an interest in timberland on the 1251  
effective date of this section, the trustee may allocate net 1252

receipts from the sale of timber and related products as provided 1253  
in this section or in the manner used by the trustee before that 1254  
date. If the trust acquires an interest in timberland after the 1255  
effective date of this section, the trustee shall allocate net 1256  
receipts from the sale of timber and related products as provided 1257  
in this section. 1258

**Sec. 1340.75.** (A) If a marital deduction is allowed for all 1259  
or part of a trust whose assets consist substantially of property 1260  
that does not provide the spouse with sufficient income from or 1261  
use of the trust assets, and if the amounts that the trustee 1262  
transfers from principal to income under section 1340.42 of the 1263  
Revised Code and distributes to the spouse from principal pursuant 1264  
to the terms of the trust are insufficient to provide the spouse 1265  
with the beneficial enjoyment required to obtain the marital 1266  
deduction, the spouse may require the trustee to make property 1267  
productive of income, convert property within a reasonable time, 1268  
or exercise the power conferred by division (A) of that section. 1269  
The trustee may decide which action or combination of actions to 1270  
take. 1271

(B) In cases not governed by division (A) of this section, 1272  
proceeds from the sale or other disposition of an asset shall be 1273  
principal without regard to the amount of income the asset 1274  
produces during any accounting period. 1275

**Sec. 1340.76.** (A) As used in this section, "derivative" means 1276  
a contract or financial instrument or a combination of contracts 1277  
and financial instruments that gives a trust the right or 1278  
obligation to participate in some or all changes in the price of a 1279  
tangible or intangible asset or group of assets, or changes in a 1280  
rate, an index of prices or rates, or other market indicator for 1281  
an asset or a group of assets. 1282

(B) To the extent that a trustee does not account under 1283  
section 1340.59 of the Revised Code for transactions in 1284  
derivatives, the trustee shall allocate to principal receipts from 1285  
and disbursements made in connection with those transactions. 1286

(C) If a trustee grants an option to buy property from the 1287  
trust, whether or not the trust owns the property when the option 1288  
is granted, grants an option that permits another person to sell 1289  
property to the trust, or acquires an option to buy property for 1290  
the trust or an option to sell an asset owned by the trust, and 1291  
the trustee or other owner of the asset is required to deliver the 1292  
asset if the option is exercised, an amount received for granting 1293  
the option shall be allocated to principal. An amount paid to 1294  
acquire the option shall be paid from principal. A gain or loss 1295  
realized upon the exercise of an option, including an option 1296  
granted to a settlor of the trust for services rendered, shall be 1297  
allocated to principal. 1298

**Sec. 1340.77.** (A) As used in this section, "asset-backed 1299  
security" means an asset whose value is based upon the right it 1300  
gives the owner to receive distributions from the proceeds of 1301  
financial assets that provide collateral for the security. 1302  
"Asset-backed security" includes an asset that gives the owner the 1303  
right to receive from the collateral financial assets only the 1304  
interest or other current return or only the proceeds other than 1305  
interest or current return. "Asset-backed security" excludes an 1306  
asset to which section 1340.57 or 1340.71 of the Revised Code 1307  
applies. 1308

(B) If a trust receives a payment from interest or other 1309  
current return and from other proceeds of the collateral financial 1310  
assets, the trustee shall allocate to income the portion of the 1311  
payment that the payer identifies as being from interest or other 1312  
current return and shall allocate the balance of the payment to 1313

principal. 1314

(C) If a trust receives one or more payments in exchange for 1315  
the trust's entire interest in an asset-backed security in one 1316  
accounting period, the trustee shall allocate the payments to 1317  
principal. If a payment is one of a series of payments that will 1318  
result in the liquidation of the trust's interest in the security 1319  
over more than one accounting period, the trustee shall allocate 1320  
ten per cent of the payment to income and the balance to 1321  
principal. 1322

**Sec. 1340.81.** A trustee shall make all of the following 1323  
disbursements from income to the extent that they are not 1324  
disbursements to which division (B)(2) or (3) of section 1340.46 1325  
of the Revised Code applies: 1326

(A) One-half of the regular compensation of the trustee and 1327  
of any person providing investment advisory or custodial services 1328  
to the trustee; 1329

(B) One-half of all expenses for accountings, judicial 1330  
proceedings, or other matters that involve both the income and 1331  
remainder interests; 1332

(C) All of the other ordinary expenses incurred in connection 1333  
with the administration, management, or preservation of trust 1334  
property and the distribution of income, including interest, 1335  
ordinary repairs, regularly recurring taxes assessed against 1336  
principal, and expenses of a proceeding or other matter that 1337  
concerns primarily the income interest; 1338

(D) Recurring premiums on insurance covering the loss of a 1339  
principal asset or the loss of income from or use of the asset. 1340

**Sec. 1340.82.** (A) A trustee shall make all of the following 1341  
disbursements from principal: 1342

(1) The remaining one-half of the disbursements described in 1343  
divisions (A) and (B) of section 1340.81 of the Revised Code; 1344

(2) All of the trustee's compensation calculated on principal 1345  
as a fee for acceptance, distribution, or termination, and 1346  
disbursements made to prepare property for sale; 1347

(3) Payments on the principal of a trust debt; 1348

(4) Expenses of a proceeding that concerns primarily 1349  
principal, including a proceeding to construe the trust or to 1350  
protect the trust or its property; 1351

(5) Premiums paid on a policy of insurance not described in 1352  
division (D) of section 1340.81 of the Revised Code of which the 1353  
trust is the owner and beneficiary; 1354

(6) Estate, inheritance, and other transfer taxes, including 1355  
penalties, apportioned to the trust; 1356

(7) Disbursements related to environmental matters, including 1357  
reclamation, assessing environmental conditions, remedying and 1358  
removing environmental contamination, monitoring remedial 1359  
activities and the release of substances, preventing future 1360  
releases of substances, collecting amounts from persons liable or 1361  
potentially liable for the costs of those activities, penalties 1362  
imposed under environmental laws or regulations and other payments 1363  
made to comply with those laws or regulations, statutory or common 1364  
law claims by third parties, and defending claims based on 1365  
environmental matters. 1366

(B) If a principal asset is encumbered with an obligation 1367  
that requires income from that asset to be paid directly to the 1368  
creditor, the trustee shall transfer from principal to income an 1369  
amount equal to the income paid to the creditor in reduction of 1370  
the principal balance of the obligation. 1371

**Sec. 1340.83.** (A) As used in this section, "depreciation" 1372

means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one year. 1373  
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(B) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but shall not transfer any amount for depreciation under any of the following circumstances: 1376  
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(1) Any amount for depreciation of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; 1380  
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1383

(2) Any amount for depreciation during the administration of a decedent's estate; 1384  
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(3) Any amount for depreciation under this section if the trustee is accounting under section 1340.59 of the Revised Code for the business or activity in which the asset is used. 1386  
1387  
1388

(C) An amount transferred to principal need not be held as a separate fund. 1389  
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**Sec. 1340.84.** (A) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements. 1391  
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(B) Principal disbursements to which division (A) of this section applies include all of the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party: 1396  
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(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs; 1400  
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(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments; 1402  
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(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions; 1405  
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(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; 1408  
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(5) Disbursements described in division (A)(7) of section 1340.82 of the Revised Code. 1411  
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(C) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in division (A) of this section. 1413  
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**Sec. 1340.85. (A) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.** 1418  
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(B) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority. 1420  
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(C) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately as follows: 1423  
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(1) From income, to the extent that receipts from the entity are allocated to income; 1426  
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(2) From principal, as follows: 1428

(a) To the extent that receipts from the entity are allocated to principal; and 1429  
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(b) To the extent that the trust's share of the entity's taxable income exceeds the total receipts described in divisions (C)(1) and (2)(a) of this section. 1431  
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(D) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax. 1434  
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**Sec. 1340.86.** (A) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries that arise from any of the following: 1438  
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(1) Elections and decisions, other than those described in division (B) of this section, that the fiduciary makes from time to time regarding tax matters; 1442  
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(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; 1445  
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(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or beneficiary. 1448  
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(B) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the 1452  
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increase in the estate tax to the extent that the principal used 1461  
to pay the increase would have qualified for a marital deduction 1462  
or charitable contribution deduction but for the payment. The 1463  
proportionate share of the reimbursement for each estate, trust, 1464  
or beneficiary whose income taxes are reduced shall be the same as 1465  
its proportionate share of the total decrease in income tax. An 1466  
estate or trust shall reimburse principal from income. 1467

Sec. 1340.90. (A) Sections 1340.40 to 1340.91 of the Revised 1468  
Code may be cited as the "uniform principal and income act 1469  
(1997)." 1470

(B) In applying and construing the "uniform principal and 1471  
income act (1997)", consideration shall be given to the need to 1472  
promote uniformity of the law with respect to its subject matter 1473  
among states that enact the "uniform principal and income act 1474  
(1997)". 1475

Sec. 1340.91. Sections 1340.40 to 1340.90 of the Revised Code 1476  
apply to every trust or decedent's estate existing on the 1477  
effective date of this section except as otherwise expressly 1478  
provided in the will or terms of the trust or in sections 1340.40 1479  
to 1340.90 of the Revised Code. 1480

Sec. 2109.68. In all cases not covered by section 2109.66 or 1481  
2109.67 of the Revised Code, allocation Allocation of receipts and 1482  
expenditures between principal and income by an executor, 1483  
administrator, or testamentary trustee shall be as prescribed in 1484  
sections ~~1340.01~~ 1340.40 to ~~1340.13~~ 1340.91 of the Revised Code. 1485

Section 2. That existing sections 151.01, 1340.031, 1340.35, 1486  
and 2109.68 and sections 1340.01, 1340.02, 1340.03, 1340.04, 1487  
1340.05, 1340.06, 1340.07, 1340.08, 1340.09, 1340.10, 1340.11, 1488  
1340.12, 1340.13, 2109.66, and 2109.67 of the Revised Code are 1489

hereby repealed. 1490

**Section 3.** Division (A) of section 1340.75 of the Revised 1491  
Code relating to the duty of a trustee to make property productive 1492  
of income, with respect to a trust for which a marital deduction 1493  
is allowed, is intended to codify existing fiduciary and trust law 1494  
principles. 1495

**Section 4.** It is the intent of the General Assembly in 1496  
enacting section 1340.41 of the Revised Code to limit the 1497  
application of the holding in *Sherman v. Sherman* (1966), 5 Ohio 1498  
St. 2d 27, relative to a trustee's allocation of receipts and 1499  
disbursements between principal and income of a trust. 1500

**Section 5.** Sections 1, 2, 3, and 4 of this act, except for 1501  
section 151.01 of the Revised Code, shall take effect on January 1502  
1, 2003. Section 151.01 of the Revised Code, as amended by this 1503  
act, shall take effect at the earliest time permitted by law. 1504

**Section 6.** Section 151.01 of the Revised Code is presented in 1505  
this act as a composite of the section as amended by both Sub. 1506  
H.B. 385 and Am. Sub. H.B. 524 of the 124th General Assembly. The 1507  
General Assembly, applying the principle stated in division (B) of 1508  
section 1.52 of the Revised Code that amendments are to be 1509  
harmonized if reasonably capable of simultaneous operation, finds 1510  
that the composite is the resulting version of the section in 1511  
effect prior to the effective date of the section as presented in 1512  
this act. 1513

**Section 7.** This act is hereby declared to be an emergency 1514  
measure necessary for the immediate preservation of the public 1515  
peace, health, and safety. The reason for such necessity is a need 1516  
for swift modification of the state bond law. Therefore, this act 1517

shall go into immediate effect.

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