

**As Reported by the Senate Finance and Financial Institutions
Committee**

**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**

A B I L L

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 <i>Sherman v. Sherman</i> (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.

51

(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.

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

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

80

81

82

(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

As Reported by the Senate Finance and Financial Institutions Committee

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.

(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.

(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

capital facilities or projects identified by or pursuant to 147
general assembly action. 148

(C) Each issue of obligations shall be authorized by 149
resolution or order of the issuing authority. The bond proceedings 150
shall provide for or authorize the manner for determining the 151
principal amount or maximum principal amount of obligations of an 152
issue, the principal maturity or maturities, the interest rate or 153
rates, the date of and the dates of payment of interest on the 154
obligations, their denominations, and the place or places of 155
payment of debt service which may be within or outside the state. 156
Unless otherwise provided by law, the latest principal maturity 157
may not be later than the earlier of the thirty-first day of 158
December of the twenty-fifth calendar year after the year of 159
issuance of the particular obligations or of the twenty-fifth 160
calendar year after the year in which the original obligation to 161
pay was issued or entered into. Sections 9.96, 9.98, 9.981, 9.982, 162
and 9.983 of the Revised Code apply to obligations. The purpose of 163
the obligations may be stated in the bond proceedings in general 164
terms, such as, as applicable, "financing or assisting in the 165
financing of projects as provided in Section 2l of Article VIII, 166
Ohio Constitution," "financing or assisting in the financing of 167
highway capital improvement projects as provided in Section 2m of 168
Article VIII, Ohio Constitution," "paying costs of capital 169
facilities for a system of common schools throughout the state as 170
authorized by Section 2n of Article VIII, Ohio Constitution," 171
"paying costs of capital facilities for state-supported and 172
state-assisted institutions of higher education as authorized by 173
Section 2n of Article VIII, Ohio Constitution," "paying costs of 174
coal research and development as authorized by Section 15 of 175
Article VIII, Ohio Constitution," "financing or assisting in the 176
financing of local subdivision capital improvement projects as 177
authorized by Section 2m of Article VIII, Ohio Constitution," 178

"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
180
181
182

(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

As Reported by the Senate Finance and Financial Institutions Committee

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 272
interim instruments to be exchanged for the final obligations. 273

(H) Obligations may be sold at public sale or at private 274
sale, in such manner, and at such price at, above or below par, 275
all as determined by and provided by the issuing authority in the 276
bond proceedings. 277

(I) Except to the extent that rights are restricted by the 278
bond proceedings, any owner of obligations or provider of a credit 279
enhancement facility may by any suitable form of legal proceedings 280
protect and enforce any rights relating to obligations or that 281
facility under the laws of this state or granted by the bond 282
proceedings. Those rights include the right to compel the 283
performance of all applicable duties of the issuing authority and 284
the state. Each duty of the issuing authority and that authority's 285
officers, staff, and employees, and of each state entity or 286
agency, or using district or using institution, and its officers, 287
members, staff, or employees, undertaken pursuant to the bond 288
proceedings, is hereby established as a duty of the entity or 289
individual having authority to perform that duty, specifically 290
enjoined by law and resulting from an office, trust, or station 291
within the meaning of section 2731.01 of the Revised Code. The 292
individuals who are from time to time the issuing authority, 293
members or officers of the issuing authority, or those members' 294
designees acting pursuant to section 154.02 of the Revised Code, 295
or the issuing authority's officers, staff, or employees, are not 296
liable in their personal capacities on any obligations or 297
otherwise under the bond proceedings. 298

(J)(1) Subject to Section 2k, 2l, 2m, 2n, 2o, or 15, and 299
Section 17, of Article VIII, Ohio Constitution and sections 151.01 300
to 151.09 or 151.40 of the Revised Code, the issuing authority 301
may, in addition to the authority referred to in division (B) of 302
this section, authorize and provide for the issuance of: 303

As Reported by the Senate Finance and Financial Institutions Committee

(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

As Reported by the Senate Finance and Financial Institutions Committee

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.

As Reported by the Senate Finance and Financial Institutions Committee

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

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

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

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

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

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

(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

As Reported by the Senate Finance and Financial Institutions Committee

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

As Reported by the Senate Finance and Financial Institutions Committee

(E) "Income beneficiary" means a person to whom net income of a trust is or may be payable. 589
590

(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
592
593
594

(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
596
597

(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
599
600
601
602

(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
604
605
606
607

(J) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates. 608
609

(K) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends. 610
611

(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
613
614
615

(M) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court. 616
617

As Reported by the Senate Finance and Financial Institutions Committee

Sec. 1340.41. (A) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of sections 1340.46 to 1340.53 of the Revised Code, all of the following apply:

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

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

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

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

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

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.

649
650
651
652
653

(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.

654
655
656
657
658
659
660
661
662
663
664

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

665

(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.

666
667
668
669

(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.

670
671
672

(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.

673
674
675

(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.

676
677
678

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

679

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

As Reported by the Senate Finance and Financial Institutions Committee

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

As Reported by the Senate Finance and Financial Institutions Committee

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) 781
of this section, from time to time a trustee may make a 782
safe-harbor adjustment to increase net trust accounting income up 783
to and including an amount equal to four per cent of the trust's 784
fair market value determined as of the first business day of the 785
current year. If a trustee determines to make this safe-harbor 786
adjustment, the propriety of this adjustment shall be conclusively 787
presumed. Nothing in division (G)(3) of this section prohibits any 788
other type of adjustment authorized under any provision of this 789
section. 790
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

As Reported by the Senate Finance and Financial Institutions Committee

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

(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:

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

(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.

(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.

(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

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.

831
832
833
834

(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.

835
836
837
838
839
840
841
842

(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.

843
844
845
846
847
848
849
850
851
852
853
854
855
856
857

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

858
859
860
861

As Reported by the Senate Finance and Financial Institutions Committee

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.

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

(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.

(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.

(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.

(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.

(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

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

As Reported by the Senate Finance and Financial Institutions Committee

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.

923
924
925

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.

926
927
928
929
930
931

(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.

932
933
934
935
936
937
938
939
940

(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.

941
942
943
944
945
946
947
948
949
950
951

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

952

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

As Reported by the Senate Finance and Financial Institutions Committee

<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

As Reported by the Senate Finance and Financial Institutions Committee

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
<u>Sec. 1340.63. A trustee shall allocate to principal all of</u>	1058
<u>the following:</u>	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

As Reported by the Senate Finance and Financial Institutions Committee

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

As Reported by the Senate Finance and Financial Institutions Committee

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

As Reported by the Senate Finance and Financial Institutions Committee

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.

(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.

(E) This section does not apply to payments to which section 1340.72 of the Revised Code applies.

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.

(B) A trustee shall allocate to income ten per cent of the receipts from a liquidating asset and the balance to principal.

As Reported by the Senate Finance and Financial Institutions Committee

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
1194
1195
1196

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income. 1197
1198

(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
1200
1201
1202

(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
1204
1205
1206

(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
1208
1209
1210

(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
1212
1213
1214

(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
1216
1217

(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
1219
1220
1221
1222

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

As Reported by the Senate Finance and Financial Institutions Committee

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

As Reported by the Senate Finance and Financial Institutions Committee

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

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

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

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

As Reported by the Senate Finance and Financial Institutions Committee

<u>(1) The remaining one-half of the disbursements described in</u>	1343
<u>divisions (A) and (B) of section 1340.81 of the Revised Code;</u>	1344
<u>(2) All of the trustee's compensation calculated on principal</u>	1345
<u>as a fee for acceptance, distribution, or termination, and</u>	1346
<u>disbursements made to prepare property for sale;</u>	1347
<u>(3) Payments on the principal of a trust debt;</u>	1348
<u>(4) Expenses of a proceeding that concerns primarily</u>	1349
<u>principal, including a proceeding to construe the trust or to</u>	1350
<u>protect the trust or its property;</u>	1351
<u>(5) Premiums paid on a policy of insurance not described in</u>	1352
<u>division (D) of section 1340.81 of the Revised Code of which the</u>	1353
<u>trust is the owner and beneficiary;</u>	1354
<u>(6) Estate, inheritance, and other transfer taxes, including</u>	1355
<u>penalties, apportioned to the trust;</u>	1356
<u>(7) Disbursements related to environmental matters, including</u>	1357
<u>reclamation, assessing environmental conditions, remedying and</u>	1358
<u>removing environmental contamination, monitoring remedial</u>	1359
<u>activities and the release of substances, preventing future</u>	1360
<u>releases of substances, collecting amounts from persons liable or</u>	1361
<u>potentially liable for the costs of those activities, penalties</u>	1362
<u>imposed under environmental laws or regulations and other payments</u>	1363
<u>made to comply with those laws or regulations, statutory or common</u>	1364
<u>law claims by third parties, and defending claims based on</u>	1365
<u>environmental matters.</u>	1366
<u>(B) If a principal asset is encumbered with an obligation</u>	1367
<u>that requires income from that asset to be paid directly to the</u>	1368
<u>creditor, the trustee shall transfer from principal to income an</u>	1369
<u>amount equal to the income paid to the creditor in reduction of</u>	1370
<u>the principal balance of the obligation.</u>	1371
<u>Sec. 1340.83. (A) As used in this section, "depreciation"</u>	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
1374
1375

(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
1377
1378
1379

(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
1381
1382
1383

(2) Any amount for depreciation during the administration of a decedent's estate; 1384
1385

(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
1390

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
1392
1393
1394
1395

(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
1397
1398
1399

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs; 1400
1401

As Reported by the Senate Finance and Financial Institutions Committee

<u>(2) A capital improvement to a principal asset, whether in</u>	1402
<u>the form of changes to an existing asset or the construction of a</u>	1403
<u>new asset, including special assessments;</u>	1404
<u>(3) Disbursements made to prepare property for rental,</u>	1405
<u>including tenant allowances, leasehold improvements, and broker's</u>	1406
<u>commissions;</u>	1407
<u>(4) Periodic payments on an obligation secured by a principal</u>	1408
<u>asset to the extent that the amount transferred from income to</u>	1409
<u>principal for depreciation is less than the periodic payments;</u>	1410
<u>(5) Disbursements described in division (A)(7) of section</u>	1411
<u>1340.82 of the Revised Code.</u>	1412
<u>(C) If the asset whose ownership gives rise to the</u>	1413
<u>disbursements becomes subject to a successive income interest</u>	1414
<u>after an income interest ends, a trustee may continue to transfer</u>	1415
<u>amounts from income to principal as provided in division (A) of</u>	1416
<u>this section.</u>	1417
<u>Sec. 1340.85. (A) A tax required to be paid by a trustee</u>	1418
<u>based on receipts allocated to income shall be paid from income.</u>	1419
<u>(B) A tax required to be paid by a trustee based on receipts</u>	1420
<u>allocated to principal shall be paid from principal, even if the</u>	1421
<u>tax is called an income tax by the taxing authority.</u>	1422
<u>(C) A tax required to be paid by a trustee on the trust's</u>	1423
<u>share of an entity's taxable income shall be paid proportionately</u>	1424
<u>as follows:</u>	1425
<u>(1) From income, to the extent that receipts from the entity</u>	1426
<u>are allocated to income;</u>	1427
<u>(2) From principal, as follows:</u>	1428
<u>(a) To the extent that receipts from the entity are allocated</u>	1429
<u>to principal; and</u>	1430

As Reported by the Senate Finance and Financial Institutions Committee

(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
1432
1433

(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
1435
1436
1437

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
1439
1440
1441

(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
1443
1444

(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
1446
1447

(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
1449
1450
1451

(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
1453
1454
1455
1456
1457
1458
1459
1460

As Reported by the Senate Finance and Financial Institutions Committee

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.

1518