

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 176

103RD GENERAL ASSEMBLY

0150S.03C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 193.265, 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 347.143, 455.010, 455.035, 455.513, 456.1-108, 456.10-1005, 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459, 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110, 488.040, 488.426, 494.455, 509.520, 536.140, 537.528, and 621.045, RSMo, and to enact in lieu thereof one hundred sixteen new sections relating to civil jurisprudence, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 193.265, 214.330, 287.200, 287.470,
2 287.610, 287.615, 287.812, 287.835, 347.143, 455.010, 455.035,
3 455.513, 456.1-108, 456.10-1005, 469.401, 469.402, 469.403,
4 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419,
5 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432,
6 469.433, 469.435, 469.437, 469.439, 469.441, 469.443, 469.445,
7 469.447, 469.449, 469.451, 469.453, 469.455, 469.457, 469.459,
8 469.461, 469.463, 469.465, 469.467, 477.650, 478.001, 487.110,
9 488.040, 488.426, 494.455, 509.520, 536.140, 537.528, and
10 621.045, RSMo, are repealed and one hundred sixteen new sections
11 enacted in lieu thereof, to be known as sections 193.265,
12 214.330, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835,

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 347.143, 453.700, 453.702, 453.704, 453.706, 453.708, 453.710,
14 453.712, 453.714, 453.716, 453.718, 453.720, 453.722, 453.724,
15 453.726, 453.728, 453.730, 453.732, 453.734, 453.736, 453.738,
16 453.740, 453.742, 455.010, 455.035, 455.513, 456.1-108, 456.10-
17 1005, 469.399, 469.401, 469.402, 469.403, 469.404, 469.405,
18 469.413, 469.415, 469.417, 469.419, 469.421, 469.423, 469.425,
19 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437,
20 469.439, 469.441, 469.443, 469.445, 469.446, 469.447, 469.449,
21 469.451, 469.453, 469.455, 469.456, 469.457, 469.459, 469.462,
22 469.463, 469.464, 469.465, 469.467, 469.471, 469.473, 469.475,
23 469.477, 469.479, 469.481, 469.483, 469.485, 469.487, 474.540,
24 474.542, 474.544, 474.546, 474.548, 474.550, 474.552, 474.554,
25 474.556, 474.558, 474.560, 474.562, 474.564, 474.600, 476.1025,
26 477.650, 478.001, 487.110, 488.040, 488.426, 494.455, 509.520,
27 510.500, 510.503, 510.506, 510.509, 510.512, 510.515, 510.518,
28 510.521, 536.140, 537.529, and 621.045, to read as follows:

193.265. 1. For the issuance of a certification or
2 copy of a death record, the applicant shall pay a fee of
3 fourteen dollars for the first certification or copy and a
4 fee of eleven dollars for each additional copy ordered at
5 that time. For the issuance of a certification or copy of a
6 birth, marriage, divorce, or fetal death record, the
7 applicant shall pay a fee of fifteen dollars. No fee shall
8 be required or collected for a certification of birth,
9 death, or marriage if the request for certification is made
10 by the children's division, the division of youth services,
11 a guardian ad litem, or a juvenile officer on behalf of a
12 child or person under twenty-one years of age who has come
13 under the jurisdiction of the juvenile court under section
14 211.031. All fees collected under this subsection shall be
15 deposited to the state department of revenue. Beginning
16 August 28, 2004, for each vital records fee collected, the

17 director of revenue shall credit four dollars to the general
18 revenue fund, five dollars to the children's trust fund, one
19 dollar shall be credited to the endowed care cemetery audit
20 fund, one dollar for each certification or copy of death
21 records to the Missouri state coroners' training fund
22 established in section 58.208, and three dollars for the
23 first copy of death records and five dollars for birth,
24 marriage, divorce, and fetal death records shall be credited
25 to the Missouri public health services fund established in
26 section 192.900. Money in the endowed care cemetery audit
27 fund shall be available by appropriation to the division of
28 professional registration to pay its expenses in
29 administering sections 214.270 to 214.410. All interest
30 earned on money deposited in the endowed care cemetery audit
31 fund shall be credited to the endowed care cemetery fund.
32 Notwithstanding the provisions of section 33.080 to the
33 contrary, money placed in the endowed care cemetery audit
34 fund shall not be transferred and placed to the credit of
35 general revenue until the amount in the fund at the end of
36 the biennium exceeds three times the amount of the
37 appropriation from the endowed care cemetery audit fund for
38 the preceding fiscal year. The money deposited in the
39 public health services fund under this section shall be
40 deposited in a separate account in the fund, and moneys in
41 such account, upon appropriation, shall be used to automate
42 and improve the state vital records system, and develop and
43 maintain an electronic birth and death registration system.
44 For any search of the files and records, when no record is
45 found, the state shall be entitled to a fee equal to the
46 amount for a certification of a vital record for a five-year
47 search to be paid by the applicant. For the processing of
48 each legitimation, adoption, court order or recording after

49 the registrant's twelfth birthday, the state shall be
50 entitled to a fee equal to the amount for a certification of
51 a vital record. Except whenever a certified copy or copies
52 of a vital record is required to perfect any claim of any
53 person on relief, or any dependent of any person who was on
54 relief for any claim upon the government of the state or
55 United States, the state registrar shall, upon request,
56 furnish a certified copy or so many certified copies as are
57 necessary, without any fee or compensation therefor.

58 2. For the issuance of a certification of a death
59 record by the local registrar, the applicant shall pay a fee
60 of fourteen dollars for the first certification or copy and
61 a fee of eleven dollars for each additional copy ordered at
62 that time. For each fee collected under this subsection,
63 one dollar shall be deposited to the state department of
64 revenue and the remainder shall be deposited to the official
65 city or county health agency. The director of revenue shall
66 credit all fees deposited to the state department of revenue
67 under this subsection to the Missouri state coroners'
68 training fund established in section 58.208.

69 3. For the issuance of a certification or copy of a
70 birth, marriage, divorce, or fetal death record, the
71 applicant shall pay a fee of fifteen dollars; except that,
72 in any county with a charter form of government and with
73 more than six hundred thousand but fewer than seven hundred
74 thousand inhabitants, a donation of one dollar may be
75 collected by the local registrar over and above any fees
76 required by law when a certification or copy of any marriage
77 license or birth certificate is provided, with such
78 donations collected to be forwarded monthly by the local
79 registrar to the county treasurer of such county and the
80 donations so forwarded to be deposited by the county

81 treasurer into the housing resource commission fund to
82 assist homeless families and provide financial assistance to
83 organizations addressing homelessness in such county. The
84 local registrar shall include a check-off box on the
85 application form for such copies. All fees collected under
86 this subsection, other than the donations collected in any
87 county with a charter form of government and with more than
88 six hundred thousand but fewer than seven hundred thousand
89 inhabitants for marriage licenses and birth certificates,
90 shall be deposited to the official city or county health
91 agency.

92 4. A certified copy of a death record by the local
93 registrar can only be issued after acceptance and
94 registration with the state registrar. The fees paid to the
95 official county health agency shall be retained by the local
96 agency for local public health purposes.

97 5. No fee under this section shall be required or
98 collected from a parent or guardian of a homeless child or
99 homeless youth, as defined in subsection 1 of section
100 167.020, or an unaccompanied youth, as defined in 42 U.S.C.
101 Section 11434a(6), for the issuance of a certification, or
102 copy of such certification, of birth of such child or
103 youth. An unaccompanied youth shall be eligible to receive
104 a certification or copy of his or her own birth record
105 without the consent or signature of his or her parent or
106 guardian; provided, that only one certificate under this
107 provision shall be provided without cost to the
108 unaccompanied or homeless youth. For the issuance of any
109 additional certificates, the statutory fee shall be paid.

110 6. (1) Notwithstanding any provision of law to the
111 contrary, no fee shall be required or collected for a
112 certification of birth if the request is made by a victim of

domestic violence or abuse, as those terms are defined in section 455.010, and the victim provides documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a health care or mental health professional, from whom the victim has sought assistance relating to the domestic violence or abuse. Such documentation shall state that, under penalty of perjury, the employee, agent, or volunteer of a victim service provider, the attorney, or the health care or mental health professional believes the victim has been involved in an incident of domestic violence or abuse.

(2) A victim may be eligible only one time for a fee waiver under this subsection.

7. No fee shall be required or collected for a certification of birth, death, or marriage if the request for certification is made by a prosecuting attorney, a circuit attorney, or the attorney general.

214.330. 1. (1) The endowed care trust fund required by sections 214.270 to 214.410 shall be permanently set aside in trust or in accordance with the provisions of subsection 2 of this section. The trustee of the endowed care trust shall be a state or federally chartered financial institution authorized to exercise trust powers in Missouri. The contact information for a trust officer or duly appointed representative of the trustee with knowledge and access to the trust fund accounting and trust fund records must be disclosed to the office or its duly authorized representative upon request.

(2) The trust fund records, including all trust fund accounting records, shall be maintained in the state of Missouri at all times or shall be electronically stored so that the records may be made available in the state of

Missouri within fifteen business days of receipt of a written request. The operator of an endowed care cemetery shall maintain a current name and address of the trustee and the records custodian for the endowed care trust fund and shall supply such information to the office, or its representative, upon request.

(3) Missouri law shall control all endowed care trust funds and the Missouri courts shall have jurisdiction over endowed care trusts regardless of where records may be kept or various administrative tasks may be performed.

2. An endowed care trust fund shall be administered in accordance with Missouri law governing trusts, including but not limited to the applicable provisions of chapters 456 and 469, except as specifically provided in this subsection or where the provisions of sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any circumstances be authorized to restrict, enlarge, change, or modify the requirements of this section or the provisions of chapters 456 and 469 by agreement or otherwise.

(1) Income and principal of an endowed care trust fund shall be determined under the provisions of law applicable to trusts, except that the provisions of section 469.405 shall not apply.

(2) No principal shall be distributed from an endowed care trust fund except to the extent that a unitrust election is in effect with respect to such trust under the provisions of [section 469.411] **sections 469.471 to 469.487.**

(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall exist for endowed care trusts.

(4) All endowed care trusts shall be irrevocable.

46 (5) No trustee shall have the power to terminate an
47 endowed care trust fund under the provisions of section
48 456.4-414.

49 (6) A unitrust election made in accordance with the
50 provisions of chapter 469 shall be made by the cemetery
51 operator in the terms of the endowed care trust fund
52 agreement itself, not by the trustee.

53 (7) No contract of insurance shall be deemed a
54 suitable investment for an endowed care trust fund.

55 (8) The income from the endowed care fund may be
56 distributed to the cemetery operator at least annually on a
57 date designated by the cemetery operator, but no later than
58 sixty days following the end of the trust fund year. Any
59 income not distributed within sixty days following the end
60 of the trust's fiscal year shall be added to and held as
61 part of the principal of the trust fund.

62 3. The cemetery operator shall have the duty and
63 responsibility to apply the income distributed to provide
64 care and maintenance only for that part of the cemetery
65 designated as an endowed care section and not for any other
66 purpose.

67 4. In addition to any other duty, obligation, or
68 requirement imposed by sections 214.270 to 214.410 or the
69 endowed care trust agreement, the trustee's duties shall be
70 the maintenance of records related to the trust and the
71 accounting for and investment of moneys deposited by the
72 operator to the endowed care trust fund.

73 (1) For the purposes of sections 214.270 to 214.410,
74 the trustee shall not be deemed responsible for the care,
75 the maintenance, or the operation of the cemetery, or for
76 any other matter relating to the cemetery, or the proper
77 expenditure of funds distributed by the trustee to the

78 cemetery operator, including, but not limited to, compliance
79 with environmental laws and regulations.

80 (2) With respect to cemetery property maintained by
81 endowed care funds, the cemetery operator shall be
82 responsible for the performance of the care and maintenance
83 of the cemetery property.

84 5. If the endowed care cemetery fund is not
85 permanently set aside in a trust fund as required by
86 subsection 1 of this section, then the funds shall be
87 permanently set aside in an escrow account in the state of
88 Missouri. Funds in an escrow account shall be placed in an
89 endowed care trust fund under subsection 1 if the funds in
90 the escrow account exceed three hundred fifty thousand
91 dollars, unless otherwise approved by the division for good
92 cause. The account shall be insured by the Federal Deposit
93 Insurance Corporation or comparable deposit insurance and
94 held in a state or federally chartered financial institution
95 authorized to do business in Missouri and located in this
96 state.

97 (1) The interest from the escrow account may be
98 distributed to the cemetery operator at least in annual or
99 semiannual installments, but not later than six months
100 following the calendar year. Any interest not distributed
101 within six months following the end of the calendar year
102 shall be added to and held as part of the principal of the
103 account.

104 (2) The cemetery operator shall have the duty and
105 responsibility to apply the interest to provide care and
106 maintenance only for that part of the cemetery in which
107 burial space shall have been sold and with respect to which
108 sales the escrow account shall have been established and not
109 for any other purpose. The principal of such funds shall be

110 kept intact. The cemetery operator's duties shall be the
111 maintenance of records and the accounting for an investment
112 of moneys deposited by the operator to the escrow account.
113 For purposes of sections 214.270 to 214.410, the
114 administrator of the office of endowed care cemeteries shall
115 not be deemed to be responsible for the care, maintenance,
116 or operation of the cemetery. With respect to cemetery
117 property maintained by cemetery care funds, the cemetery
118 operator shall be responsible for the performance of the
119 care and maintenance of the cemetery property owned by the
120 cemetery operator.

121 (3) The division may approve an escrow agent if the
122 escrow agent demonstrates the knowledge, skill, and ability
123 to handle escrow funds and financial transactions and is of
124 good moral character.

125 6. The cemetery operator shall be accountable to the
126 owners of burial space in the cemetery for compliance with
127 sections 214.270 to 214.410.

128 7. Excluding funds held in an escrow account, all
129 endowed care trust funds shall be administered in accordance
130 with an endowed care trust fund agreement, which shall be
131 submitted to the office by the cemetery operator for review
132 and approval. The endowed care cemetery shall be notified
133 in writing by the office of endowed care cemeteries
134 regarding the approval or disapproval of the endowed care
135 trust fund agreement and regarding any changes required to
136 be made for compliance with sections 214.270 to 214.410 and
137 the rules and regulations promulgated thereunder.

138 8. All endowed care cemeteries shall be under a
139 continuing duty to file with the office of endowed care
140 cemeteries and to submit for prior approval any and all
141 changes, amendments, or revisions of the endowed care trust

142 fund agreement at least thirty days before the effective
143 date of such change, amendment, or revision.

144 9. If the endowed care trust fund agreement, or any
145 changes, amendments, or revisions filed with the office, are
146 not disapproved by the office within thirty days after
147 submission by the cemetery operator, the endowed care trust
148 fund agreement, or the related change, amendment, or
149 revision, shall be deemed approved and may be used by the
150 cemetery operator and the trustee. Notwithstanding any
151 other provision of this section, the office may review and
152 disapprove an endowed care trust fund agreement, or any
153 submitted change, amendment, or revision, after the thirty
154 days provided herein or at any other time if the agreement
155 is not in compliance with sections 214.270 to 214.410 or the
156 rules promulgated thereunder. Notice of disapproval by the
157 office shall be in writing and delivered to the cemetery
158 operator and the trustee within ten days of disapproval.

159 10. Funds in an endowed care trust fund or escrow
160 account may be commingled with endowed care funds for other
161 endowed care cemeteries, provided that the cemetery operator
162 and the trustee shall maintain adequate accounting records
163 of the disbursements, contributions, and income allocated
164 for each cemetery.

165 11. By accepting the trusteeship of an endowed care
166 trust or accepting funds as an escrow agent pursuant to
167 sections 214.270 to 214.410, the trustee or escrow agent
168 submits personally to the jurisdiction of the courts of this
169 state and the office of endowed care cemeteries regarding
170 the administration of the trust or escrow account. A
171 trustee or escrow agent shall consent in writing to the
172 jurisdiction of the state of Missouri and the office in
173 regards to the trusteeship or the operation of the escrow

174 account and to the appointment of the office of secretary of
175 state as its agent for service of process regarding any
176 administrative or legal actions relating to the trust or the
177 escrow account, if it has no designated agent for service of
178 process located in this state. Such consent shall be filed
179 with the office prior to accepting funds pursuant to
180 sections 214.270 to 214.410 as trustee or as an escrow agent
181 on a form provided by the office by rule.

287.200. 1. Compensation for permanent total
2 disability shall be paid during the continuance of such
3 disability from the date of maximum medical improvement for
4 the lifetime of the employee at the weekly rate of
5 compensation in effect under this subsection on the date of
6 the injury for which compensation is being made. The word
7 "employee" as used in this section shall not include the
8 injured worker's dependents, estate, or other persons to
9 whom compensation may be payable as provided in subsection 1
10 of section 287.020. The amount of such compensation shall
11 be computed as follows:

12 (1) For all injuries occurring on or after September
13 28, 1983, but before September 28, 1986, the weekly
14 compensation shall be an amount equal to sixty-six and two-
15 thirds percent of the injured employee's average weekly
16 earnings during the year immediately preceding the injury,
17 as of the date of the injury; provided that the weekly
18 compensation paid under this subdivision shall not exceed an
19 amount equal to seventy percent of the state average weekly
20 wage, as such wage is determined by the division of
21 employment security, as of the July first immediately
22 preceding the date of injury;

23 (2) For all injuries occurring on or after September
24 28, 1986, but before August 28, 1990, the weekly

25 compensation shall be an amount equal to sixty-six and two-
26 thirds percent of the injured employee's average weekly
27 earnings during the year immediately preceding the injury,
28 as of the date of the injury; provided that the weekly
29 compensation paid under this subdivision shall not exceed an
30 amount equal to seventy-five percent of the state average
31 weekly wage, as such wage is determined by the division of
32 employment security, as of the July first immediately
33 preceding the date of injury;

34 (3) For all injuries occurring on or after August 28,
35 1990, but before August 28, 1991, the weekly compensation
36 shall be an amount equal to sixty-six and two-thirds percent
37 of the injured employee's average weekly earnings as of the
38 date of the injury; provided that the weekly compensation
39 paid under this subdivision shall not exceed an amount equal
40 to one hundred percent of the state average weekly wage;

41 (4) For all injuries occurring on or after August 28,
42 1991, the weekly compensation shall be an amount equal to
43 sixty-six and two-thirds percent of the injured employee's
44 average weekly earnings as of the date of the injury;
45 provided that the weekly compensation paid under this
46 subdivision shall not exceed an amount equal to one hundred
47 five percent of the state average weekly wage;

48 (5) For all injuries occurring on or after September
49 28, 1981, the weekly compensation shall in no event be less
50 than forty dollars per week.

51 2. Permanent total disability benefits that have
52 accrued through the date of the injured employee's death are
53 the only permanent total disability benefits that are to be
54 paid in accordance with section 287.230. The right to
55 unaccrued compensation for permanent total disability of an
56 injured employee terminates on the date of the injured

57 employee's death in accordance with section 287.230, and
58 does not survive to the injured employee's dependents,
59 estate, or other persons to whom compensation might
60 otherwise be payable.

61 3. **(1)** All claims for permanent total disability
62 shall be determined in accordance with the facts. [When an
63 injured employee receives an award for permanent total
64 disability but by the use of glasses, prosthetic appliances,
65 or physical rehabilitation the employee is restored to his
66 or her regular work or its equivalent, the life payment
67 mentioned in subsection 1 of this section shall be suspended
68 during the time in which the employee is restored to his or
69 her regular work or its equivalent.] The employer and the
70 division shall keep the file open in the case during the
71 lifetime of any injured employee who has received an award
72 of permanent total disability.

73 **(2) When an injured employee receives an award for**
74 **permanent total disability but by the use of glasses,**
75 **prosthetic appliances, or physical rehabilitation the**
76 **employee is restored to his or her regular work or its**
77 **equivalent, the lifetime payment mentioned in subsection 1**
78 **of this section shall be suspended during the time in which**
79 **the employee is restored to his or her regular work or its**
80 **equivalent.** In any case where the life payment is suspended
81 under this [subsection] **subdivision,** the commission may at
82 reasonable times review the case and either the employee or
83 the employer may request an informal conference with the
84 commission relative to the resumption of the employee's
85 weekly life payment in the case.

86 **(3) Upon the filing of a written agreement signed by**
87 **the claimant and his or her attorney, the commission shall**

88 **change the name, information, or fee arrangement of the**
89 **attorney or law firm associated with the claimant's case.**

90 4. For all claims filed on or after January 1, 2014,
91 for occupational diseases due to toxic exposure which result
92 in a permanent total disability or death, benefits in this
93 chapter shall be provided as follows:

94 (1) Notwithstanding any provision of law to the
95 contrary, such amount as due to the employee during said
96 employee's life as provided for under this chapter for an
97 award of permanent total disability and death, except such
98 amount shall only be paid when benefits under subdivisions
99 (2) and (3) of this subsection have been exhausted;

100 (2) For occupational diseases due to toxic exposure,
101 but not including mesothelioma, an amount equal to two
102 hundred percent of the state's average weekly wage as of the
103 date of diagnosis for one hundred weeks paid by the
104 employer; and

105 (3) In cases where occupational diseases due to toxic
106 exposure are diagnosed to be mesothelioma:

107 (a) For employers that have elected to accept
108 mesothelioma liability under this subsection, an additional
109 amount of three hundred percent of the state's average
110 weekly wage for two hundred twelve weeks shall be paid by
111 the employer or group of employers such employer is a member
112 of. Employers that elect to accept mesothelioma liability
113 under this subsection may do so by either insuring their
114 liability, by qualifying as a self-insurer, or by becoming a
115 member of a group insurance pool. A group of employers may
116 enter into an agreement to pool their liabilities under this
117 subsection. If such group is joined, individual members
118 shall not be required to qualify as individual self-
119 insurers. Such group shall comply with section 287.223. In

120 order for an employer to make such an election, the employer
121 shall provide the department with notice of such an election
122 in a manner established by the department. The provisions
123 of this paragraph shall expire on December 31, 2038; or

124 (b) For employers who reject mesothelioma under this
125 subsection, then the exclusive remedy provisions under
126 section 287.120 shall not apply to such liability. The
127 provisions of this paragraph shall expire on December 31,
128 2038; and

129 (4) The provisions of subdivision (2) and paragraph
130 (a) of subdivision (3) of this subsection shall not be
131 subject to suspension of benefits as provided in subsection
132 3 of this section; and

133 (5) Notwithstanding any other provision of this
134 chapter to the contrary, should the employee die before the
135 additional benefits provided for in subdivision (2) and
136 paragraph (a) of subdivision (3) of this subsection are
137 paid, the additional benefits are payable to the employee's
138 spouse or children, natural or adopted, legitimate or
139 illegitimate, in addition to benefits provided under section
140 287.240. If there is no surviving spouse or children and
141 the employee has received less than the additional benefits
142 provided for in subdivision (2) and paragraph (a) of
143 subdivision (3) of this subsection the remainder of such
144 additional benefits shall be paid as a single payment to the
145 estate of the employee;

146 (6) The provisions of subdivision (1) of this
147 subsection shall not be construed to affect the employee's
148 ability to obtain medical treatment at the employer's
149 expense or any other benefits otherwise available under this
150 chapter.

151 5. Any employee who obtains benefits under subdivision
152 (2) of subsection 4 of this section for acquiring asbestosis
153 who later obtains an award for mesothelioma shall not
154 receive more benefits than such employee would receive
155 having only obtained benefits for mesothelioma under this
156 section.

 287.470. **1.** Upon its own motion or upon the
2 application of any party in interest on the ground of a
3 change in condition, the commission may at any time upon a
4 rehearing after due notice to the parties interested review
5 any award and on such review may make an award ending,
6 diminishing or increasing the compensation previously
7 awarded, subject to the maximum or minimum provided in this
8 chapter, and shall immediately send to the parties and the
9 employer's insurer a copy of the award. No such review
10 shall affect such award as regards any moneys paid.

11 **2. Upon the filing of a written agreement signed by**
12 **the claimant and his or her attorney, the commission shall**
13 **change the name, information, or fee arrangement of the**
14 **attorney or law firm associated with the claimant's case.**

 287.610. **1.** After August 28, 2005, the division may
2 appoint additional administrative law judges for a maximum
3 of forty authorized administrative law judges.
4 Appropriations shall be based upon necessity, measured by
5 the requirements and needs of each division office.
6 Administrative law judges shall be duly licensed lawyers
7 under the laws of this state. Administrative law judges
8 shall not practice law or do law business and shall devote
9 their whole time to the duties of their office. The
10 director of the division of workers' compensation shall
11 publish and maintain on the division's website the

12 appointment dates or initial dates of service for all
13 administrative law judges.

14 2. [The thirteen administrative law judges with the
15 most years of service shall be subject to a retention vote
16 on August 28, 2008. The next thirteen administrative law
17 judges with the most years of service in descending order
18 shall be subject to a retention vote on August 28, 2012.
19 Administrative law judges appointed and not previously
20 referenced in this subsection shall be subject to a
21 retention vote on August 28, 2016. Subsequent retention
22 votes shall be held every twelve years. Any administrative
23 law judge who has received two or more votes of no
24 confidence under performance audits by the committee shall
25 not receive a vote of retention.

26 3. The administrative law judge review committee
27 members shall not have any direct or indirect employment or
28 financial connection with a workers' compensation insurance
29 company, claims adjustment company, health care provider nor
30 be a practicing workers' compensation attorney. All members
31 of the committee shall have a working knowledge of workers'
32 compensation.

33 4. The committee shall within thirty days of
34 completing each performance audit make a recommendation of
35 confidence or no confidence for each administrative law
36 judge.

37 5.] The administrative law judges appointed by the
38 division shall only have jurisdiction to hear and determine
39 claims upon original hearing and shall have no jurisdiction
40 upon any review hearing, either in the way of an appeal from
41 an original hearing or by way of reopening any prior award,
42 except to correct a clerical error in an award or settlement
43 if the correction is made by the administrative law judge

44 within twenty days of the original award or settlement. The
45 labor and industrial relations commission may remand any
46 decision of an administrative law judge for a more complete
47 finding of facts. The commission may also correct a
48 clerical error in awards or settlements within thirty days
49 of its final award. With respect to original hearings, the
50 administrative law judges shall have such jurisdiction and
51 powers as are vested in the division of workers'
52 compensation under other sections of this chapter, and
53 wherever in this chapter the word "commission",
54 "commissioners" or "division" is used in respect to any
55 original hearing, those terms shall mean the administrative
56 law judges appointed under this section. When a hearing is
57 necessary upon any claim, the division shall assign an
58 administrative law judge to such hearing. Any
59 administrative law judge shall have power to approve
60 contracts of settlement, as provided by section 287.390,
61 between the parties to any compensation claim or dispute
62 under this chapter pending before the division of workers'
63 compensation. Any award by an administrative law judge upon
64 an original hearing shall have the same force and effect,
65 shall be enforceable in the same manner as provided
66 elsewhere in this chapter for awards by the labor and
67 industrial relations commission, and shall be subject to
68 review as provided by section 287.480.

69 [6.] 3. Any of the administrative law judges employed
70 pursuant to this section may be assigned on a temporary
71 basis to the branch offices as necessary in order to ensure
72 the proper administration of this chapter.

73 [7.] 4. All administrative law judges shall be
74 required to participate in, on a continuing basis, specific
75 training that shall pertain to those elements of knowledge

76 and procedure necessary for the efficient and competent
77 performance of the administrative law judges' required
78 duties and responsibilities. Such training requirements
79 shall be established by the division subject to
80 appropriations and shall include training in medical
81 determinations and records, mediation and legal issues
82 pertaining to workers' compensation adjudication. Such
83 training may be credited toward any continuing legal
84 education requirements.

85 [8. (1) The administrative law judge review committee
86 shall conduct a performance audit of all administrative law
87 judges every two years. The audit results, stating the
88 committee's recommendation of confidence or no confidence of
89 each administrative law judge shall be sent to the governor
90 no later than the first week of each legislative session
91 immediately following such audit. Any administrative law
92 judge who has received three or more votes of no confidence
93 under two successive performance audits by the committee may
94 have their appointment immediately withdrawn.

95 (2) The review committee shall consist of one member
96 appointed by the president pro tem of the senate, one member
97 appointed by the minority leader of the senate, one member
98 appointed by the speaker of the house of representatives,
99 and one member appointed by the minority leader of the house
100 of representatives. The governor shall appoint to the
101 committee one member selected from the commission on
102 retirement, removal, and discipline of judges. This member
103 shall act as a member ex officio and shall not have a vote
104 in the committee. The committee shall annually elect a
105 chairperson from its members for a term of one year. The
106 term of service for all members shall be two years. The
107 review committee members shall all serve without

108 compensation. Necessary expenses for review committee
109 members and all necessary support services to the review
110 committee shall be provided by the division.]

111 5. The director of the division may file a complaint
112 with the administrative hearing commission, as provided
113 under chapter 621, seeking to remove an administrative law
114 judge from office if the administrative law judge:

115 (1) Has committed any felony, as defined in
116 subdivision (26) of section 556.061, or misdemeanor, as
117 defined in subdivision (33) of section 556.061, regardless
118 of whether a criminal charge has been filed;

119 (2) Has been convicted, or has entered a plea of
120 guilty or nolo contendere, in a criminal prosecution under
121 the laws of any state, the United States, or of any country,
122 regardless of whether sentence is imposed;

123 (3) Is guilty of misconduct, habitual intoxication,
124 willful neglect of duty, corruption in office, or
125 incompetency; or

126 (4) Has committed any act that involves moral
127 turpitude or oppression in office.

128 6. (1) Prior to the filing of the complaint, the
129 director shall notify the administrative law judge in
130 writing of the reasons for the complaint.

131 (2) If the reason for the complaint is willful neglect
132 of duty or incompetency, the administrative law judge shall
133 have ninety days from the date the complaint was made to
134 remedy the complained of behavior. If such complained of
135 behavior has not been remedied after ninety days, the
136 director may file the complaint with the administrative
137 hearing commission as provided by chapter 621.

138 7. After the director has filed a complaint with the
139 administrative hearing commission, the proceedings shall be

conducted in accordance with the provisions of chapter 621.
Upon a finding by the administrative hearing commission that:

(1) The grounds, provided in subsection 5 of this section, for disciplinary action are met, the director may, singly or in combination, issue the following disciplinary actions against the administrative law judge: removal from office, suspension from the performance of duties for a period of time, or other discipline as determined by the director. The director shall make a record of written findings of fact and conclusions of law with respect to the issues and shall put a copy of such record in the administrative law judge's permanent file; or

(2) There are no grounds for disciplinary action, the administrative law judge shall immediately resume duties and shall receive any attorney's fees due under section 536.087.

8. Notwithstanding any provision of this section to the contrary, the following events or acts by an administrative law judge are deemed to be an immediate threat to the administration of the provisions of chapter 287 and shall be considered cause for suspension with pay of the administrative law judge without notice, at the discretion of the director:

(1) A crime for which the administrative law judge is being held without bond for a period of more than fourteen days;

(2) Suspension or revocation of a license to practice law; or

(3) A declaration of incapacity by a court of competent jurisdiction.

9. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective

171 unless it has been promulgated pursuant to the provisions of
172 chapter 536.

287.615. 1. The division may appoint or employ such
2 persons as may be necessary to the proper administration of
3 this chapter. All salaries to clerical employees shall be
4 fixed by the division and approved by the labor and
5 industrial relations commission. Beginning January 1, 2006,
6 the annual salary of each administrative law judge[,] **and**
7 administrative law judge in charge[, and chief legal
8 counsel] shall be as follows:

9 (1) [For any chief legal counsel located at the
10 division office in Jefferson City, Missouri, compensation at
11 two thousand dollars above eighty percent of the rate at
12 which an associate circuit judge is compensated;

13 (2)] For each administrative law judge, compensation
14 at ninety percent of the rate at which an associate division
15 circuit judge is compensated;

16 [(3)] (2) For each administrative law judge in charge,
17 compensation at the same rate as an administrative law judge
18 plus five thousand dollars.

19 2. **Administrative law judges' and chief administrative**
20 **law judges' compensation shall be determined solely by the**
21 **rate outlined in this section and shall not increase when**
22 **pay raises for executive employees are appropriated.**

23 3. The salary of the director of the division of
24 workers' compensation shall be set by the director of the
25 department of labor and industrial relations, but shall not
26 be less than the salary plus two thousand dollars of an
27 administrative law judge in charge. The appointees in each
28 classification shall be selected as nearly as practicable in
29 equal numbers from each of the two political parties casting

30 the highest and the next highest number of votes for
31 governor in the last preceding state election.

287.812. As used in sections 287.812 to 287.855,
2 unless the context clearly requires otherwise, the following
3 terms shall mean:

4 (1) "Administrative law judge", any person appointed
5 pursuant to section 287.610 or section 621.015, or any
6 person who hereafter may have by law all of the powers now
7 vested by law in administrative law judges appointed under
8 the provisions of the workers' compensation law;

9 (2) "Beneficiary", a surviving spouse married to the
10 deceased administrative law judge or legal advisor of the
11 division of workers' compensation continuously for a period
12 of at least two years immediately preceding the
13 administrative law judge's or legal advisor's death and also
14 on the day of the last termination of such person's
15 employment as an administrative law judge or legal advisor
16 for the division of workers' compensation, or if there is no
17 surviving spouse eligible to receive benefits, any minor
18 child of the deceased administrative law judge or legal
19 advisor, or any child of the deceased administrative law
20 judge or legal advisor who, regardless of age, is unable to
21 support himself because of intellectual disability, disease
22 or disability, or any physical handicap or disability, who
23 shall share in the benefits on an equal basis with all other
24 beneficiaries;

25 (3) "Benefit", a series of equal monthly payments
26 payable during the life of an administrative law judge or
27 legal advisor of the division of workers' compensation
28 retiring pursuant to the provisions of sections 287.812 to
29 287.855 or payable to a beneficiary as provided in sections
30 287.812 to 287.850;

31 (4) "Board", the board of trustees of the Missouri
32 state employees' retirement system;

33 (5) ["Chief legal counsel", any person appointed or
34 employed under section 287.615 to serve in the capacity of
35 legal counsel to the division;

36 (6)] "Division", the division of workers' compensation
37 of the state of Missouri;

38 [(7)] (6) "Legal advisor", any person appointed or
39 employed pursuant to section 287.600[,] or 287.615[, or
40 287.616] to serve in the capacity as a legal advisor or an
41 associate administrative law judge and any person appointed
42 pursuant to section 286.010 or pursuant to section 295.030,
43 and any attorney or legal counsel appointed or employed
44 pursuant to section 286.070;

45 [(8)] (7) "Salary", the total annual compensation paid
46 for personal services as an administrative law judge or
47 legal advisor, or both, of the division of workers'
48 compensation by the state or any of its political
49 subdivisions.

287.835. [1. No benefits provided pursuant to
2 sections 287.812 to 287.855 shall be paid to any person who
3 has been removed from office by impeachment or for
4 misconduct, nor to any person who has been disbarred from
5 the practice of law, nor to the beneficiary of any such
6 persons.

7 2.] The board of trustees of the Missouri state
8 employees' retirement system shall cease paying benefits to
9 any beneficiary of an administrative law judge or legal
10 advisor who is charged with the intentional killing of the
11 administrative law judge or legal advisor without legal
12 excuse or justification. A beneficiary who is convicted of
13 such charges shall no longer be entitled to receive

14 benefits. If the beneficiary is not convicted of such
15 charge, the board shall resume payment of benefits and shall
16 pay the beneficiary any benefits that were suspended pending
17 resolution of such charge.

347.143. 1. A limited liability company may be
2 dissolved involuntarily by a decree of the circuit court for
3 the county in which the registered office of the limited
4 liability company is situated in an action filed by the
5 attorney general when it is established that the limited
6 liability company:

7 (1) Has procured its articles of organization through
8 fraud;

9 (2) Has exceeded or abused the authority conferred
10 upon it by law;

11 (3) Has carried on, conducted, or transacted its
12 business in a fraudulent or illegal manner; or

13 (4) By the abuse of its powers contrary to the public
14 policy of the state, has become liable to be dissolved.

15 2. On application by or for a member, the circuit
16 court for the county in which the registered office of the
17 limited liability company is located may decree dissolution
18 of a limited liability company **[whenever] if the court**
19 **determines:**

20 (1) It is not reasonably practicable to carry on the
21 business in conformity with the operating agreement;

22 (2) **Dissolution is reasonably necessary for the**
23 **protection of the rights or interests of the complaining**
24 **members;**

25 (3) **The business of the limited liability company has**
26 **been abandoned;**

27 (4) **The management of the limited liability company is**
28 **deadlocked or subject to internal dissension;**

(5) The business operations of the limited liability company are substantially impaired; or

(6) Those in control of the limited liability company have been found guilty of, or have knowingly countenanced, persistent and pervasive fraud, mismanagement, or abuse of authority.

453.700. Sections 453.700 to 453.740 shall be known and may be cited as the "Uniform Unregulated Child Custody Transfer Act".

453.702. As used in sections 453.700 to 453.740, the following terms mean:

(1) "Child", an unemancipated individual under eighteen years of age;

(2) "Child-placing agency", a person with authority under other law of this state to identify or place a child for adoption. The term "child-placing agency" does not include a parent of the child;

(3) "Custody", the exercise of physical care and supervision of a child;

(4) "Intercountry adoption", an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement. The term "intercountry adoption" includes an adoption finalized in the child's country of residence or in a state;

(5) "Parent", an individual recognized as a parent under other law of this state;

(6) "Person", an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;

(7) "Record", information:

(a) Inscribed on a tangible medium; or

(b) Stored in an electronic or other medium and retrievable in perceivable form;

(8) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term "state" includes a federally recognized Indian tribe.

453.704. Sections 453.700 to 453.740 do not apply to custody of an Indian child, as defined in Section 4(4) of the Indian Child Welfare Act of 1978, 25 U.S.C. Section 1903(4), as amended, to the extent custody is governed by the Indian Child Welfare Act of 1978, 25 U.S.C. Sections 1901 through 1963, as amended.

453.706. As used in sections 453.706 to 453.716, the following terms mean:

(1) "Guardian", a person recognized as a guardian under other law of this state;

(2) "Intermediary", a person that assists or facilitates a transfer of custody of a child, whether or not for compensation.

453.708. Sections 453.706 to 453.716 do not apply to a transfer of custody of a child by a parent or guardian of the child to:

(1) A parent of the child;

(2) A stepparent of the child;

(3) An adult who is related to the child by blood, marriage, or adoption;

(4) An adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child for a substantial period, and whom the parent or guardian reasonably believes, at the time of the transfer, to be a fit custodian of the child;

13 (5) An Indian custodian, as defined in Section 4(6) of
14 the Indian Child Welfare Act of 1978, 25 U.S.C. Section
15 1903(6), as amended, of the child; or

16 (6) A member of the child's customary family unit
17 recognized by the child's indigenous group under other law
18 of this state.

 453.710. 1. Except as provided in subsection 2 of
2 this section, a parent or guardian of a child or an
3 individual with whom a child has been placed for adoption
4 shall not transfer custody of the child to another person
5 with the intent, at the time of the transfer, to abandon the
6 rights and responsibilities concerning the child.

7 2. A parent or guardian of a child or an individual
8 with whom a child has been placed for adoption may transfer
9 custody of the child to another person with the intent, at
10 the time of the transfer, to abandon the rights and
11 responsibilities concerning the child only through:

- 12 (1) Adoption or guardianship;
13 (2) Judicial award of custody;
14 (3) Placement by or through a child-placing agency;
15 (4) Other judicial or tribal action; or
16 (5) Safe place for newborns act of 2002 under section
17 210.950.

18 3. A person shall not receive custody of a child, or
19 act as an intermediary in a transfer of custody of a child,
20 if the person knows or reasonably should know the transfer
21 violates subsection 1 of this section. This prohibition
22 does not apply if the person, as soon as practicable after
23 the transfer, notifies the children's division of the
24 transfer or takes appropriate action to establish custody
25 under subsection 2 of this section.

26 4. Violation of this section is a class B misdemeanor.

27 5. Violation of subsection 1 of this section is not
28 established solely because a parent or guardian that
29 transfers custody of a child does not regain custody.

 453.712. 1. If the children's division has a
2 reasonable basis to believe that a person has transferred or
3 will transfer custody of a child in violation of subsection
4 1 of section 453.710, the children's division may conduct a
5 home visit as provided by other law of this state and take
6 appropriate action to protect the welfare of the child.

 2. If the children's division conducts a home visit
8 for a child adopted or placed through an intercountry
9 adoption, the children's division shall:

10 (1) Prepare a report on the welfare and plan for
11 permanent placement of the child; and

12 (2) Provide a copy to the United States Department of
13 State.

14 3. Sections 453.700 to 453.740 do not prevent the
15 children's division from taking appropriate action under
16 other law of this state.

 453.714. 1. A person shall not solicit or advertise
2 to:

3 (1) Identify a person to which to make a transfer of
4 custody in violation of subsection 1 of section 453.710;

5 (2) Identify a child for a transfer of custody in
6 violation of subsection 3 of section 453.710; or

7 (3) Act as an intermediary in a transfer of custody in
8 violation of subsection 3 of section 453.710.

9 2. Violation of this section is a class B misdemeanor.

 453.716. A law enforcement agency may investigate a
2 possible violation of sections 453.706 to 453.716 and take
3 legal action as provided by law of this state.

453.718. As used in sections 453.718 to 453.732, the
2 term "prospective adoptive parent" means an individual who
3 has been approved or permitted under other law of this state
4 to adopt a child.

453.720. Sections 453.718 to 453.732 apply to
2 placement for adoption of a child who:

- 3 (1) Has been or is in foster or institutional care;
- 4 (2) Previously has been adopted in a state;
- 5 (3) Has been or is being adopted under the law of a
6 foreign country;
- 7 (4) Has come or is coming to a state from a foreign
8 country to be adopted; or
- 9 (5) Is not a citizen of the United States.

453.722. Within a reasonable time before a child-
2 placing agency places a child for adoption with a
3 prospective adoptive parent, the agency shall provide or
4 cause to be provided to the prospective adoptive parent
5 general adoption information. The information shall address:

- 6 (1) Possible physical, mental, emotional, and
7 behavioral issues concerning:
 - 8 (a) Identity, loss, and trauma that a child might
9 experience before, during, or after adoption; and
 - 10 (b) A child leaving familiar ties and surroundings;
- 11 (2) The effect that access to resources, including
12 health insurance, may have on the ability of an adoptive
13 parent to meet the needs of a child;
- 14 (3) Causes of disruption of an adoptive placement or
15 dissolution of an adoption and resources available to help
16 avoid disruption or dissolution; and
- 17 (4) Prohibitions under sections 453.710 and 453.714.

453.724. 1. Except as prohibited by other law of this
2 state, within a reasonable time before a child-placing

3 agency places a child for adoption with a prospective
4 adoptive parent, the agency shall provide or cause to be
5 provided to the prospective adoptive parent information
6 specific to the child that is known to or reasonably
7 obtainable by the agency and material to the prospective
8 adoptive parent's informed decision to adopt the child. The
9 information shall include:

10 (1) The child's family, cultural, racial, religious,
11 ethnic, linguistic, and educational background;

12 (2) The child's physical, mental, emotional, and
13 behavioral health;

14 (3) Circumstances that might adversely affect the
15 child's physical, mental, emotional, or behavioral health;

16 (4) The child's medical history, including
17 immunizations;

18 (5) The medical history of the child's genetic parents
19 and siblings;

20 (6) The history of an adoptive or out-of-home
21 placement of the child and the reason the adoption or
22 placement ended;

23 (7) The child's United States immigration status;

24 (8) Medical, therapeutic, and educational resources,
25 including language-acquisition training, available to the
26 adoptive parent and child after placement for adoption or
27 adoption to assist in responding effectively to physical,
28 mental, emotional, or behavioral health issues; and

29 (9) Available records relevant to the information in
30 subdivisions (1) through (8) of this subsection.

31 2. If, before an adoption is finalized, additional
32 information under subsection 1 of this section that is
33 material to a prospective adoptive parent's informed
34 decision to adopt the child becomes known to or reasonably

35 obtainable by the child-placing agency, the agency shall
36 provide the information to the prospective adoptive parent.

37 3. If, after an adoption is finalized, additional
38 information under subsection 1 of this section becomes known
39 to the child-placing agency, the agency shall make a
40 reasonable effort to provide the information to the adoptive
41 parent.

453.726. 1. A child-placing agency placing a child
2 for adoption shall provide or cause to be provided to the
3 prospective adoptive parent guidance and instruction
4 specific to the child to help prepare the parent to respond
5 effectively to needs of the child that are known to or
6 reasonably ascertainable by the agency.

7 2. The guidance and instruction under subsection 1 of
8 this section shall address, if applicable:

9 (1) The potential effect on the child of:

10 (a) A previous adoption or out-of-home placement;

11 (b) Multiple previous adoptions or out-of-home
12 placements;

13 (c) Trauma, insecure attachment, fetal alcohol
14 exposure, or malnutrition;

15 (d) Neglect, abuse, drug exposure, or similar
16 adversity;

17 (e) Separation from a sibling or significant
18 caregiver; and

19 (f) A difference in ethnicity, race, or cultural
20 identity between the child and the prospective adoptive
21 parent or other child of the parent;

22 (2) Information available from the federal government
23 on the process for the child to acquire United States
24 citizenship; and

25 (3) Any other matter the child-placing agency
26 considers material to the adoption.

27 3. The guidance and instruction under subsection 1 of
28 this section shall be provided:

29 (1) For adoption of a child residing in the United
30 States, a reasonable time before the adoption is finalized;
31 or

32 (2) For an intercountry adoption, in accordance with
33 federal law.

 453.728. On request of a child who was placed for
2 adoption or the child's adoptive parent, the child-placing
3 agency placing the child or the children's division shall
4 provide information about how to obtain financial assistance
5 or support services:

6 (1) To assist the child or parent to respond
7 effectively to adjustment, behavioral health, and other
8 challenges; and

9 (2) To help preserve the placement or adoption.

 453.730. 1. A law enforcement agency may investigate
2 an allegation that a child-placing agency has failed to
3 comply with sections 453.718 to 453.732 and commence an
4 action for injunctive or other relief or initiate an
5 administrative proceeding against the child-placing agency
6 to enforce sections 453.718 to 453.732.

7 2. The children's division may initiate a proceeding
8 to determine whether a child-placing agency has failed to
9 comply with sections 453.718 to 453.732. If the children's
10 division finds that the child-placing agency has failed to
11 comply, the children's division may suspend or revoke the
12 agency's license or take other action permitted by law of
13 this state.

453.732. The children's division may adopt rules under
chapter 536 to implement sections 453.722, 453.724, and
453.728. Any rule or portion of a rule, as that term is
defined in section 536.010, that is created under the
authority delegated in this section shall become effective
only if it complies with and is subject to all of the
provisions of chapter 536 and, if applicable, section
536.028. This section and chapter 536 are nonseverable and
if any of the powers vested with the general assembly
pursuant to chapter 536 to review, to delay the effective
date, or to disapprove and annul a rule are subsequently
held unconstitutional, then the grant of rulemaking
authority and any rule proposed or adopted after August 28,
2025, shall be invalid and void.

453.734. In applying and construing this uniform act,
a court shall consider the promotion of uniformity of the
law among jurisdictions that enact it.

453.736. Sections 453.700 to 453.740 modify, limit, or
supersede the Electronic Signatures in Global and National
Commerce Act, 15 U.S.C. Section 7001 et seq., as amended,
but do not modify, limit, or supersede 15 U.S.C. Section
7001(c), or authorize electronic delivery of any of the
notices described in 15 U.S.C. Section 7003(b).

453.738. 1. Sections 453.706 to 453.716 apply to:

(1) A transfer of custody on or after August 28, 2025;
and

(2) Soliciting or advertising on or after August 28,
2025.

2. Sections 453.718 to 453.732 apply to placement of a
child for adoption more than sixty days after August 28,
2025.

453.740. If a provision of sections 453.700 to 453.740
2 or its application to a person or circumstance is held
3 invalid, the invalidity does not affect another provision or
4 application that can be given effect without the invalid
5 provision.

453.742. Sections 453.700 to 453.740 supplement the
2 provisions under this chapter and chapter 210 for the
3 transfer of custody of a child. To the extent the
4 provisions under this chapter or chapter 210 are
5 inconsistent with sections 453.700 to 453.740, the
6 provisions of sections 453.700 to 453.740 control regarding
7 the transfer of custody of a child.

455.010. As used in this chapter, unless the context
2 clearly indicates otherwise, the following terms shall mean:

- 3 (1) "Abuse", includes but is not limited to the
4 occurrence of any of the following acts, attempts or threats
5 against a person who may be protected pursuant to this
6 chapter, except abuse shall not include abuse inflicted on a
7 child by accidental means by an adult household member or
8 discipline of a child, including spanking, in a reasonable
9 manner:
- 10 (a) "Abusing a pet", purposely or knowingly causing,
11 attempting to cause, or threatening to cause physical injury
12 to a pet with the intent to control, punish, intimidate, or
13 distress the petitioner;
- 14 (b) "Assault", purposely or knowingly placing or
15 attempting to place another in fear of physical harm;
- 16 (c) "Battery", purposely or knowingly causing physical
17 harm to another with or without a deadly weapon;
- 18 (d) "Coercion", compelling another by force or threat
19 of force to engage in conduct from which the latter has a

20 right to abstain or to abstain from conduct in which the
21 person has a right to engage;

22 (e) "Harassment", engaging in a purposeful or knowing
23 course of conduct involving more than one incident that
24 alarms or causes distress to an adult or child and serves no
25 legitimate purpose. The course of conduct must be such as
26 would cause a reasonable adult or child to suffer
27 substantial emotional distress and must actually cause
28 substantial emotional distress to the petitioner or child.
29 Such conduct might include, but is not limited to:

30 a. Following another about in a public place or places;

31 b. Peering in the window or lingering outside the
32 residence of another; but does not include constitutionally
33 protected activity;

34 (f) "Sexual assault", causing or attempting to cause
35 another to engage involuntarily in any sexual act by force,
36 threat of force, duress, or without that person's consent;

37 (g) "Unlawful imprisonment", holding, confining,
38 detaining or abducting another person against that person's
39 will;

40 (2) "Adult", any person [seventeen] **eighteen** years of
41 age or older or otherwise emancipated;

42 (3) "Child", any person under [seventeen] **eighteen**
43 years of age unless otherwise emancipated;

44 (4) "Court", the circuit or associate circuit judge or
45 a family court commissioner;

46 (5) "Domestic violence", abuse or stalking committed
47 by a family or household member, as such terms are defined
48 in this section;

49 (6) "Ex parte order of protection", an order of
50 protection issued by the court before the respondent has

51 received notice of the petition or an opportunity to be
52 heard on it;

53 (7) "Family" or "household member", spouses, former
54 spouses, any person related by blood or marriage, persons
55 who are presently residing together or have resided together
56 in the past, any person who is or has been in a continuing
57 social relationship of a romantic or intimate nature with
58 the victim, and anyone who has a child in common regardless
59 of whether they have been married or have resided together
60 at any time;

61 (8) "Full order of protection", an order of protection
62 issued after a hearing on the record where the respondent
63 has received notice of the proceedings and has had an
64 opportunity to be heard;

65 (9) "Order of protection", either an ex parte order of
66 protection or a full order of protection;

67 (10) "Pending", exists or for which a hearing date has
68 been set;

69 (11) "Pet", a living creature maintained by a
70 household member for companionship and not for commercial
71 purposes;

72 (12) "Petitioner", a family or household member who
73 has been a victim of domestic violence, or any person who
74 has been the victim of stalking or sexual assault, or a
75 person filing on behalf of a child pursuant to section
76 455.503 who has filed a verified petition pursuant to the
77 provisions of section 455.020 or section 455.505;

78 (13) "Respondent", the family or household member
79 alleged to have committed an act of domestic violence, or
80 person alleged to have committed an act of stalking or
81 sexual assault, against whom a verified petition has been

82 filed or a person served on behalf of a child pursuant to
83 section 455.503;

84 (14) "Sexual assault", as defined under subdivision
85 (1) of this section;

86 (15) "Stalking", is when any person purposely engages
87 in an unwanted course of conduct that causes alarm to
88 another person, or a person who resides together in the same
89 household with the person seeking the order of protection
90 when it is reasonable in that person's situation to have
91 been alarmed by the conduct. As used in this subdivision:

92 (a) "Alarm", to cause fear of danger of physical harm;
93 and

94 (b) "Course of conduct", two or more acts that serve
95 no legitimate purpose including, but not limited to, acts in
96 which the stalker directly, indirectly, or through a third
97 party follows, monitors, observes, surveils, threatens, or
98 communicates to a person by any action, method, or device.

455.035. 1. Upon the filing of a verified petition
2 pursuant to sections 455.010 to 455.085 and for good cause
3 shown in the petition, the court may immediately issue an ex
4 parte order of protection. An immediate and present danger
5 of domestic violence to the petitioner or the child on whose
6 behalf the petition is filed shall constitute good cause for
7 purposes of this section. An ex parte order of protection
8 entered by the court shall take effect when entered and
9 shall remain in effect until there is valid service of
10 process and a hearing is held on the motion. The court
11 shall deny the ex parte order and dismiss the petition if
12 the petitioner is not authorized to seek relief pursuant to
13 section 455.020.

14 2. Failure to serve an ex parte order of protection on
15 the respondent shall not affect the validity or

enforceability of such order. If the respondent is less than **[seventeen] eighteen** years of age, unless otherwise emancipated, service of process shall be made upon a custodial parent or guardian of the respondent, or upon a guardian ad litem appointed by the court, requiring that the person appear and bring the respondent before the court at the time and place stated.

3. If an ex parte order is entered and the respondent is less than **[seventeen] eighteen** years of age, the court shall transfer the case to juvenile court for a hearing on a full order of protection. The court shall appoint a guardian ad litem for any such respondent not represented by a parent or guardian.

455.513. 1. The court may immediately issue an ex parte order of protection upon the filing of a verified petition under sections 455.500 to 455.538, for good cause shown in the petition, and upon finding that:

(1) No prior order regarding custody involving the respondent and the child is pending or has been made; or

(2) The respondent is less than **[seventeen] eighteen** years of age.

An immediate and present danger of domestic violence, including danger to the child's pet, stalking, or sexual assault to a child shall constitute good cause for purposes of this section. An ex parte order of protection entered by the court shall be in effect until the time of the hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not authorized to seek relief pursuant to section 455.505.

2. Upon the entry of the ex parte order of protection, the court shall enter its order appointing a guardian ad

19 litem or court-appointed special advocate to represent the
20 child victim.

21 3. If the allegations in the petition would give rise
22 to jurisdiction under section 211.031, the court may direct
23 the children's division to conduct an investigation and to
24 provide appropriate services. The division shall submit a
25 written investigative report to the court and to the
26 juvenile officer within thirty days of being ordered to do
27 so. The report shall be made available to the parties and
28 the guardian ad litem or court-appointed special advocate.

29 4. If the allegations in the petition would give rise
30 to jurisdiction under section 211.031 because the respondent
31 is less than [seventeen] **eighteen** years of age, the court
32 may issue an ex parte order and shall transfer the case to
33 juvenile court for a hearing on a full order of protection.
34 Service of process shall be made pursuant to section 455.035.

456.1-108. 1. Without precluding other means for
2 establishing a sufficient connection with the designated
3 jurisdiction, terms of a trust designating the principal
4 place of administration are valid and controlling if:

5 (1) a trustee's principal place of business is located
6 in or a trustee is a resident of the designated
7 jurisdiction; or

8 (2) all or part of the administration occurs in the
9 designated jurisdiction.

10 2. Without precluding the right of the court to order,
11 approve, or disapprove a transfer, the trustee may transfer
12 the trust's principal place of administration to another
13 state or to a jurisdiction outside of the United States that
14 is appropriate to the trust's purposes, its administration,
15 and the interests of the beneficiaries.

16 3. The trustee shall notify the qualified
17 beneficiaries of a proposed transfer of a trust's principal
18 place of administration not less than sixty days before
19 initiating the transfer. The notice of proposed transfer
20 must include:

21 (1) the name of the jurisdiction to which the
22 principal place of administration is to be transferred;

23 (2) the address and telephone number at the new
24 location at which the trustee can be contacted;

25 (3) an explanation of the reasons for the proposed
26 transfer;

27 (4) **notice that a change in the place of**
28 **administration may result in a change of governing law,**
29 **which may affect the rights of beneficiaries in ways that**
30 **are different from current governing law;**

31 (5) the date on which the proposed transfer is
32 anticipated to occur; and

33 [(5)] (6) the date, not less than sixty days after the
34 giving of the notice, by which the qualified beneficiary
35 must notify the trustee of an objection to the proposed
36 transfer.

37 4. The authority of a trustee under this section to
38 transfer a trust's principal place of administration without
39 an order of a court terminates if a qualified beneficiary
40 notifies the trustee of an objection to the proposed
41 transfer on or before the date specified in the notice.

42 5. In connection with a transfer of the trust's
43 principal place of administration, the trustee may transfer
44 some or all of the trust property to a successor trustee
45 designated in the terms of the trust or appointed pursuant
46 to section 456.7-704.

456.10-1005. 1. A beneficiary may not commence a proceeding against a trustee for breach of trust more than one year after the last to occur of the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and the date the trustee informed the beneficiary of the time allowed for commencing a proceeding with respect to any potential claim adequately disclosed on the report.

2. A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

3. If subsection 1 of this section does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust must be commenced within five years after the first to occur of:

- (1) the removal, resignation, or death of the trustee;
- (2) the **occurrence of the event causing a** termination of the beneficiary's interest in the trust; or
- (3) the **occurrence of the event causing a** termination of the trust.

469.399. Sections 469.399 to 469.487 shall be known and may be cited as the "Missouri Uniform Fiduciary Income and Principal Act".

469.401. As used in sections [469.401] **469.399** to [469.467] **469.487**, the following terms mean:

- (1) "Accounting period", a calendar year unless [another twelve-month period is selected by] a fiduciary **selects another period of twelve calendar months or approximately twelve calendar months.** The term "accounting

7 **period"** includes a [portion] **part** of a calendar year or
8 [other twelve-month] **another** period [that] **of twelve**
9 **calendar months or approximately twelve calendar months that**
10 **begins when an income interest begins or ends when an income**
11 **interest ends;**

12 (2) **"Asset-backed security", a security that is**
13 **serviced primarily by the cash flows of a discrete pool of**
14 **fixed or revolving receivables or other financial assets**
15 **that by their terms convert into cash within a finite time.**
16 **The term "asset-backed security" includes rights or other**
17 **assets that ensure the servicing or timely distribution of**
18 **proceeds to the holder of the asset-backed security. The**
19 **term "asset-backed security" does not include an asset to**
20 **which section 469.423, 469.437, or 469.447 applies;**

21 (3) **"Beneficiary", includes:**

22 (a) **For a trust:**

23 a. **A current beneficiary, including a current income**
24 **beneficiary and a beneficiary that may receive only**
25 **principal;**

26 b. **A remainder beneficiary; and**

27 c. **Any other successor beneficiary;**

28 (b) **For an estate, an heir, legatee, and devisee [of a**
29 **decedent's estate, and an income beneficiary and a remainder**
30 **beneficiary of a trust, including any type of entity that**
31 **has a beneficial interest in either an estate or a trust];**
32 **and**

33 (c) **For a life estate or term interest, a person that**
34 **holds a life estate, term interest, or remainder or other**
35 **interest following a life estate or term interest;**

36 (4) **"Court", any court in this state having**
37 **jurisdiction relating to a trust, estate, life estate, or**

38 other term interest described in subdivision (2) of
39 subsection 1 of section 469.402;

40 (5) "Current income beneficiary", a beneficiary to
41 which a fiduciary may distribute net income, whether or not
42 the fiduciary also may distribute principal to the
43 beneficiary;

44 (6) "Distribution", a payment or transfer by a
45 fiduciary to a beneficiary in the beneficiary's capacity as
46 a beneficiary, made under the terms of the trust, without
47 consideration other than the beneficiary's right to receive
48 the payment or transfer under the terms of the trust. The
49 terms "distribute", "distributed", and "distributee" have
50 corresponding meanings;

51 (7) "Estate", a decedent's estate. The term "estate"
52 includes the property of the decedent as the estate is
53 originally constituted and the property of the estate as it
54 exists at any time during administration;

55 [(3)] (8) "Fiduciary", includes a trustee, trust
56 protector determined in section 456.8-808, personal
57 representative, [trustee, executor, administrator, successor
58 personal representative, special administrator and any other
59 person performing substantially the same function] life
60 tenant, holder of a term "fiduciary" interest, and person
61 acting under a delegation from a fiduciary. The term
62 "fiduciary" includes a person that holds property for a
63 successor beneficiary whose interest may be affected by an
64 allocation of receipts and expenditures between income and
65 principal. If there are two or more cofiduciaries, the term
66 "fiduciary" includes all cofiduciaries acting under the
67 terms of the trust and applicable law;

68 [(4)] (9) "Income", money or other property [that] a
69 fiduciary receives as current return from [a] principal

[asset, including a portion]. The term "income" includes a part of receipts from a sale, exchange, or liquidation of a principal asset, [as] to the extent provided in sections 469.423 to 469.449;

[(5) "Income beneficiary", a person to whom net income of a trust is or may be payable;

(6)] (10) "Income interest", the right of [an] a current income beneficiary to receive all or part of net income, whether the terms of the trust require [it] the net income to be distributed or authorize [it] the net income to be distributed in the [trustee's] fiduciary's discretion.

The term "income interest" includes the right of a current beneficiary to use property held by a fiduciary;

(11) "Independent person", a person that is not:

(a) For a trust:

a. A qualified beneficiary as defined in section 456.1-103;

b. A settlor of the trust; or

c. An individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) For an estate, a beneficiary;

(c) A spouse, parent, brother, sister, or issue of an individual described in paragraph (a) or (b) of this subdivision;

(d) A corporation, partnership, limited liability company, or other entity in which persons described in paragraphs (a) to (c) of this subdivision, in the aggregate, have voting control; or

(e) An employee of a person described in paragraph

(a), (b), (c), or (d) of this subdivision;

101 [(7)] (12) "Mandatory income interest", the right of
102 [an] a **current** income beneficiary to receive net income that
103 the terms of the trust require the fiduciary to distribute;

104 [(8)] (13) "Net income", [if section 469.411 applies
105 to the trust, the unitrust amount, or if section 469.411
106 does not apply to the trust,] the total [receipts allocated
107 to income] **allocations** during an accounting period **to income**
108 **under the terms of a trust and sections 469.399 to 469.487**
109 minus the disbursements [made from income during the same
110 period, plus or minus transfers pursuant to sections 469.401
111 to 469.467 to or from income] during the [same] period,
112 **other than distributions, allocated to income under the**
113 **terms of the trust and sections 469.399 to 469.487. To the**
114 **extent the trust is a unitrust under sections 469.471 to**
115 **469.487, the term "net income" means the unitrust amount**
116 **determined under sections 469.471 to 469.487. The term "net**
117 **income" includes an adjustment from principal to income**
118 **under section 469.405. The term "net income" does not**
119 **include an adjustment from income to principal under section**
120 **469.405;**

121 [(9)] (14) "Person", an individual, [corporation,
122 business trust,] estate, trust, [partnership, limited
123 liability company, association, joint venture] **business or**
124 **nonprofit entity, public corporation, government[,]** or
125 governmental subdivision, agency, or instrumentality,
126 [public corporation] or [any] other legal [or commercial]
127 entity;

128 (15) "Personal representative", an executor,
129 **administrator, successor personal representative, special**
130 **administrator, or person that performs substantially the**
131 **same function with respect to an estate under the law**
132 **governing the person's status;**

133 [(10)] (16) "Principal", property held in trust for
134 distribution to [a remainder], **production of income for, or**
135 **use by a current or successor** beneficiary [when the trust
136 terminates];

137 [(11)] "Qualified beneficiary", a beneficiary defined
138 in section 456.1-103;

139 (12) "Remainder beneficiary", a person entitled to
140 receive principal when an income interest ends;

141 [(13)] (17) "Record", information that is inscribed on
142 a tangible medium or that is stored in an electronic or
143 other medium and is retrievable in perceivable form;

144 (18) "Settlor", a person, including a testator, that
145 creates or contributes property to a trust. If more than
146 one person creates or contributes property to a trust, the
147 term "settlor" includes each person, to the extent of the
148 trust property attributable to that person's contribution,
149 except to the extent another person has the power to revoke
150 or withdraw that portion;

151 (19) "Special tax benefit":

152 (a) Exclusion of a transfer to a trust from gifts
153 described in 26 U.S.C. Section 2503(b), as amended, because
154 of the qualification of an income interest in the trust as a
155 present interest in property;

156 (b) Status as a qualified subchapter S trust described
157 in 26 U.S.C. Section 1361(d)(3), as amended, at a time the
158 trust holds stock of an S corporation described in 26 U.S.C.
159 Section 1361(a)(1), as amended;

160 (c) An estate or gift tax marital deduction for a
161 transfer to a trust under 26 U.S.C. Section 2056 or 2523, as
162 amended, which depends or depended in whole or in part on
163 the right of the settlor's spouse to receive the net income
164 of the trust;

(d) Exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by 26 U.S.C. Section 2601, as amended, because the trust was irrevocable on September 25, 1985, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust; or

(e) An inclusion ratio, as defined in 26 U.S.C. Section 2642(a), as amended, of the trust which is less than one, if there is any possibility that:

a. A taxable distribution, as defined in 26 U.S.C. Section 2612(b), as amended, could be made from the trust; or

b. A taxable termination, as defined in 26 U.S.C. Section 2612(a), as amended, could occur with respect to the trust;

(20) "Successive interest", the interest of a successor beneficiary;

(21) "Successor beneficiary", a person entitled to receive income or principal or to use property when an income interest or other current interest ends;

(22) "Terms of a trust":

(a) Except as otherwise provided in paragraph (b) of this subdivision, the manifestation of the settlor's [or decedent's] intent regarding a trust's provisions as:

a. Expressed in [a manner which is] the trust instrument; or

b. Established by other evidence that would be admissible [as proof] in a judicial proceeding[, whether by written or spoken words or by conduct];

(b) The trust's provisions as established, determined, or amended by:

a. A trustee or trust director in accordance with applicable law;

b. Court order; or

c. A nonjudicial settlement agreement under section 456.1-111;

(c) For an estate, a will; or

(d) For a life estate or term interest, the corresponding manifestation of the rights of the beneficiaries;

(23) "Trust":

(a) Includes:

a. An express trust, private or charitable, with additions to the trust, wherever and however created; and

b. A trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(b) Does not include:

a. A constructive trust;

b. A resulting trust, conservatorship, guardianship, multi-party account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

c. An arrangement under which a person is a nominee, escrowee, or agent for another;

[(14)] (24) "Trustee", a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary. The term "trustee" includes an original,

229 additional, or successor trustee, whether or not appointed
230 or confirmed by a court;

231 [(15) "Unitrust amount", net income as defined by
232 section 469.411]

233 (25) "Will", any testamentary instrument recognized by
234 applicable law that makes a legally effective disposition of
235 an individual's property, effective at the individual's
236 death. The term "will" includes a codicil or other
237 amendment to a testamentary instrument.

469.402. [The provisions of sections 456.3-301 to
2 456.3-305 shall apply to sections 469.401 to 469.467 for all
3 purposes.] 1. Except as otherwise provided in the terms of
4 a trust or sections 469.399 to 469.487, sections 469.399 to
5 469.487 apply to:

6 (1) A trust or estate; and

7 (2) A life estate or other term interest in which the
8 interest of one or more persons will be succeeded by the
9 interest of one or more other persons.

10 2. Except as otherwise provided in the terms of a
11 trust or sections 469.399 to 469.487, sections 469.399 to
12 469.487 apply when this state is the principal place of
13 administration of a trust or estate or the situs of property
14 that is not held in a trust or estate and is subject to a
15 life estate or other term interest described in subdivision
16 (2) of subsection 1 of this section. By accepting the
17 trusteeship of a trust having its principal place of
18 administration in this state or by moving the principal
19 place of administration of a trust to this state, the
20 trustee submits to the application of sections 469.399 to
21 469.487 to any matter within the scope of sections 469.399
22 to 469.487 involving the trust.

469.403. 1. [In allocating receipts and disbursements
to or between principal and income, and with respect to any
matter within the scope of] **In making an allocation or
determination or exercising discretion pursuant to sections
469.413 to 469.421, a fiduciary shall:**

(1) [Shall] **Act in good faith, based on what is fair
and reasonable to all beneficiaries;**

(2) **Administer a trust or estate [under] impartially,
except to the extent the terms of the trust manifest an
intent that the fiduciary shall or [the will] may favor one
or more beneficiaries;**

(3) **Administer the trust or estate in accordance with
the terms of the trust, even if there is a different
provision in sections [469.401] 469.399 to [469.467]
469.487; and**

[(2) May] (4) **Administer [a] the trust or estate [by
exercising] in accordance with sections 469.399 to 469.487,
except to the extent the terms of the trust provide
otherwise or authorize the fiduciary to determine otherwise.**

2. **A fiduciary's allocation, determination, or
exercise of discretion pursuant to sections 469.399 to
469.487 is presumed to be fair and reasonable to all
beneficiaries. A fiduciary may exercise a discretionary
power of administration given to the fiduciary by the terms
of the trust [or the will, even if the], and an exercise of
the power that produces a result different from a result
required or permitted by sections [469.401] 469.399 to
[469.467;] 469.487 does not create an inference that the
fiduciary abused the fiduciary's discretion.**

[(3) Shall administer a trust or estate pursuant]

3. **A fiduciary shall:**

32 (1) **Add a receipt** to [sections 469.401 to 469.467 if]
33 **principal, to the extent neither** the terms of the trust [or
34 the will do not contain a different provision or do not
35 give] **nor sections 469.399 to 469.487 allocate** the
36 [fiduciary a discretionary power of administration] **receipt**
37 **between income and principal; and**

38 [(4) Shall add a receipt or] (2) Charge a
39 disbursement to principal, to the extent [that] **neither** the
40 terms of the trust [and sections 469.401 to 469.467 do not
41 provide a rule for allocating the receipt or disbursement to
42 or between principal and income.

43 2. In exercising the power to adjust pursuant to
44 section 469.405 or a discretionary power of administration
45 regarding a matter within the scope of sections 469.401 to
46 469.467, whether granted by the terms of a trust, a will, or
47 sections 469.401 to 469.467, a fiduciary shall administer a
48 trust or estate impartially, based on what is fair and
49 reasonable to all of the beneficiaries, except to the extent
50 that the terms of the trust or the will clearly manifest an
51 intent that the fiduciary shall or may favor one or more of
52 the beneficiaries. A determination in accordance with
53 sections 469.401 to 469.467 is presumed to be fair and
54 reasonable to all of the beneficiaries] **nor sections 469.399**
55 **to 469.487 allocate the disbursement between income and**
56 **principal.**

57 4. A fiduciary may exercise the power to adjust under
58 section 469.405, convert an income trust to a unitrust under
59 subdivision (1) of subsection 1 of section 469.475, change
60 the percentage or method used to calculate a unitrust amount
61 under subdivision (2) of subsection 1 of section 469.475, or
62 convert a unitrust to an income trust under subdivision (3)
63 of subsection 1 of section 469.475, if the fiduciary

determines the exercise of the power will assist the fiduciary to administer the trust or estate impartially.

5. Factors the fiduciary shall consider in making the determination under subsection 4 of this section include:

- (1) The terms of the trust;
- (2) The nature, distribution standards, and expected duration of the trust;
- (3) The effect of the allocation rules, including specific adjustments between income and principal, under sections 407.413 to 407.461;
- (4) The desirability of liquidity and regularity of income;
- (5) The desirability of the preservation and appreciation of principal;
- (6) The extent to which an asset is used or may be used by a beneficiary;
- (7) The increase or decrease in the value of principal assets, reasonably determined by the fiduciary;
- (8) Whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;
- (9) The extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;
- (10) The effect of current and reasonably expected economic conditions; and
- (11) The reasonably expected tax consequences of the exercise of the power.

469.404. 1. As used in this section, the term "fiduciary decision" means:

- (1) A fiduciary's allocation between income and principal or other determination regarding income and

5 principal required or authorized by the terms of the trust
6 or sections 469.399 to 469.487;

7 (2) The fiduciary's exercise or nonexercise of a
8 discretionary power regarding income and principal granted
9 by the terms of the trust or sections 469.399 to 469.487,
10 including the power to adjust under section 469.405, convert
11 an income trust to a unitrust under subdivision (1) of
12 subsection 1 of section 469.475, change the percentage or
13 method used to calculate a unitrust amount under subdivision
14 (2) of subsection 1 of section 469.475, or convert a
15 unitrust to an income trust under subdivision (3) of
16 subsection 1 of section 469.475; or

17 (3) The fiduciary's implementation of a decision
18 described in subdivision (1) or (2) of this subsection.

19 2. The court shall not order a fiduciary to change a
20 fiduciary decision unless the court determines that the
21 fiduciary decision was an abuse of the fiduciary's
22 discretion.

23 3. If the court determines that a fiduciary decision
24 was an abuse of the fiduciary's discretion, the court may
25 order a remedy authorized by law, including under section
26 456.10-1001. To place the beneficiaries in the positions
27 the beneficiaries would have occupied if there had not been
28 an abuse of the fiduciary's discretion, the court may order:

29 (1) The fiduciary to exercise or refrain from
30 exercising the power to adjust under section 469.405;

31 (2) The fiduciary to exercise or refrain from
32 exercising the power to convert an income trust to a
33 unitrust under subdivision (1) of subsection 1 of section
34 469.475, change the percentage or method used to calculate a
35 unitrust amount under subdivision (2) of subsection 1 of

section 469.475, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of section 469.475;

(3) The fiduciary to distribute an amount to a beneficiary;

(4) A beneficiary to return some or all of a distribution; or

(5) The fiduciary to withhold an amount from one or more future distributions to a beneficiary.

4. On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion. If the petition describes the proposed decision, contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies, and explains how the beneficiary will be affected by the proposed decision, a beneficiary that opposes the proposed decision has the burden to establish that it will result in an abuse of the fiduciary's discretion.

469.405. 1. [A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or shall be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying subsection 1 of section 469.403, that the trustee is unable to comply with subsection 2 of section 469.403] Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust will assist the fiduciary to administer the trust or estate impartially.

14 2. This section does not create a duty to exercise or
15 consider the power to adjust under subsection 1 of this
16 section or to inform a beneficiary about the applicability
17 of this section.

18 3. A fiduciary that in good faith exercises or fails
19 to exercise the power to adjust under subsection 1 of this
20 section is not liable to a person affected by the exercise
21 or failure to exercise.

22 4. In deciding whether and to what extent to exercise
23 the power [conferred by] to adjust under subsection 1 of
24 this section, a [trustee] fiduciary shall consider all
25 factors the fiduciary considers relevant [to the trust and
26 its beneficiaries], including [the following] relevant
27 factors [to the extent relevant:] in subsection 5 of section
28 469.403 and the application of sections 469.423, 469.435,
29 and 469.445.

30 [(1) The nature, purpose and expected duration of the
31 trust;

32 (2) The intent of the settlor;

33 (3) The identity and circumstances of the
34 beneficiaries;

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

37 (5) The assets held in the trust, including the extent
38 to which such assets consist of financial assets, interests
39 in closely held enterprises, tangible and intangible
40 personal property, or real property, and the extent to which
41 such assets are used by a beneficiary, and whether such
42 assets were purchased by the trustee or received from the
43 settlor;

44 (6) The net amount allocated to income pursuant to
45 sections 469.401 to 469.467, other than this section, and

the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

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

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

(9) The anticipated tax consequences of an adjustment.

3.] 5. A [trustee may] fiduciary shall not exercise the power under subsection 1 of this section to make an adjustment or under section 469.435 to make a determination that an allocation is insubstantial if:

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

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

(3) That changes] **The adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;**

78 (2) The adjustment or determination would change the
79 amount payable to a beneficiary, as a fixed annuity or a
80 fixed fraction of the value of the trust assets, under the
81 terms of the trust;

82 [(4) From any] (3) The adjustment or determination
83 would reduce an amount that is permanently set aside for a
84 charitable [purposes] purpose under [a will or] the terms of
85 [a] the trust [to the extent that the existence of the power
86 to adjust would change the character of the amount], unless
87 both income and principal are set aside for [federal income,
88 gift or estate tax purposes] the charitable purpose;

89 [(5) If] (4) Possessing or exercising the power [to
90 make an adjustment causes an individual] would cause a
91 person to be treated as the owner of all or part of the
92 trust for federal income tax purposes[, and the individual
93 would not be treated as the owner if the trustee did not
94 possess the power to make an adjustment];

95 [(6) If] (5) Possessing or exercising the power [to
96 make an adjustment causes] would cause all or part of the
97 value of the trust assets to be included [for estate tax
98 purposes] in the gross estate of an individual [who has] for
99 federal estate tax purposes;

100 (6) Possessing or exercising the power [to remove or
101 appoint a trustee, or both,] would cause an individual to be
102 treated as making a gift for federal gift tax purposes;

103 (7) The fiduciary is not an independent person;

104 (8) The trust is irrevocable and [the assets would not
105 be included in the estate of the individual if the trustee
106 did not possess] provides for income to be paid to the
107 settlor and possessing or exercising the power [to make an
108 adjustment] would cause the adjusted principal or income to

109 be considered an available resource or available income
110 under a public-benefit program; or

111 [(7) If the trustee is a beneficiary of the trust; or

112 (8) If the trustee is not a beneficiary, but the
113 adjustment would benefit the trustee directly or indirectly]

114 (9) The trust is a unitrust under sections 469.471 to
115 469.487.

116 [4.] 6. If [subdivision (5), (6), (7) or (8) of]
117 subsection [3] 5 of this section applies to a [trustee and
118 there is more than one trustee, a cotrustee to whom the
119 provision does] fiduciary:

120 (1) A cofiduciary to which subdivisions (4) to (7) of
121 subsection 5 of this section do not apply may [make]
122 exercise the [adjustment] power to adjust unless the
123 exercise of the power by the remaining [trustee or trustees]
124 cofiduciary or cofiduciaries is not permitted by the terms
125 of the trust or law other than sections 469.399 to 469.487;
126 and

127 (2) If there is no cofiduciary to which subdivisions
128 (4) to (7) of subsection 5 of this section do not apply, the
129 fiduciary may appoint a cofiduciary to which subdivisions
130 (4) to (7) of subsection 5 of this section do not apply,
131 which may be a special fiduciary with limited powers, and
132 the appointed cofiduciary may exercise the power to adjust
133 under subsection 1 of this section, unless the appointment
134 of a cofiduciary or the exercise of the power by a
135 cofiduciary is not permitted by the terms of the trust or
136 law other than under sections 469.399 to 469.487.

137 [5.] 7. A [trustee] fiduciary may release [the entire
138 power conferred by subsection 1 of this section, or may
139 release only] or delegate to a cofiduciary the power to
140 adjust [from income to principal or the power to adjust from

principal to income if the trustee is uncertain about whether possessing or exercising] under subsection 1 of this section if the fiduciary determines that the fiduciary's possession or exercise of the power will or may:

(1) Cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection [3] 5 of this section [,]; or [if the trustee determines that possessing or exercising the power will or may]

(2) Deprive the trust of a tax benefit or impose a tax burden not described in subdivisions (1) to (6) of subsection [3] 5 of this section.

8. A fiduciary's release or delegation to a cofiduciary under subsection 7 of this section of the power to adjust under subsection 1 of this section:

(1) Shall be in a record;

(2) Applies to the entire power, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(a) From income to principal;

(b) From principal to income;

(c) For specified property; or

(d) In specified circumstances;

(3) For a delegation, may be modified by a redelegation under this subsection by the cofiduciary to which the delegation is made; and

(4) Subject to subdivision (3) of this subsection, is permanent [or for] unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

[6.] 9. Terms of a trust that deny or limit the power [of a trustee] to [make an adjustment] adjust between income and principal [and income] do not affect the application of

173 this section unless [it is clear from] the terms of the
174 trust [that the terms are intended to] **expressly** deny [the
175 trustee] **or limit** the power [of adjustment conferred by] to
176 **adjust under** subsection 1 of this section.

177 **10. The exercise of the power to adjust under**
178 **subsection 1 of this section in any accounting period may**
179 **apply to the current period, the immediately preceding**
180 **period, and one or more subsequent periods.**

181 **11. A description of the exercise of the power to**
182 **adjust under subsection 1 of this section shall be:**

183 **(1) Included in a report, if any, sent to**
184 **beneficiaries under subsection 3 of section 456.8-813; or**

185 **(2) Communicated at least annually to the qualified**
186 **beneficiaries defined under section 456.1-103 other than all**
187 **beneficiaries that receive or are entitled to receive income**
188 **from the trust or would be entitled to receive a**
189 **distribution of principal if the trust were terminated at**
190 **the time the notice is sent, assuming no power of**
191 **appointment is exercised.**

469.413. [After a decedent dies, in the case] **1. This**
2 **section applies when:**

3 **(1) The death of an individual results in the creation**
4 **of an estate[, or after] or trust; or**

5 **(2) An income interest in a trust [ends, the following**
6 **rules apply:] terminates, whether the trust continues or is**
7 **distributed.**

8 **[(1)] 2. A fiduciary of an estate or [of a**
9 **terminating] trust with an income interest that terminates**
10 **shall determine, under subsection 7 of this section and**
11 **sections 469.417 to 469.462, the amount of net income and**
12 **net principal receipts received from property specifically**
13 **given to a beneficiary [pursuant to the rules in sections**

14 469.417 to 469.461 which apply to trustees and the rules in
15 subdivision (5) of this section]. The fiduciary shall
16 distribute the net income and net principal receipts to the
17 beneficiary [who] **that** is to receive the specific
18 property[;].

19 [(2)] **3.** A fiduciary shall determine the [remaining]
20 **income and** net income of [a decedent's] **an** estate or [a
21 terminating] income interest [pursuant to the rules in] **in a**
22 **trust that terminates, other than the amount of net income**
23 **determined under subsection 2 of this section, under**
24 sections 469.417 to [469.461 which apply to trustees]
25 **469.462** and by:

26 [(a)] **(1)** Including in net income all income from
27 property used **or sold** to discharge liabilities;

28 [(b)] **(2)** Paying from income or principal, in the
29 fiduciary's discretion, fees of attorneys, accountants, and
30 fiduciaries[;], court costs and other expenses of
31 administration[;], and interest on [death] **estate and**
32 **inheritance taxes and other taxes imposed because of the**
33 **decedent's death**, but the fiduciary may pay [those] **the**
34 expenses from income of property passing to a trust for
35 which the fiduciary claims [an] **a federal** estate tax marital
36 or charitable deduction only to the extent [that]:

37 **(a)** The payment of [those] **the** expenses from income
38 will not cause the reduction or loss of the deduction; [and]
39 **or**

40 **(b)** **The fiduciary makes an adjustment under subsection**
41 **2 of section 469.462; and**

42 [(c)] **(3)** Paying from principal [all] other
43 disbursements made or incurred in connection with the
44 settlement of [a decedent's] **the** estate or the winding up of

[a terminating] an income interest that terminates,
including:

(a) To the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family allowances, [and death] estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(b) Related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or [terminating] income interest [by the will, the terms of the trust, or applicable law;

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or in the absence of any such provisions, the provisions of section 473.633, from net income determined pursuant to subdivision (2) of this section or from principal to the extent that net income is insufficient] that terminates.

4. If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under subsection 3 of this section or from principal to the extent net income is insufficient.

5. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or [other amount] the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall [distribute] pay the interest or [other amount] the equivalent of interest to which the beneficiary would be

entitled under applicable law if the pecuniary amount were required to be paid under a will[;].

[(4)] 6. A fiduciary shall distribute [the] net income remaining after [distributions] **payments** required by [subdivision (3)] **subsections 4 and 5** of this section in the manner described in section 469.415 to all other beneficiaries, including a beneficiary [who] **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[;].

[(5)] 7. A fiduciary [may] **shall** not reduce principal or income receipts from property described in [subdivision (1)] **subsection 2** of this section because of a payment described in sections 469.451 and 469.453 to the extent [that] the **decedent's** 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] **shall be** determined by including [all of] the amounts the fiduciary receives or pays [with respect to] **regarding** the property, whether [those amounts] **the amount** accrued or became due before, on, or after the date of [a] **the** decedent's death or an income interest's terminating event, and [by] making a reasonable provision for [amounts that the fiduciary believes] **an amount** the estate or [terminating] income interest may become obligated to pay after the property is distributed.

469.415. 1. [Each] **Except to the extent sections 469.471 to 469.487 apply for a beneficiary that is a trust, each beneficiary** described in subdivision [(4)] (6) of

4 section 469.413 is entitled to receive a [portion] **share** of
5 the net income equal to the beneficiary's fractional
6 interest in undistributed principal assets, using values as
7 of the distribution date. If a fiduciary makes more than
8 one distribution of assets to beneficiaries to [whom] **which**
9 this section applies, each beneficiary, including [one who]
10 **a beneficiary that** does not receive part of the
11 distribution, is entitled, as of each distribution date, to
12 **a share of** the net income the fiduciary [has] received after
13 the [date of] **decedent's** death [or], **an income interest's**
14 **other** terminating event, or [earlier] **the preceding**
15 distribution [date but has not distributed as of the current
16 distribution date] **by the fiduciary.**

17 2. In determining a beneficiary's share of net income
18 **under subsection 1 of this section**, the following rules
19 apply:

20 (1) The beneficiary is entitled to receive a [portion]
21 **share** of the net income equal to the beneficiary's
22 fractional interest in the undistributed principal assets
23 immediately before the distribution date[, including assets
24 that later may be sold to meet principal obligations];

25 (2) The beneficiary's fractional interest [in the
26 undistributed principal assets] **under subdivision (1) of**
27 **this subsection** shall be calculated [without regard to
28 property specifically given to a beneficiary and property
29 required to pay pecuniary amounts not in trust];

30 (3) The beneficiary's fractional interest in the
31 undistributed principal assets shall be calculated]:

32 (a) On the [basis of the] aggregate value of [those]
33 **the** assets as of the distribution date without reducing the
34 value by any unpaid principal obligation; **and**

35 (b) **Without regard to:**

36 a. Property specifically given to a beneficiary under
37 the decedent's will or the terms of the trust; and

38 b. Property required to pay pecuniary amounts not in
39 trust; and

40 [(4)] (3) The distribution date [for purposes of this
41 section] under subdivision (1) of this subsection may be the
42 date as of which the fiduciary calculates the value of the
43 assets if that date is reasonably near the date on which the
44 assets are [actually] distributed.

45 3. [If] To the extent a fiduciary does not distribute
46 under this section all [of] the collected but undistributed
47 net income to each [person] beneficiary as of a distribution
48 date, the fiduciary shall maintain [appropriate] records
49 showing the interest of each beneficiary in [that] the net
50 income.

51 4. If this section applies to income from an asset, a
52 fiduciary may apply the rules in this section[, to the
53 extent that the fiduciary considers it appropriate,] to net
54 gain or loss realized from the disposition of the asset
55 after the [date of] decedent's death [or], an income
56 interest's terminating event, or [earlier] the preceding
57 distribution [date from the disposition of a principal asset
58 if this section applies to the income from the asset] by the
59 fiduciary.

469.417. 1. An income beneficiary is entitled to net
2 income in accordance with the terms of the trust from the
3 date [on which the] an income interest begins. [An] The
4 income interest begins on the date specified in the terms of
5 the trust or, if no date is specified, on the date an asset
6 becomes subject to [a trust or successive income interest]:

7 (1) The trust for the current income beneficiary; or

8 (2) A successive interest for a successor beneficiary.

9 2. An asset becomes subject to a trust **under**
10 **subdivision (1) of subsection 1 of this section:**

11 (1) [On the date it is transferred to the trust in the
12 case of] **For** an asset that is transferred to [a] **the** trust
13 during the [transferor's] **settlor's** life, **on the date the**
14 **asset is transferred;**

15 (2) [On the date of a testator's death in the case of]
16 **For** an asset that becomes subject to [a] **the** trust [by
17 reason] **because** of a [will] **decedent's death, on the date of**
18 **the decedent's death,** even if there is an intervening period
19 of administration of the [testator's] **decedent's** estate; or

20 (3) [On the date of an individual's death in the case
21 of] **For** an asset that is transferred to a fiduciary by a
22 third party because of [the individual's] **a decedent's**
23 **death, on the date of the decedent's death.**

24 3. An asset becomes subject to a successive [income]
25 interest **under subdivision (2) of subsection 1 of this**
26 **section** on the day after the preceding income interest ends,
27 as determined [pursuant to] **under** subsection 4 of this
28 section, even if there is an intervening period of
29 administration to wind up the preceding income interest.

30 4. An income interest ends on the day before an income
31 beneficiary dies or another terminating event occurs[,] or
32 on the last day of a period during which there is no
33 beneficiary to [whom] **which** a [trustee] **fiduciary** may or
34 **shall** distribute income.

469.419. 1. A [trustee] **fiduciary** shall allocate an
2 income receipt or disbursement, other than [one] **a receipt**
3 to which [subdivision (1)] **subsection 2** of section 469.413
4 applies, to principal if its due date occurs before [a
5 **decedent dies in the case of] the date on which:**

6 (1) **For** an estate, **the decedent died;** or [before]

7 **(2) For a trust or successive interest,** an income
8 interest begins [in the case of a trust or successive income
9 interest].

10 2. [A trustee shall allocate an income receipt or
11 disbursement to income if its] **If the due date of a periodic**
12 **income receipt or disbursement** occurs on or after the date
13 on which a decedent [dies] **died** or an income interest
14 [begins and it is a periodic due date. An income] **began, a**
15 **fiduciary shall allocate the** receipt or disbursement to
16 **income.**

17 3. **If an income receipt or disbursement is not**
18 **periodic or has no due date, a fiduciary shall [be treated]**
19 **treat the receipt or disbursement under this section as**
20 accruing from day to day [if its due date is not periodic or
21 it has no due date]. **The fiduciary shall allocate to**
22 **principal the** portion of the receipt or disbursement
23 accruing before the date on which a decedent [dies] **died** or
24 an income interest [begins shall be allocated to principal]
25 **began, and to income** the balance [shall be allocated to
26 income].

27 [3.] 4. **A receipt or disbursement is periodic under**
28 **subsections 2 and 3 of this section if:**

29 (1) **The receipt or disbursement shall be paid at**
30 **regular intervals under an obligation to make payments; or**

31 (2) **The payer customarily makes payments at regular**
32 **intervals.**

33 5. An item of income or [an] obligation is due **under**
34 **this section** on the date [a payment] **the payer** is required
35 **to make a payment.** If a payment date is not stated, there
36 is no due date [for the purposes of sections 469.401 to
37 469.467].

38 6. Distributions to shareholders or other owners from
39 an entity to which section 469.423 applies are [deemed to
40 be] due:

41 (1) On the date fixed by **or on behalf of** the entity
42 for determining [who is] **the persons** entitled to receive the
43 distribution [or,];

44 (2) If no date is fixed, on the [declaration] date
45 [for] **of the decision by or on behalf of the entity to make**
46 the distribution[. A due date is periodic for receipts or
47 disbursements that shall be paid at regular intervals under
48 a lease or an obligation to pay interest or if an entity
49 customarily makes distributions at regular intervals]; **or**

50 (3) **If no date is fixed and the fiduciary does not**
51 **know the date of the decision by or on behalf of the entity**
52 **to make the distribution, on the date the fiduciary learns**
53 **of the decision.**

469.421. 1. [For purposes of] **As used in this**
2 section, the [phrase] **term "undistributed income"** means net
3 income received **on or** before the date on which an income
4 interest ends. The [phrase] **term "undistributed income"**
5 does not include an item of income or expense that is due or
6 accrued[,] or net income that has been added or is required
7 to be added to principal under the terms of the trust.

8 2. **Except as otherwise provided in subsection 3 of**
9 **this section,** when a mandatory income interest **of a**
10 **beneficiary** ends, the [trustee] **fiduciary** shall pay [to a
11 mandatory income beneficiary who survives that date, or the
12 estate of a deceased mandatory income beneficiary whose
13 death causes the interest to end,] the beneficiary's share
14 of the undistributed income that is not disposed of under
15 the terms of the trust [unless] **to the beneficiary or, if**

16 the beneficiary does not survive the date the interest ends,
17 to the beneficiary's estate.

18 3. If a beneficiary has an unqualified power to
19 [revoke] **withdraw** more than five percent of the **value of a**
20 trust immediately before [the] **an** income interest ends[. In
21 the latter case,]:

22 (1) **The fiduciary shall allocate to principal** the
23 undistributed income from the portion of the trust that may
24 be [revoked shall be added to principal] **withdrawn; and**

25 (2) **Subsection 2 of this section applies only to the**
26 **balance of the undistributed income.**

27 [3.] 4. When a [trustee's] **fiduciary's** obligation to
28 pay a fixed annuity or a fixed fraction of the value of [the
29 trust's] assets ends, the [trustee] **fiduciary** shall prorate
30 the final payment [if and to the extent] **as** required [by
31 applicable law to accomplish a purpose of the trust or its
32 settlor relating] to **preserve an income tax, gift tax,**
33 **estate tax, or other tax [requirements] benefit.**

469.423. 1. [For purposes of] **As used in this**
2 section, the [term] **following terms mean:**

3 (1) **"Capital distribution", an entity distribution of**
4 **money that is a:**

5 (a) **Return of capital; or**

6 (b) **Distribution in total or partial liquidation of**
7 **the entity;**

8 (2) **"Entity" [means]:**

9 (a) A corporation, partnership, limited liability
10 company, regulated investment company, real estate
11 investment trust, common trust fund, or any other
12 organization [in which a trustee has an interest, other than
13 a trust or estate to which section 469.425 applies, a
14 business or activity to which section 469.427 applies, or an

15 asset-backed security to which section 469.449 applies] or
16 arrangement in which a fiduciary owns or holds an interest,
17 whether or not the entity is a taxpayer for federal income
18 tax purposes; and

19 (b) The term "entity" does not include:

20 a. A trust or estate to which section 469.425 applies;

21 b. A business or other activity to which section
22 469.427 applies that is not conducted by an entity described
23 in paragraph (a) of this subdivision;

24 c. An asset-backed security; or

25 d. An instrument or arrangement to which section
26 469.446 applies;

27 (3) "Entity distribution", a payment or transfer by an
28 entity made to a person in the person's capacity as an owner
29 or holder of an interest in the entity.

30 2. In this section, an attribute or action of an
31 entity includes an attribute or action of any other entity
32 in which the entity owns or holds an interest, including an
33 interest owned or held indirectly through another entity.

34 3. Except as otherwise provided in subdivisions (2) to
35 (4) of subsection 4 of this section, a [trustee] fiduciary
36 shall allocate to income:

37 (1) Money received [from] in an entity[.

38 3. A trustee shall allocate the following receipts
39 from an entity to principal:

40 (1) Property other than money;

41 (2) Money received in one distribution or a series of
42 related distributions in exchange for part or all of a
43 trust's interest in the entity;

44 (3) Money received in total or partial liquidation of
45 the entity; and

(4) Money received from an entity that is] distribution; and

(2) Tangible personal property of nominal value received from the entity.

4. A fiduciary shall allocate to principal:

(1) Property received in an entity distribution that is not:

(a) Money; or

(b) Tangible personal property of nominal value;

(2) Money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(3) Money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(4) Money received in an entity distribution from an entity that is:

(a) A regulated investment company or [a] real estate investment trust if the money [distributed] received is a capital gain dividend for federal income tax purposes[.]

4. Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that such money is a distribution in partial liquidation; or

(2) If]; or

(b) Treated for federal income tax purposes comparably to the treatment described in paragraph (a) of this subdivision.

5. A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

78 (1) By relying, without inquiry or investigation, on a
79 characterization of the entity distribution provided by or
80 on behalf of the entity, unless the fiduciary:

81 (a) Determines, on the basis of information known to
82 the fiduciary, that the characterization is or may be
83 incorrect; or

84 (b) Owns or holds more than fifty percent of the
85 voting interest in the entity;

86 (2) By determining or estimating, on the basis of
87 information known to the fiduciary or provided to the
88 fiduciary by or on behalf of the entity, that the total
89 amount of money and property received by the fiduciary in
90 [a] the entity distribution or a series of related entity
91 distributions is or will be greater than twenty percent of
92 the [entity's gross assets, as shown by the entity's year-
93 end financial statements immediately preceding the initial
94 receipt.

95 5. Money is not received in partial liquidation, nor
96 may it be taken into account pursuant to subdivision (2) of
97 subsection 4 of this section, to the extent that such money
98 does not exceed the amount of income tax that a trustee or
99 beneficiary shall pay on taxable income of the entity that
100 distributes the money.

101 6. A trustee may rely upon a statement made by an
102 entity about the source or character of a distribution if
103 the statement is made at or near the time of distribution by
104 the entity's board of directors or other person or group of
105 persons authorized to exercise powers to pay money or
106 transfer property comparable to those of a corporation's
107 board of directors.] fair market value of the fiduciary's
108 interest in the entity; or

109 (3) If neither subdivision (1) nor (2) of this
110 subsection applies, by considering the factors in subsection
111 6 of this section and the information known to the fiduciary
112 or provided to the fiduciary by or on behalf of the entity.

113 6. In making a determination or estimate under
114 subdivision (3) of subsection 5 of this section, a fiduciary
115 may consider:

116 (1) A characterization of an entity distribution
117 provided by or on behalf of the entity;

118 (2) The amount of money or property received in:

119 (a) The entity distribution; or

120 (b) What the fiduciary determines is or will be a
121 series of related entity distributions;

122 (3) The amount described in subdivision (2) of this
123 subsection compared to the amount the fiduciary determines
124 or estimates is, during the current or preceding accounting
125 periods:

126 (a) The entity's operating income;

127 (b) The proceeds of the entity's sale or other
128 disposition of:

129 a. All or part of the business or other activity
130 conducted by the entity;

131 b. One or more business assets that are not sold to
132 customers in the ordinary course of the business or other
133 activity conducted by the entity; or

134 c. One or more assets other than business assets,
135 unless the entity's primary activity is to invest in assets
136 to realize gain on the disposition of all or some of the
137 assets;

138 (c) If the entity's primary activity is to invest in
139 assets to realize gain on the disposition of all or some of
140 the assets, the gain realized on the disposition;

141 (d) The entity's regular, periodic entity
142 distributions;

143 (e) The amount of money the entity has accumulated;

144 (f) The amount of money the entity has borrowed;

145 (g) The amount of money the entity has received from
146 the sources described in sections 469.433, 469.439, 469.441,
147 and 469.443; and

148 (h) The amount of money the entity has received from a
149 source not otherwise described in this subdivision; and

150 (4) Any other factor the fiduciary determines is
151 relevant.

152 7. If, after applying subsections 3 to 6 of this
153 section, a fiduciary determines that a part of an entity
154 distribution is a capital distribution but is in doubt about
155 the amount of the entity distribution that is a capital
156 distribution, the fiduciary shall allocate to principal the
157 amount of the entity distribution that is in doubt.

158 8. If a fiduciary receives additional information
159 about the application of this section to an entity
160 distribution before the fiduciary has paid part of the
161 entity distribution to a beneficiary, the fiduciary may
162 consider the additional information before making the
163 payment to the beneficiary and may change a decision to make
164 the payment to the beneficiary.

165 9. If a fiduciary receives additional information
166 about the application of this section to an entity
167 distribution after the fiduciary has paid part of the entity
168 distribution to a beneficiary, the fiduciary is not required
169 to change or recover the payment to the beneficiary but may
170 consider that information in determining whether to exercise
171 the power to adjust under section 469.405.

469.425. A [trustee] **fiduciary** shall allocate to
income an amount received as a distribution of income,
including a unitrust distribution under sections 469.471 to
469.487, from a trust or [an] estate in which the [trust]
fiduciary has an interest, other than [a] **an interest the**
fiduciary purchased [interest] **in a trust that is an**
investment entity, and shall allocate to principal an amount
received as a distribution of principal from [such a] **the**
trust or estate. If a [trustee] **fiduciary** purchases, or
receives from a settlor, an interest in a trust that is an
investment entity, [or a decedent or donor transfers an
interest in such a trust to a trustee,] section 469.423,
469.446, or 469.449 [shall apply] **applies** to a receipt from
the trust.

469.427. 1. [If a trustee who conducts] **This section**
applies to a business or other activity **conducted by a**
fiduciary if the fiduciary determines that it is in the
[best interest] **interests** of [all] the beneficiaries to
account separately for the business or **other** activity
instead of:

(1) Accounting for [it] **the business or other activity**
as part of the [trust's] **fiduciary's** general accounting
records[,]; or

(2) **Conducting the [trustee] business or other**
activity through an entity described in paragraph (a) of
subdivision (2) of subsection 1 of section 469.423.

2. A **fiduciary** may [maintain separate accounting
records] **account separately under this section for [its] the**
transactions of a business or other activity, whether or not
[its] **assets of the business or other activity** are
segregated from other [trust] **assets held by the fiduciary.**

[2.] 3. A [trustee who] **fiduciary that** accounts separately **under this section** for a business or other activity:

(1) May determine:

(a) The extent to which **the** net cash receipts **of the business or other activity** shall be retained for:

a. Working capital[,];

b. The acquisition or replacement of fixed assets[,];

and

c. Other reasonably foreseeable needs of the business or **other** activity[,]; and

(b) The extent to which the remaining net cash receipts are accounted for as principal or income in the [trust's] **fiduciary's** general accounting records[. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee] **for the trust;**

(2) May make a determination under subdivision (1) of **this subsection separately and differently from the fiduciary's decisions concerning distributions of income or principal; and**

(3) Shall account for the net amount received **from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity,** as principal in the [trust's] **fiduciary's** general accounting records **for the trust,** to the extent the [trustee] **fiduciary** determines that the **net** amount received is no longer required in the conduct of the business **or other activity.**

[3.] 4. Activities for which a [trustee may maintain separate accounting records] **fiduciary may account separately under this section** include:

- 50 (1) Retail, manufacturing, service, and other
51 traditional business activities;
- 52 (2) Farming;
- 53 (3) Raising and selling livestock and other animals;
- 54 (4) **[Management of] Managing** rental properties;
- 55 (5) **[Extraction of] Extracting** minerals, **water**, and
56 other natural resources;
- 57 (6) **Growing and cutting** timber **[operations]**; **[and]**
- 58 (7) **[Activities]** **An activity** to which section **469.446**,
59 **469.447**, **or 469.449** applies; **and**
- 60 (8) **Any other business conducted by the fiduciary.**

469.429. A **[trustee]** **fiduciary** shall allocate to
2 principal:

- 3 (1) To the extent not allocated to income **[pursuant**
4 **to]** **under** sections **[469.401]** **469.399** to **[469.467]** **469.487**,
5 **[assets]** **an asset** received from **[a transferor]**:

6 (a) **An individual** during the **[transferor's]**
7 **individual's** lifetime**[, a decedent's]**;

8 (b) **An estate****[,]**;

9 (c) A trust **[with a terminating]** **on termination of an**
10 **income interest****[,]**; or

11 (d) A payer under a contract naming the **[trust or its**
12 **trustee]** **fiduciary** as beneficiary;

13 (2) **Except as otherwise provided in sections 469.423**
14 **to 469.449**, money or other property received from the sale,
15 exchange, liquidation, or change in form of a principal
16 asset**[, including realized profit, subject to sections**
17 **469.423 to 469.467]**;

18 (3) **[Amounts]** **An amount** recovered from **a** third
19 **[parties]** **party** to reimburse the **[trust]** **fiduciary** because
20 of **[disbursements]** **a disbursement** described in **[subdivision**
21 **(7) of]** subsection 1 of section 469.453 or for **[other**

22 reasons] **another reason** to the extent not based on [the]
23 loss of income;

24 (4) Proceeds of property taken by eminent domain, [but
25 a separate award made] **except that proceeds awarded** for
26 [the] loss of income [with respect to] **in** an accounting
27 period [during which] **are income if** a current income
28 beneficiary had a mandatory income interest [is income]
29 **during the period;**

30 (5) Net income received in an accounting period during
31 which there is no beneficiary to [whom] **which** a [trustee]
32 **fiduciary** may or shall distribute income; and

33 (6) Other receipts as provided in sections 469.435 to
34 469.449.

469.431. To the extent [that a trustee accounts] a
2 **fiduciary does not account** for [receipts from] the
3 **management of** rental property [pursuant to this section] **as**
4 **a business under section 469.427,** the [trustee] **fiduciary**
5 shall allocate to income an amount received as rent of real
6 or personal property, including an amount received for
7 cancellation or renewal of a lease. An amount received as a
8 refundable deposit, including a security deposit or a
9 deposit that is to be applied as rent for future periods[,]:

10 (1) Shall be added to principal and held subject to
11 the terms of the lease, **except as otherwise provided by law**
12 **other than sections 469.399 to 469.487;** and

13 (2) Is not **allocated to income or** available for
14 distribution to a beneficiary until the [trustee's]
15 **fiduciary's** contractual obligations have been satisfied with
16 respect to that amount.

469.432. 1. **This section does not apply to an**
2 **obligation to which section 469.437, 469.439, 469.441,**
3 **469.443, 469.446, 469.447, or 469.449 applies.**

4 **2. A fiduciary shall allocate to income, without**
5 **provision for amortization of premium,** an amount received as
6 interest[, whether determined at a fixed, variable or
7 floating rate,] on an obligation to pay money to the
8 [trustee] **fiduciary,** including an amount received as
9 consideration for prepaying principal[, shall be allocated
10 to income without any provision for amortization of premium].

11 **[2.] 3. A [trustee] fiduciary** shall allocate to
12 principal an amount received from the sale, redemption, or
13 other disposition of an obligation to pay money to the
14 [trustee more than one year after it is purchased or
15 acquired by the trustee, including an obligation whose
16 purchase price or value when it is acquired is less than its
17 value at maturity. If the obligation matures within one
18 year after it is purchased or acquired by the trustee, an
19 amount received in excess of its purchase price or its value
20 when acquired by the trust shall be allocated to income.

21 **3. This section does not apply to an obligation to**
22 **which section 469.437, 469.439, 469.441, 469.443, 469.447 or**
23 **469.449 applies] fiduciary. A fiduciary shall allocate to**
24 **income the increment in value of a bond or other obligation**
25 **for the payment of money bearing no stated interest but**
26 **payable or redeemable, at maturity or another future time,**
27 **in an amount that exceeds the amount in consideration of**
28 **which it was issued.**

 469.433. 1. **This section does not apply to a contract**
2 **to which section 469.437 applies.**

3 **2. Except as otherwise provided in subsection [2] 3 of**
4 **this section, a [trustee] fiduciary** shall allocate to
5 principal the proceeds of a life insurance policy or other
6 contract [in which the trust or its trustee is named]
7 **received by the fiduciary** as beneficiary, including a

8 contract that insures [the trust or its trustee] against
9 [loss for] damage to, destruction of, or loss of title to [a
10 trust] an asset. The [trustee] **fiduciary** shall allocate
11 dividends on an insurance policy to income [if] to the
12 **extent** premiums on the policy are paid from income[,] and to
13 principal [if] to the **extent** premiums on the policy are paid
14 from principal.

15 [2.] 3. A [trustee] **fiduciary** shall allocate to income
16 proceeds of a contract that insures the [trustee] **fiduciary**
17 against loss of:

18 (1) Occupancy or other use by [an] a **current** income
19 beneficiary[, loss of];

20 (2) Income[,]; or[,]

21 (3) Subject to section 469.427, [loss of] profits from
22 a business.

23 [3. This section does not apply to a contract to which
24 section 469.437 applies.]

469.435. 1. If a [trustee] **fiduciary** determines that
2 an allocation between **income and** principal [and income]
3 required by section 469.437, 469.439, 469.441, 469.443 or
4 469.449 is insubstantial, the [trustee] **fiduciary** may
5 allocate the entire amount to principal, unless [one of the
6 circumstances described in] subsection [3] 5 of section
7 469.405 applies to the allocation. [This power]

8 2. A **fiduciary** may [be exercised by a cotrustee in the
9 circumstances described in subsection 4 of section 469.405
10 and may be released for the reasons and in the manner
11 described in subsection 5 of section 469.405.] **presume** an
12 allocation is [presumed to be] insubstantial **under**
13 **subsection 1 of this section** if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; **[or] and**

(2) **[The value of]** The asset producing the receipt **[for which the allocation would]** to be **[made is]** **allocated has a fair market value** less than ten percent of the total **fair market** value of the **[trust's]** assets **owned or held by the fiduciary** at the beginning of the accounting period.

3. The power to make a determination under subsection 1 of this section may be:

(1) **Exercised by a cofiduciary in the manner described in subsection 6 of section 469.405; or**

(2) **Released or delegated for a reason described in subsection 7 of section 469.405 and in the manner described in subsection 8 of section 469.405.**

469.437. 1. As used in this section, the following terms mean:

(1) **["Payment", an amount that is:**

(a) **Received or withdrawn from a plan; or**

(b) **One of a series of distributions that have been or will be received over a fixed number of years or during the life of one or more individuals under any contractual or other arrangement, or is a single payment from a plan that the trustee could have received over a fixed number of years or during the life of one or more individuals;**

(2) **"Plan", a contractual, custodial, trust or other arrangement that provides for distributions to the trust, including, but not limited to, qualified retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and deferred compensation, including payments received directly from an entity as defined in section 469.423 regardless of whether**

18 or not such distributions are made from a specific fund or
19 account.

20 2. If any portion of a payment is characterized as a
21 distribution to the trustee of interest, dividends or a
22 dividend equivalent, the trustee shall allocate the portion
23 so characterized to income. The trustee shall allocate the
24 balance of that payment to principal.

25 3. If no part of a payment is allocated to income
26 pursuant to subsection 2 of this section, then for each
27 accounting period of the trust that any payment is received
28 by the trust with respect to the trust's interest in a plan,
29 the trustee shall allocate to income that portion of the
30 aggregate value of all payments received by the trustee in
31 that accounting period equal to the amount of plan income
32 attributable to the trust's interest in the plan for that
33 calendar year. The trustee shall allocate the balance of
34 that payment to principal.

35 4. For purposes of this section, if a payment is
36 received from a plan that maintains a separate account or
37 fund for its participants or account holders, including, but
38 not limited to, defined contribution retirement plans,
39 Individual Retirement Accounts, Roth Individual Retirement
40 Accounts, and some types of deferred compensation plans, the
41 phrase "plan income" shall mean either the amount of the
42 plan account or fund held for the benefit of the trust that,
43 if the plan account or fund were a trust, would be allocated
44 to income pursuant to sections 469.401 to 469.467 for that
45 accounting period, or four percent of the value of the plan
46 account or fund on the first day of that accounting period.
47 The method of determining plan income pursuant to this
48 subsection shall be chosen by the trustee in the trustee's
49 discretion. The trustees may change the method of

determining plan income pursuant to this subsection for any future accounting period.

5. For purposes of this section if the payment is received from a plan that does not maintain a separate account or fund for its participants or account holders, including by way of example and not limitation defined benefit retirement plans and some types of deferred compensation plans, the term "plan income" shall mean four percent of the total present value of the trust's interest in the plan as of the first day of the accounting period, based on reasonable actuarial assumptions as determined by the trustee.

6. Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue Code of 1986, as amended, a trustee shall determine the plan income for the accounting period as if the plan were a trust subject to sections 469.401 to 469.467. Upon request of the surviving spouse, the trustee shall demand that the person administering the plan distribute the plan income to the trust. The trustee shall allocate a payment from the plan to income to the extent of the plan income and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the plan income exceeds payments made from the plan to the trust during the accounting period.

81 7. If, to obtain an estate or gift tax marital
82 deduction for a trust, a trustee shall allocate more of a
83 payment to income than provided for by this section, the
84 trustee shall allocate to income the additional amount
85 necessary to obtain the marital deduction.] "Internal income
86 of a separate fund", the amount determined under subsection
87 2 of this section;

88 (2) "Marital trust", a trust:

89 (a) Of which the settlor's surviving spouse is the
90 only current income beneficiary and is entitled to a
91 distribution of all the current net income of the trust; and

92 (b) That qualifies for a marital deduction with
93 respect to the settlor's estate under 26 U.S.C. Section
94 2056, as amended, because:

95 a. An election to qualify for a marital deduction
96 under 26 U.S.C. Section 2056(b) (7), as amended, has been
97 made; or

98 b. The trust qualifies for a marital deduction under
99 26 U.S.C. Section 2056(b) (5), as amended;

100 (3) "Payment", an amount a fiduciary may receive over
101 a fixed number of years or during the life of one or more
102 individuals because of services rendered or property
103 transferred to the payer in exchange for future amounts the
104 fiduciary may receive. The term "payment" includes an
105 amount received in money or property from the payer's
106 general assets or from a separate fund created by the payer;

107 (4) "Separate fund" includes a private or commercial
108 annuity, an individual retirement account, and a pension,
109 profit-sharing, stock bonus, or stock ownership plan.

110 2. For each accounting period, the following rules
111 apply to a separate fund:

112 (1) The fiduciary shall determine the internal income
113 of the separate fund as if the separate fund was a trust
114 subject to sections 469.399 to 469.487;

115 (2) If the fiduciary cannot determine the internal
116 income of the separate fund under subdivision (1) of this
117 subsection, the internal income of the separate fund is
118 deemed to equal three percent of the value of the separate
119 fund, according to the most recent statement of value
120 preceding the beginning of the accounting period; and

121 (3) If the fiduciary cannot determine the value of the
122 separate fund under subdivision (2) of this subsection, the
123 value of the separate fund is deemed to equal the present
124 value of the expected future payments, as determined under
125 26 U.S.C. Section 7520, as amended, for the month preceding
126 the beginning of the accounting period for which the
127 computation is made.

128 3. A fiduciary shall allocate a payment received from
129 a separate fund during an accounting period to income, to
130 the extent of the internal income of the separate fund
131 during the period, and the balance to principal.

132 4. The fiduciary of a marital trust shall:

133 (1) Withdraw from a separate fund the amount the
134 current income beneficiary of the trust requests the
135 fiduciary to withdraw, not greater than the amount by which
136 the internal income of the separate fund during the
137 accounting period exceeds the amount the fiduciary otherwise
138 receives from the separate fund during the period;

139 (2) Transfer from principal to income the amount the
140 current income beneficiary requests the fiduciary to
141 transfer, not greater than the amount by which the internal
142 income of the separate fund during the period exceeds the
143 amount the fiduciary receives from the separate fund during

the period after the application of subdivision (1) of this subsection; and

(3) Distribute to the current income beneficiary as income:

(a) The amount of the internal income of the separate fund received or withdrawn during the period; and

(b) The amount transferred from principal to income under subdivision (2) of this subsection.

5. For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the period.

469.439. 1. As used in this section, the [phrase] term "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] time. The [phrase] term "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. [The phrase]

2. This section does not [include a payment] apply to a receipt subject to section 469.423, 469.437, [resources subject to section] 469.441, [timber subject to section] 469.443, [an activity subject to section] 469.446, 469.447, [an asset subject to section] 469.449, or [any asset for which the trustee establishes a reserve for depreciation pursuant to section] 469.455.

[2.] 3. A [trustee] fiduciary shall allocate:

18 (1) To income [ten percent of the receipts from]:

19 (a) A receipt produced by a liquidating asset [and the
20 balance], to the extent the receipt does not exceed three
21 percent of the value of the asset; or

22 (b) If the fiduciary cannot determine the value of the
23 asset, ten percent of the receipt; and

24 (2) To principal, the balance of the receipt.

469.441. 1. To the extent [that a trustee accounts
2 for receipts] a fiduciary does not account for a receipt
3 from an interest in minerals, water, or other natural
4 resources [pursuant to this section] as a business under
5 section 469.427, the [trustee] fiduciary shall allocate
6 [them as follows] the receipt:

7 (1) [If] To income, to the extent received:

8 (a) As [nominal] delay rental or [nominal] annual rent
9 on a lease[, a receipt shall be allocated to income];

10 (b) As a factor for interest or the equivalent of
11 interest under an agreement creating a production payment; or

12 (c) On account of an interest in renewable water;

13 (2) To principal, if received from a production
14 payment, [a receipt shall be allocated to income if and to
15 the extent that the agreement creating the production
16 payment provides a factor for interest or its equivalent.
17 The balance shall be allocated to principal;] to the extent
18 paragraph (b) of subdivision (1) of this subsection does not
19 apply; or

20 (3) [If an amount received] Between income and
21 principal equitably, to the extent received:

22 (a) On account of an interest in nonrenewable water;

23 (b) As a royalty, shut-in-well payment, take-or-pay
24 payment, or bonus [or delay rental is more than nominal,

ninety percent shall be allocated to principal and the balance to income]; or

[(4) If an amount is received] (c) From a working interest or any other interest not provided for in subdivision (1)[,] or (2) [or (3)] of this subsection[, ninety percent of the net amount received shall be allocated to principal and the balance to income] or paragraph (a) or (b) of this subdivision.

2. [An amount received on account of] This section applies to an interest [in water that is renewable shall be allocated to income. If the water is not renewable, ninety percent of the amount shall be allocated to principal and the balance to income.

3. Sections 469.401 to 469.467 apply] owned or held by a fiduciary whether or not a [decedent or donor] settlor was extracting minerals, water, or other natural resources before the fiduciary owned or held the interest [became subject to the trust].

3. An allocation of a receipt under subdivision (3) of subsection 1 of this section is presumed to be equitable if the amount allocated to principal is equal to the amount allowed by Title 26 of the United States Code, as amended, as a deduction for depletion of the interest.

4. If a [trust] fiduciary owns or holds an interest in minerals, water, or other natural resources [on] before August 28, [2001] 2025, the [trustee] fiduciary may allocate receipts from the interest as provided in [sections 469.401 to 469.467] this section or in the manner used by the [trustee] fiduciary before August 28, [2001] 2025. If the [trust] fiduciary acquires an interest in minerals, water, or other natural resources on or after August 28, [2001] 2025, the [trustee] fiduciary shall allocate receipts from

57 the interest as provided in [sections 469.401 to 469.467]
58 **this section.**

469.443. 1. To the extent [that a trustee accounts] a
2 **fiduciary does not account** for receipts from the sale of
3 timber and related products [pursuant to this] **as a business**
4 **under** section 469.427, the [trustee] **fiduciary** shall
5 allocate the net receipts:

6 (1) To income, to the extent [that] the amount of
7 timber [removed] **cut** from the land does not exceed the rate
8 of growth of the timber [during the accounting periods in
9 which a beneficiary has a mandatory income interest];

10 (2) To principal, to the extent [that] the amount of
11 timber [removed] **cut** from the land exceeds the rate of
12 growth of the timber or the net receipts are from the sale
13 of standing timber;

14 (3) [To or] Between income and principal if the net
15 receipts are from the lease of [timberland] **land used for**
16 **growing and cutting timber** or from a contract to cut timber
17 from land [owned by a trust], by determining the amount of
18 timber [removed] **cut** from the land under the lease or
19 contract and applying the rules in subdivisions (1) and (2)
20 of this subsection; or

21 (4) To principal, to the extent [that] advance
22 payments, bonuses, and other payments are not allocated
23 [pursuant to either] **under** subdivision (1), (2), or (3) of
24 this subsection.

25 2. In determining net receipts to be allocated
26 [pursuant to] **under** subsection 1 of this section, a
27 [trustee] **fiduciary** shall deduct and transfer to principal a
28 reasonable amount for depletion.

29 3. [Sections 469.401 to 469.467 apply] **This section**
30 **applies to land owned or held by a fiduciary** whether or not

31 a [decedent or transferor] settlor was [harvesting] cutting
32 timber from the land before the fiduciary owned or held the
33 property [before it became subject to the trust].

34 4. If a [trust] fiduciary owns or holds an interest in
35 [timberland on] land used for growing and cutting timber
36 before August 28, [2001] 2025, the [trustee] fiduciary may
37 allocate net receipts from the sale of timber and related
38 products as provided in [sections 469.401 to 469.467] this
39 section or in the manner used by the [trustee] fiduciary
40 before August 28, [2001] 2025. If the [trust] fiduciary
41 acquires an interest in [timberland] land used for growing
42 and cutting timber on or after August 28, [2001] 2025, the
43 [trustee] fiduciary shall allocate net receipts from the
44 sale of timber and related products as provided in [sections
45 469.401 to 469.467] this section.

469.445. 1. If a trust received property for which a
2 gift or estate tax marital deduction [is allowed for all or
3 part of a trust whose] was allowed and the settlor's spouse
4 holds a mandatory income interest in the trust, the spouse
5 may require the trustee, to the extent the trust assets
6 [consist substantially of property that does] otherwise do
7 not provide the spouse with sufficient income from or use of
8 the trust assets[, and if the amounts that the trustee
9 transfers from principal to income pursuant to section
10 469.405 and distributes to the spouse from principal
11 pursuant to the terms of the trust are insufficient to
12 provide the spouse with the beneficial enjoyment required to
13 obtain the marital] to qualify for the deduction, [the
14 spouse may require the trustee] to:

- 15 (1) Make property productive of income[,];
16 (2) Convert property to property productive of income
17 within a reasonable time[,]; or

18 (3) Exercise the power [conferred by subsection 1 of]
19 **to adjust under** section 469.405.

20 2. The trustee may decide which action or combination
21 of actions **in subsection 1 of this section** to take.

22 [2. In cases not governed by subsection 1 of this
23 section, proceeds from the sale or other disposition of an
24 asset are principal without regard to the amount of income
25 the asset produces during any accounting period.]

469.446. A fiduciary shall allocate receipts from or
2 **related to a financial instrument or arrangement not**
3 **otherwise addressed by sections 469.399 to 469.487. The**
4 **allocation shall be consistent with sections 469.447 and**
5 **469.449.**

 469.447. 1. As used in this section, the term
2 "derivative" means a contract [or financial], instrument,
3 **other arrangement**, or [a] combination of contracts [and
4 financial], instruments, **or other arrangements, the value,**
5 **rights, and obligations of** which [gives a trust the right or
6 obligation to participate in some or all changes in the
7 price of a] **are, in whole or in part, dependent on or**
8 **derived from an underlying** tangible or intangible asset [or
9 group of assets, or changes in a rate, an index of prices
10 or], **group of tangible or intangible assets, index, or**
11 **occurrence of an event. The term "derivative" includes**
12 **stocks, fixed income securities, and financial instruments**
13 **and arrangements based on indices, commodities, interest**
14 **rates, [or other market indicator for an asset or a group of**
15 **assets] weather-related events, and credit default events.**

16 2. To the extent [that a trustee] **a fiduciary** does not
17 account [pursuant to section 469.427 for transactions] **for a**
18 **transaction** in derivatives[, the trustee] **as a business**
19 **under section 469.427, the fiduciary shall allocate [to**

principal] **ten percent of** receipts from **the transaction** and
ten percent of disbursements made in connection with [those
transactions] **the transaction to income and the balance to**
principal.

3. **The provisions of subsection 4 of this section**
apply if:

(1) A [trustee] **fiduciary**:

(a) Grants an option to buy property from [the] a
trust, whether or not the trust owns the property when the
option is granted[,];

(b) Grants an option that permits another person to
sell property to the trust[,]; or

(c) Acquires an option to buy property for the trust
or an option to sell an asset owned by the trust[,]; and

(2) The [trustee] **fiduciary** or other owner of the
asset is required to deliver the asset if the option is
exercised[.].

4. **If this subsection applies, the fiduciary shall**
allocate ten percent to income and the balance to principal
of the following amounts:

(1) An amount received for granting the option [shall
be allocated to principal.];

(2) An amount paid to acquire the option [shall be
paid from principal. A]; and

(3) Gain or loss realized [upon] **on** the exercise [of
an option, including an option granted to a settlor],
exchange, settlement, offset, closing, or expiration of the
[trust for services rendered, shall be allocated to
principal] **option**.

469.449. 1. [As used in this section, the phrase
"asset-backed security" means an asset whose value is based
upon the right it gives the owner to receive distributions

4 from the proceeds of financial assets that provide
5 collateral for the security. The phrase includes an asset
6 that gives the owner the right to receive from the
7 collateral financial assets only the interest or other
8 current return or only the proceeds other than interest or
9 current return. The phrase does not include an asset to
10 which section 469.423 or 469.437 applies.

11 2. If a trust receives a payment from interest or
12 other current return and from other proceeds of the
13 collateral financial assets, the trustee] **Except as**
14 **otherwise provided in subsection 2 of this section, a**
15 **fiduciary** shall allocate to income [the portion of the
16 payment which] **a receipt from or related to an asset-backed**
17 **security, to the extent** the payer identifies the payment as
18 being from interest or other current return, and [shall
19 allocate] **to principal** the balance of the [payment to
20 principal] **receipt.**

21 [3.] 2. If a [trust] **fiduciary** receives one or more
22 payments in exchange for **part or all of** the [trust's entire]
23 **fiduciary's** interest in an asset-backed security [in one
24 accounting period, the trustee shall allocate the payments
25 to principal. If a payment is one of a series of payments
26 that will result in the], **including a liquidation or**
27 **redemption** of the [trust's] **fiduciary's** interest in the
28 security [over more than one accounting period], the
29 [trustee] **fiduciary** shall allocate **to income** ten percent of
30 **receipts from** the [payment to income] **transaction** and [the
31 balance] **ten percent of disbursements made in connection**
32 **with the transaction, and** to principal **the balance of the**
33 **receipts and disbursements.**

469.451. [A trustee shall make the following
2 disbursements from income to the extent that they are not

disbursements to which paragraph (b) or (c) of] **Subject to**
section 469.456, and except as otherwise provided in
subdivision (2) or (3) of subsection 3 of section 469.413
[applies], a fiduciary shall disburse from income:

(1) One-half of:

(a) The regular compensation of the [trustee]
fiduciary and [of] any person providing investment advisory
[or], custodial, or other services to the [trustee]
fiduciary, to the extent income is sufficient; and

[(2) One-half of all expenses] (b) An expense for
[accountings] an accounting, judicial [proceedings] or
nonjudicial proceeding, or other [matters] matter that
[involve] involves both [the] income and [remainder]
successive interests, to the extent income is sufficient;

[(3) All of the other] (2) The balance of the
disbursements described in subdivision (1) of this section,
to the extent a fiduciary that is an independent person
determines that making those disbursements from income would
be in the interests of the beneficiaries;

(3) Another ordinary [expenses] expense incurred in
connection with [the] administration, management, or
preservation of [trust] property and [the] distribution of
income, including interest, an ordinary [repairs] repair,
regularly recurring [taxes] tax assessed against principal,
and [expenses] an expense of [a] an accounting, judicial or
nonjudicial proceeding, or other matter that [concerns]
involves primarily [the] an income interest, to the extent
income is sufficient; and

(4) [Recurring premiums] A premium on insurance
covering [the] loss of a principal asset or [the loss of]
income from or use of the asset.

469.453. 1. [A trustee shall make the following
2 disbursements] **Subject to section 469.457, and except as**
3 **otherwise provided in subdivision (2) of subsection 3 of**
4 **section 469.413, a fiduciary shall disburse from principal:**

5 (1) The [remaining one-half] **balance** of the
6 disbursements described in [subdivisions (1) and (2)]
7 **subsections 1 and 3 of section 469.451, after application of**
8 **subsection 2 of section 469.451;**

9 (2) [All of] The [trustee's] **fiduciary's** compensation
10 calculated on principal as a fee for acceptance,
11 distribution, or termination[, and disbursements made to
12 prepare property for sale];

13 (3) [Payments] **A payment of an expense to prepare for**
14 **or execute a sale or other disposition of property;**

15 (4) **A payment** on the principal of a trust debt;

16 [(4) Expenses of a] (5) **A payment of an expense of an**
17 **accounting, judicial or nonjudicial** proceeding, or other
18 matter that [concerns] **involves** primarily [an interest in]
19 principal, **including a proceeding to construe the terms of**
20 **the trust or protect property;**

21 [(5) Premiums paid on a policy of] (6) **A payment of a**
22 **premium for insurance, including title** insurance, not
23 described in subdivision (4) of section 469.451 of which the
24 [trust] **fiduciary** is the owner and beneficiary;

25 [(6)] (7) **A payment of an estate[,]** or inheritance
26 [and other transfer taxes] **tax or other tax imposed because**
27 **of the death of a decedent,** including penalties, apportioned
28 to the trust; and

29 [(7) Extraordinary expenses incurred in connection
30 with the management and preservation of trust property;

31 (8) Expenses for a capital improvement to a principal
32 asset, whether in the form of changes to an existing asset

33 or the construction of a new asset, including special
34 assessments; and

35 (9) Disbursements] (8) A payment:

36 (a) Related to environmental matters, including:

37 a. Reclamation[,];

38 b. Assessing environmental conditions[,];

39 c. Remedying and removing environmental
40 contamination[,];

41 d. Monitoring remedial activities and the release of
42 substances[,];

43 e. Preventing future releases of substances[,];

44 f. Collecting amounts from persons liable or
45 potentially liable for the costs of [those] activities[,]
46 described in subparagraphs a. to e. of this paragraph;

47 g. Penalties imposed under environmental laws or
48 regulations [and];

49 h. Other [payments made] actions to comply with
50 [those] environmental laws or regulations[,];

51 i. Statutory or common law claims by third parties[,];
52 and

53 j. Defending claims based on environmental matters; and

54 (b) For a premium for insurance for matters described
55 in paragraph (a) of this subdivision.

56 2. If a principal asset is encumbered with an
57 obligation that requires income from [that] the asset to be
58 paid directly to [the] a creditor, the [trustee] fiduciary
59 shall transfer from principal to income an amount equal to
60 the income paid to the creditor in reduction of the
61 principal balance of the obligation.

469.455. 1. As used in this section, the term
2 "depreciation" means a reduction in value due to wear, tear,

3 decay, corrosion, or gradual obsolescence of a [fixed]
4 **tangible** asset having a useful life of more than one year.

5 2. A [trustee] **fiduciary** may transfer to principal a
6 reasonable amount of the net cash receipts from a principal
7 asset that is subject to depreciation, but [may] **shall** not
8 transfer any amount for depreciation:

9 (1) Of [that portion] **the part** of real property used
10 or available for use by a beneficiary as a residence [or];

11 (2) Of tangible personal property held or made
12 available for the personal use or enjoyment of a
13 beneficiary; **or**

14 [(2) During the administration of a decedent's estate;
15 or]

16 (3) [Pursuant to] **Under** this section [if the trustee
17 is accounting pursuant], to **the extent the fiduciary**
18 **accounts:**

19 (a) **Under section 469.439 for the asset; or**

20 (b) **Under section 469.427 for the business or other**
21 **activity in which the asset is used.**

22 3. An amount transferred to principal **under this**
23 **section** need not be **separately** held [as a separate fund].

469.456. 1. If a fiduciary makes or expects to make
2 an income disbursement described in subsection 2 of this
3 section, the fiduciary may transfer an appropriate amount
4 from principal to income in one or more accounting periods
5 to reimburse income.

6 2. To the extent the fiduciary has not been and does
7 not expect to be reimbursed by a third party, income
8 disbursements to which subsection 1 of this section applies
9 include:

10 (1) An amount chargeable to principal but paid from
11 income because principal is illiquid;

12 (2) A disbursement made to prepare property for sale,
13 including improvements and commissions; and

14 (3) A disbursement described in subsection 1 of
15 section 469.453.

16 3. If an asset whose ownership gives rise to an income
17 disbursement becomes subject to a successive interest after
18 an income interest ends, the fiduciary may continue to make
19 transfers under subsection 1 of this section.

 469.457. 1. If a [trustee] fiduciary makes or expects
2 to make a principal disbursement described in subsection 2
3 of this section, the [trustee] fiduciary may transfer an
4 appropriate amount from income to principal in one or more
5 accounting periods to reimburse principal or [to] provide a
6 reserve for future principal disbursements.

7 2. To the extent a fiduciary has not been and does not
8 expect to be reimbursed by a third party, principal
9 disbursements to which subsection 1 of this section applies
10 include [the following, but only to the extent that the
11 trustee has not been and does not expect to be reimbursed by
12 a third party]:

13 (1) An amount chargeable to income but paid from
14 principal because [it] income is [unusually large, including
15 extraordinary repairs] not sufficient;

16 (2) [Disbursements] The cost of an improvement to
17 principal, whether a change to an existing asset or the
18 construction of a new asset, including a special assessment;

19 (3) A disbursement made to prepare property for
20 rental, including tenant allowances, leasehold improvements,
21 and [broker's] commissions;

22 [(3)] (4) A periodic [payments] payment on an
23 obligation secured by a principal asset, to the extent
24 [that] the amount transferred from income to principal for

depreciation is less than the periodic **[payments] payment;**
and

[(4) Disbursements] (5) A disbursement described in
[subdivision (7) of] subsection 1 of section 469.453.

3. If **[the] an** asset whose ownership gives rise to
[the disbursements] a principal disbursement becomes subject
to a successive **[income]** interest after an income interest
ends, **[a trustee] the fiduciary** may continue to **[transfer**
amounts from income to principal as provided in] make
transfers under subsection 1 of this section.

469.459. 1. A tax required to be paid by a **[trustee]**
fiduciary that is based on receipts allocated to income
shall be paid from income.

2. A tax required to be paid by a **[trustee] fiduciary**
that is based on receipts allocated to principal shall be
paid from principal, even if the tax is called an income tax
by the taxing authority.

3. **Subject to subsection 4 of this section and**
sections 469.456, 469.457, and 469.462, a tax required to be
paid by a **[trustee] fiduciary** on **[the trust's] a** share of an
entity's taxable income **in an accounting period** shall be
paid **from:**

(1) **[From]** Income **and principal proportionately** to the
[extent that] allocation between income and principal of
receipts from the entity **[are allocated to income] in the**
period; and

(2) **[From]** Principal to the extent **[that] the tax**
exceeds the receipts from the entity **[are allocated only to**
principal] in the period.

4. After applying subsections 1 to 3 of this section,
[the trustee] a fiduciary shall adjust income or principal
receipts, to the extent **[that] the [trust's] taxes the**

23 **fiduciary pays** are reduced because [the trust receives] of a
24 deduction for a payment made to a beneficiary.

469.462. 1. A fiduciary may make an adjustment
2 between income and principal to offset the shifting of
3 economic interests or tax benefits between current income
4 beneficiaries and successor beneficiaries that arises from:

5 (1) An election or decision the fiduciary makes
6 regarding a tax matter, other than a decision to claim an
7 income tax deduction to which subsection 2 of this section
8 applies;

9 (2) An income tax or other tax imposed on the
10 fiduciary or a beneficiary as a result of a transaction
11 involving the fiduciary or a distribution by the fiduciary;
12 or

13 (3) Ownership by the fiduciary of an interest in an
14 entity, a part of whose taxable income, whether or not
15 distributed, is includable in the taxable income of the
16 fiduciary or a beneficiary.

17 2. If the amount of an estate tax marital or
18 charitable deduction is reduced because a fiduciary deducts
19 an amount paid from principal for income tax purposes
20 instead of deducting it for estate tax purposes and, as a
21 result, estate taxes paid from principal are increased and
22 income taxes paid by the fiduciary or a beneficiary are
23 decreased, the fiduciary shall charge each beneficiary that
24 benefits from the decrease in income tax to reimburse the
25 principal from which the increase in estate tax is paid.
26 The total reimbursement shall equal the increase in the
27 estate tax, to the extent the principal used to pay the
28 increase would have qualified for a marital or charitable
29 deduction but for the payment. The share of the
30 reimbursement for each fiduciary or beneficiary whose income

31 taxes are reduced shall be the same as its share of the
32 total decrease in income tax.

33 3. A fiduciary that charges a beneficiary under
34 subsection 2 of this section may offset the charge by
35 obtaining payment from the beneficiary, withholding an
36 amount from future distributions to the beneficiary, or
37 adopting another method or combination of methods.

469.463. In applying and construing sections [469.401]
2 469.399 to [469.467] 469.487, consideration shall be given
3 to the need to promote uniformity of the law with respect to
4 its subject matter among states that enact it.

469.464. The provisions of sections 469.399 to 469.487
2 modify, limit, or supersede the Electronic Signatures in
3 Global and National Commerce Act, 15 U.S.C. Section 7001 et
4 seq., but do not modify, limit, or supersede 15 U.S.C.
5 Section 7001(c) or authorize electronic delivery of any of
6 the notices described in 15 U.S.C. Section 7003(b).

469.465. If any provision of sections [469.401]
2 469.399 to [469.467] 469.487 or [the] its application [of
3 these sections] to any person or circumstance is held
4 invalid, the invalidity does not affect other provisions or
5 applications of sections [469.401] 469.399 to [469.467]
6 469.487 which can be given effect without the invalid
7 provision or application and to this end, the provisions of
8 sections 469.399 to 469.487 are severable.

469.467. The provisions of sections [469.401] 469.399
2 to [469.467] 469.487 apply to [every] a trust or
3 [decedent's] estate existing or created on or after August
4 28, [2001] 2025, except as otherwise expressly provided in
5 the [will or] terms of the trust or [in] sections [469.401]
6 469.399 to [469.467] 469.487.

469.471. As used in sections 469.471 to 469.487, the following terms mean:

(1) "Applicable value", the amount of the net fair market value of a trust taken into account under section 469.483;

(2) "Express unitrust", a trust for which, under the terms of the trust without regard to sections 469.471 to 469.487, income or net income shall or may be calculated as a unitrust amount;

(3) "Income trust", a trust that is not a unitrust;

(4) "Net fair market value of a trust", the fair market value of the assets of the trust, less the noncontingent liabilities of the trust;

(5) "Unitrust", a trust for which net income is a unitrust amount. The term "unitrust" includes an express unitrust;

(6) "Unitrust amount", an amount computed by multiplying a determined value of a trust by a determined percentage. For a unitrust administered under a unitrust policy, the term "unitrust amount" means the applicable value multiplied by the unitrust rate;

(7) "Unitrust policy", a policy described in sections 469.479 to 469.487 and adopted under section 469.475;

(8) "Unitrust rate", the rate used to compute the unitrust amount for a unitrust administered under a unitrust policy.

469.473. 1. Except as otherwise provided in subsection 2 of this section, sections 469.471 to 469.487 apply to:

(1) An income trust, unless the terms of the trust expressly prohibit use of sections 469.471 to 469.487 by a specific reference to these sections or an explicit

7 expression of intent that net income not be calculated as a
8 unitrust amount; and

9 (2) An express unitrust, except to the extent the
10 terms of the trust explicitly:

11 (a) Prohibit use of sections 469.471 to 469.487 by a
12 specific reference to such sections;

13 (b) Prohibit conversion to an income trust; or

14 (c) Limit changes to the method of calculating the
15 unitrust amount.

16 2. Sections 469.471 to 469.487 do not apply to a trust
17 described in 26 U.S.C. Section 170(f)(2)(B), 642(c)(5),
18 664(d), 2702(a)(3)(A)(ii) or (iii), or 2702(b), as amended.

19 3. An income trust to which sections 469.471 to
20 469.487 apply under subdivision (1) of subsection 1 of this
21 section may be converted to a unitrust under sections
22 469.471 to 469.487 regardless of the terms of the trust
23 concerning distributions. Conversion to a unitrust under
24 sections 469.471 to 469.487 does not affect other terms of
25 the trust concerning distributions of income or principal.

26 4. Sections 469.471 to 469.487 apply to an estate only
27 to the extent a trust is a beneficiary of the estate. To
28 the extent of the trust's interest in the estate, the estate
29 may be administered as a unitrust, the administration of the
30 estate as a unitrust may be discontinued, or the percentage
31 or method used to calculate the unitrust amount may be
32 changed, in the same manner as for a trust under sections
33 469.471 to 469.487.

34 5. Sections 469.471 to 469.487 do not create a duty to
35 take or consider action under sections 469.471 to 469.487 or
36 to inform a beneficiary about the applicability of sections
37 469.471 to 469.487.

38 6. A fiduciary that in good faith takes or fails to
39 take an action under sections 469.471 to 469.487 is not
40 liable to a person affected by the action or inaction.

 469.475. 1. A fiduciary, without court approval, by
2 complying with subsections 2 and 6 of this section, may:

3 (1) Convert an income trust to a unitrust if the
4 fiduciary adopts in a record a unitrust policy for the trust
5 providing:

6 (a) That in administering the trust the net income of
7 the trust will be a unitrust amount rather than net income
8 determined without regard to sections 469.471 to 469.487; and

9 (b) The percentage and method used to calculate the
10 unitrust amount;

11 (2) Change the percentage or method used to calculate
12 a unitrust amount for a unitrust if the fiduciary adopts in
13 a record a unitrust policy or an amendment or replacement of
14 a unitrust policy providing changes in the percentage or
15 method used to calculate the unitrust amount; or

16 (3) Convert a unitrust to an income trust if the
17 fiduciary adopts in a record a determination that, in
18 administering the trust, the net income of the trust will be
19 net income determined without regard to sections 469.471 to
20 469.487 rather than a unitrust amount.

21 2. A fiduciary may take an action under subsection 1
22 of this section if:

23 (1) The fiduciary determines that the action will
24 assist the fiduciary to administer a trust impartially;

25 (2) The fiduciary sends a notice in a record, in the
26 manner required by section 469.477, describing and proposing
27 to take the action;

28 (3) The fiduciary sends a copy of the notice under
29 subdivision (2) of this subsection to each settlor of the
30 trust that is:

31 (a) If an individual, living; or

32 (b) If not an individual, in existence;

33 (4) At least one member of each class of the qualified
34 beneficiaries described under section 456.1-103 receiving
35 the notice under subdivision (2) of this subsection is:

36 (a) If an individual, legally competent;

37 (b) If not an individual, in existence; or

38 (c) Represented in the manner provided in subsection 2
39 of section 469.477; and

40 (5) The fiduciary does not receive, by the date
41 specified in the notice under subdivision (5) of subsection
42 4 of section 469.477, an objection in a record to the action
43 proposed under subdivision (2) of this subsection from a
44 person to which the notice under subdivision (2) of this
45 subsection is sent.

46 3. If a fiduciary receives, not later than the date
47 stated in the notice under subdivision (5) of subsection 4
48 of section 469.477, an objection in a record described in
49 subdivision (4) of subsection 4 of section 469.477 to a
50 proposed action, the fiduciary or a beneficiary may request
51 the court to have the proposed action taken as proposed,
52 taken with modifications, or prevented. A person described
53 in subsection 1 of section 469.477 may oppose the proposed
54 action in the proceeding under this subsection, whether or
55 not the person:

56 (1) Consented under subsection 3 of section 469.477; or

57 (2) Objected under subdivision (4) of subsection 4 of
58 section 469.477.

59 4. If, after sending a notice under subdivision (2) of
60 subsection 2 of this section, a fiduciary decides not to
61 take the action proposed in the notice, the fiduciary shall
62 notify in a record each person described in subsection 1 of
63 section 469.477 of the decision not to take the action and
64 the reasons for the decision.

65 5. If a beneficiary requests in a record that a
66 fiduciary take an action described in subsection 1 of this
67 section and the fiduciary declines to act or does not act
68 within ninety days after receiving the request, the
69 beneficiary may request the court to direct the fiduciary to
70 take the action requested.

71 6. In deciding whether and how to take an action
72 authorized by subsection 1 of this section, or whether and
73 how to respond to a request by a beneficiary under
74 subsection 5 of this section, a fiduciary shall consider all
75 factors relevant to the trust and the beneficiaries,
76 including relevant factors in subsection 5 of section
77 469.403.

78 7. A fiduciary may release or delegate the power to
79 convert an income trust to a unitrust under subdivision (1)
80 of subsection 1 of this section, change the percentage or
81 method used to calculate a unitrust amount under subdivision
82 (2) of subsection 1 of this section, or convert a unitrust
83 to an income trust under subdivision (3) of subsection 1 of
84 this section, for a reason described in subsection 7 of
85 section 469.405 and in the manner described in subsection 8
86 of section 469.405.

 469.477. 1. A notice required by subdivision (3) of
2 subsection 2 of section 469.475 shall be sent in a manner
3 authorized under section 456.1-109 to:

4 (1) The qualified beneficiaries defined under section
5 456.1-103;

6 (2) Each person acting as trust protector under
7 section 456.8-808; and

8 (3) Each person that is granted a power over the trust
9 by the terms of the trust, to the extent the power is
10 exercisable when the person is not then serving as a trustee:

11 (a) Including a:

12 a. Power over the investment, management, or
13 distribution of trust property or other matters of trust
14 administration; and

15 b. Power to appoint or remove a trustee or person
16 described in this paragraph; and

17 (b) Excluding a:

18 a. Power of appointment;

19 b. Power of a beneficiary over the trust, to the
20 extent the exercise or nonexercise of the power affects the
21 beneficial interest of the beneficiary or another
22 beneficiary represented by the beneficiary under sections
23 456.3-301 to 456.3-305 with respect to the exercise or
24 nonexercise of the power; and

25 c. Power over the trust if the terms of the trust
26 provide that the power is held in a nonfiduciary capacity
27 and the power shall be held in a nonfiduciary capacity to
28 achieve a tax objective under 26 U.S.C., as amended.

29 2. The representation provisions of sections 456.3-301
30 to 456.3-305 apply to notice under this section.

31 3. A person may consent in a record at any time to
32 action proposed under subdivision (2) of subsection 2 of
33 section 469.475. A notice required by subdivision (2) of
34 subsection 2 of section 469.475 need not be sent to a person
35 that consents under this subsection.

36 4. A notice required by subdivision (2) of subsection
37 2 of section 469.475 shall include:

38 (1) The action proposed under subdivision (2) of
39 subsection 2 of section 469.475;

40 (2) For a conversion of an income trust to a unitrust,
41 a copy of the unitrust policy adopted under subdivision (1)
42 of subsection 1 of section 469.475;

43 (3) For a change in the percentage or method used to
44 calculate the unitrust amount, a copy of the unitrust policy
45 or amendment or replacement of the unitrust policy adopted
46 under subdivision (2) of subsection 1 of section 469.475;

47 (4) A statement that the person to which the notice is
48 sent may object to the proposed action by stating in a
49 record the basis for the objection and sending or delivering
50 the record to the fiduciary;

51 (5) The date by which an objection under subdivision
52 (4) of this subsection shall be received by the fiduciary,
53 which shall be at least thirty days after the date the
54 notice is sent;

55 (6) The date on which the action is proposed to be
56 taken and the date on which the action is proposed to take
57 effect;

58 (7) The name and contact information of the fiduciary;
59 and

60 (8) The name and contact information of a person that
61 may be contacted for additional information.

 469.479. 1. In administering a unitrust under
2 sections 469.471 to 469.487, a fiduciary shall follow a
3 unitrust policy adopted under subdivision (1) or (2) of
4 subsection 1 of section 469.475 or amended or replaced under
5 subdivision (2) of subsection 1 of section 469.475.

6 2. A unitrust policy shall provide:

7 (1) The unitrust rate or the method for determining
8 the unitrust rate under section 469.481;

9 (2) The method for determining the applicable value
10 under section 469.483; and

11 (3) The rules described in sections 469.481 to 469.487
12 that apply in the administration of the unitrust, whether
13 the rules are:

14 (a) Mandatory, as provided in subsection 1 of section
15 469.483 and subsection 1 of section 469.485; or

16 (b) Optional, as provided in section 469.481,
17 subsection 2 of section 469.483, subsection 2 of section
18 469.485, and subsection 1 of section 469.487, to the extent
19 the fiduciary elects to adopt such rules.

 469.481. 1. Except as otherwise provided in
2 subdivision (1) of subsection 2 of section 469.487, a
3 unitrust rate may be:

4 (1) A fixed unitrust rate; or

5 (2) A unitrust rate that is determined for each period
6 using:

7 (a) A market index or other published data; or

8 (b) A mathematical blend of market indices or other
9 published data over a stated number of preceding periods.

10 2. Except as otherwise provided in subdivision (1) of
11 subsection 2 of section 469.487, a unitrust policy may
12 provide:

13 (1) A limit on how high the unitrust rate determined
14 under subdivision (2) of subsection 1 of this section may
15 rise;

16 (2) A limit on how low the unitrust rate determined
17 under subdivision (2) of subsection 1 of this section may
18 fall;

19 (3) A limit on how much the unitrust rate determined
20 under subdivision (2) of subsection 1 of this section may
21 increase over the unitrust rate for the preceding period or
22 a mathematical blend of unitrust rates over a stated number
23 of preceding periods;

24 (4) A limit on how much the unitrust rate determined
25 under subdivision (2) of subsection 1 of this section may
26 decrease below the unitrust rate for the preceding period or
27 a mathematical blend of unitrust rates over a stated number
28 of preceding periods; or

29 (5) A mathematical blend of any of the unitrust rates
30 determined under subdivision (2) of subsection 1 of this
31 section and subdivisions (1) to (4) of this subsection.

469.483. 1. A unitrust policy shall provide the
2 method for determining the fair market value of an asset for
3 the purpose of determining the unitrust amount, including:

4 (1) The frequency of valuing the asset, which need not
5 require a valuation in every period; and

6 (2) The date for valuing the asset in each period in
7 which the asset is valued.

8 2. Except as otherwise provided in subdivision (2) of
9 subsection 2 of section 469.487, a unitrust policy may
10 provide methods for determining the amount of the net fair
11 market value of the trust to take into account in
12 determining the applicable value, including:

13 (1) Obtaining an appraisal of an asset for which fair
14 market value is not readily available;

15 (2) Exclusion of specific assets or groups or types of
16 assets;

17 (3) Other exceptions or modifications of the treatment
18 of specific assets or groups or types of assets;

19 (4) Identification and treatment of cash or property
20 held for distribution;

21 (5) Use of:

22 (a) An average of fair market values over a stated
23 number of preceding periods; or

24 (b) Another mathematical blend of fair market values
25 over a stated number of preceding periods;

26 (6) A limit on how much the applicable value of all
27 assets, groups of assets, or individual assets may increase
28 over:

29 (a) The corresponding applicable value for the
30 preceding period; or

31 (b) A mathematical blend of applicable values over a
32 stated number of preceding periods;

33 (7) A limit on how much the applicable value of all
34 assets, groups of assets, or individual assets may decrease
35 below:

36 (a) The corresponding applicable value for the
37 preceding period; or

38 (b) A mathematical blend of applicable values over a
39 stated number of preceding periods;

40 (8) The treatment of accrued income and other features
41 of an asset that affect value; and

42 (9) Determining the liabilities of the trust,
43 including treatment of liabilities to conform with the
44 treatment of assets under subdivisions (1) to (8) of this
45 subsection.

 469.485. 1. A unitrust policy shall provide the
2 period used under sections 469.481 and 469.483. Except as
3 otherwise provided in subdivision (3) of subsection 2 of
4 section 469.481, the period may be:

5 (1) A calendar year;

6 (2) A twelve-month period other than a calendar year;

7 (3) A calendar quarter;

8 (4) A three-month period other than a calendar
9 quarter; or

10 (5) Another period.

11 2. Except as otherwise provided in subsection 2 of
12 section 469.487, a unitrust policy may provide standards for:

13 (1) Using fewer preceding periods under paragraph (b)
14 of subdivision (2) of subsection 1 of section 469.481 or
15 subdivision (3) or (4) of subsection 2 of section 469.481 if:

16 (a) The trust was not in existence in a preceding
17 period; or

18 (b) Market indices or other published data are not
19 available for a preceding period;

20 (2) Using fewer preceding periods under paragraph (a)
21 or (b) of subdivision (5) of subsection 2 of section
22 469.483, paragraph (b) of subdivision (6) of subsection 2 of
23 section 469.483, or paragraph (b) of subdivision (7) of
24 subsection 2 of section 469.483 if:

25 (a) The trust was not in existence in a preceding
26 period; or

27 (b) Fair market values are not available for a
28 preceding period; and

29 (3) Prorating the unitrust amount on a daily basis for
30 a part of a period in which the trust or the administration
31 of the trust as a unitrust or the interest of any
32 beneficiary commences or terminates.

 469.487. 1. A unitrust policy may:

2 (1) Provide methods and standards for:

3 (a) Determining the timing of distributions;

4 (b) Making distributions in cash or in kind or partly
5 in cash and partly in kind; or

6 (c) Correcting an underpayment or overpayment to a
7 beneficiary based on the unitrust amount if there is an
8 error in calculating the unitrust amount;

9 (2) Specify sources and the order of sources,
10 including categories of income for federal income tax
11 purposes, from which distributions of a unitrust amount are
12 paid; or

13 (3) Provide other standards and rules the fiduciary
14 determines serve the interests of the beneficiaries.

15 2. If a trust qualifies for a special tax benefit or a
16 fiduciary is not an independent person:

17 (1) The unitrust rate established under section
18 469.481 shall not be less than three percent or more than
19 five percent;

20 (2) The only provisions of section 469.483 that apply
21 are subsection 1 of section 469.483; subdivisions (1), (4),
22 and (9) of subsection 2 of section 469.483; and paragraph
23 (a) of subdivision (5) of subsection 2 of section 469.483;

24 (3) The only period that may be used under section
25 469.485 is a calendar year under subdivision (1) of
26 subsection 1 of section 469.485; and

27 (4) The only other provisions of section 469.485 that
28 apply are paragraph (a) of subdivision (2) of subsection 2
29 of section 469.485 and subdivision (3) of subsection 2 of
30 section 469.485.

474.540. Sections 474.540 to 474.564 shall be known
2 and may be cited as the "Missouri Electronic Wills and
3 Electronic Estate Planning Documents Act".

474.542. As used in sections 474.540 to 474.564, the
2 following terms mean:

3 (1) "Electronic", technology having electrical,
4 digital, magnetic, wireless, optical, electromagnetic, or
5 similar capabilities;

6 (2) "Electronic presence", the relationship of two or
7 more individuals in different locations in real time using
8 technology enabling live, interactive audio-visual
9 communication that allows for observation, direct
10 interaction, and communication between or among the
11 individuals;

12 (3) "Electronic will", a will executed electronically
13 in compliance with subsection 1 of section 474.548;

14 (4) "Record", information that is inscribed on a
15 tangible medium or that is stored in an electronic or other
16 medium and is retrievable in perceivable form;

17 (5) "Security procedure", a procedure to verify that
18 an electronic signature, record, or performance is that of a
19 specific person or to detect a change or error in an
20 electronic record, including a procedure that uses an
21 algorithm, code, identifying word or number, encryption, or
22 callback or other acknowledgment procedure;

23 (6) "Sign", with present intent to authenticate or
24 adopt a record, to:

25 (a) Execute or adopt a tangible symbol; or

26 (b) Affix to or logically associate with the record an
27 electronic symbol or process;

28 (7) "State", a state of the United States, the
29 District of Columbia, Puerto Rico, the United States Virgin
30 Islands, a federally recognized Indian tribe, or any
31 territory or insular possession subject to the jurisdiction
32 of the United States;

33 (8) "Will", a codicil and any testamentary instrument
34 that appoints an executor, revokes or revises another will,

35 nominates a guardian, or expressly excludes or limits the
36 right of an individual or class to succeed to property of
37 the decedent passing by intestate succession.

474.544. An electronic will shall be a will for all
2 purposes of the laws of this state. The laws of this state
3 applicable to wills and principles of equity applies to an
4 electronic will except as modified by sections 474.540 to
5 474.564.

474.546. A will executed electronically but not in
2 compliance with subsection 1 of section 474.548 shall be an
3 electronic will under sections 474.540 to 474.564 if
4 executed in compliance with the law of the jurisdiction
5 where the testator is:

- 6 (1) Physically located when the will is signed; or
- 7 (2) Domiciled, or where the testator resides, when the
8 will is signed or when the testator dies.

474.548. 1. An electronic will shall be:

- 2 (1) A record that is readable as text at the time of
3 signing under subdivision (2) of this subsection and remains
4 accessible as text for later reference;

- 5 (2) Signed by:

- 6 (a) The testator; or

- 7 (b) Another individual in the testator's name, in the
8 testator's physical presence, and by the testator's
9 direction; and

- 10 (3) Signed in the physical or electronic presence of
11 the testator by at least two individuals after witnessing:

- 12 (a) The signing of the will under subdivision (2) of
13 this subsection; or

- 14 (b) The testator's acknowledgment of the signing of
15 the will under subdivision (2) of this subsection or
16 acknowledgment of the will.

17 2. The intent of a testator that the record under
18 subdivision (1) of subsection 1 of this section be the
19 testator's electronic will may be established by extrinsic
20 evidence.

21 3. In accordance with section 474.337 or 474.550, a
22 witness to a will shall be a resident of a state and
23 physically located in a state at the time of signing if no
24 self-proving affidavit is signed contemporaneously with the
25 execution of the electronic will.

 474.550. At the time of its execution or at any
2 subsequent date, an electronic will may be made self-proved
3 in the same manner as specified in section 474.337 or, if
4 fewer than two witnesses are physically present in the same
5 location as the testator at the time of such
6 acknowledgments, before a remote online notary authorized to
7 perform a remote online notarization in this state under the
8 law of any state or the United States, and evidenced by a
9 remote online notarial certificate, in form and content
10 substantially as follows, subject to the additional
11 requirements under section 486.1165:

12 State of _____

13 County (and/or City) of _____

14 I, the undersigned notary, certify that _____, the
15 testator, and the witnesses, whose names are signed to the
16 attached or foregoing instrument, having personally
17 appeared before me by remote online means, and having been
18 first duly sworn, each then declared to me that the
19 testator signed and executed the instrument as the
20 testator's last will, and that the testator had willingly
21 signed or willingly directed another to sign for the
22 testator, and that the testator executed it as the
23 testator's free and voluntary act for the purposes therein
24 expressed; and that each of the witnesses, in the presence
25 and hearing of the testator, signed the will as witness

and that to the best of the witnesses' knowledge the testator was at that time eighteen or more years of age, of sound mind, and under no constraint or undue influence.

In witness thereof I have hereunto subscribed my name and affixed my official seal this _____ (date).

(official signature and seal of notary)

474.552. 1. An electronic will may revoke all or part of a previous will.

2. All or part of an electronic will shall be revoked by:

(1) A subsequent will that revokes all or part of the electronic will expressly or by inconsistency;

(2) A written instrument signed by the testator declaring the revocation; or

(3) A physical act, if it is established by a preponderance of the evidence that the testator, with the intent of revoking all or part of the will, performed the act or directed another individual who performed the act in the testator's physical presence.

3. If there is evidence that a testator signed an electronic will and neither the electronic will nor a certified paper copy of the electronic will can be located after a testator's death, there shall be a presumption that the testator revoked the electronic will even if no instrument or later will revoking the electronic will can be located.

474.554. Without further notice, at any time during the administration of the estate or, if there is no grant of administration, upon such notice and in such manner as the court directs, the court may issue an order under sections

5 472.400 to 472.490 for a custodian of an account held under
6 a terms-of-service agreement to disclose digital assets for
7 the purposes of obtaining an electronic will from the
8 account of a deceased user. If there is no grant of
9 administration at the time the court issues the order, the
10 court's order shall grant disclosure to the petitioner who
11 is deemed a personal representative under sections 472.400
12 to 472.490.

474.556. 1. An individual may create a certified
2 paper copy of an electronic will by affirming under penalty
3 of perjury that a paper copy of the electronic will is a
4 complete, true, and accurate copy of the electronic will.
5 If the electronic will is made self-proving, the certified
6 paper copy of the will shall include a self-proving
7 affidavit under section 474.337 or 474.550.

8 2. If a rule of law or procedure requires a will to be
9 presented or retained in its original form or provides
10 consequences for the information not being presented or
11 retained in its original form, that rule of law or procedure
12 shall be satisfied by a certified paper copy of an
13 electronic will.

474.558. In applying and construing sections 474.540
2 to 474.564, consideration shall be given to the need to
3 promote uniformity of the law with respect to its subject
4 matter among states that enact similar provisions.

474.560. 1. Any written estate planning document may
2 be executed electronically, and no such estate planning
3 document shall be invalid or void solely because it is in
4 electronic form or because it is signed electronically by a
5 settlor, trustee, principal, grantor, declarant, or owner,
6 or by a witness to any such person's signature. For

7 purposes of this section, the term "estate planning
8 document" shall include, but not be limited to:

- 9 (1) A power of attorney or durable power of attorney;
- 10 (2) A health care declaration;
- 11 (3) An advance directive;
- 12 (4) A power of attorney for health care or durable
13 power of attorney for health care;
- 14 (5) A revocable trust or amendment thereto, or
15 modification or revocation thereof;
- 16 (6) An irrevocable trust;
- 17 (7) A beneficiary deed;
- 18 (8) A nonprobate transfer; or
- 19 (9) A document modifying, amending, correcting, or
20 revoking any written estate planning document.

21 2. (1) An electronic estate planning document or an
22 electronic signature on such document shall be attributable
23 to a person if it was the act of the person. The act of the
24 person may be shown in any manner, including a showing of
25 the efficacy of a security procedure applied to determine
26 the person to which the electronic record or signature was
27 attributable.

28 (2) The effect of attribution of a document or
29 signature to a person under subdivision (1) of this
30 subsection shall be determined from the context and
31 surrounding circumstances at the time of its creation,
32 execution, or adoption and as provided by other provisions
33 of law.

34 3. (1) Unless otherwise provided under its terms, any
35 electronic estate planning document may be signed in one or
36 more counterparts, and each separate counterpart may be an
37 electronic document or a paper document, provided that all

38 signed counterpart pages of each document are incorporated
39 into, or attached to, the document.

40 (2) An individual may create a certified paper copy of
41 any such electronic estate planning document by affirming
42 under penalty of perjury that a paper copy of the electronic
43 estate planning document is a complete, true, and accurate
44 copy of such document. If a rule of law or procedure
45 requires an estate planning document to be presented or
46 retained in its original form or provides consequences for
47 the information not being presented or retained in its
48 original form, such rule of law or procedure shall be
49 satisfied by a certified paper copy of an electronic
50 document.

51 4. Any written estate planning document, other than a
52 will, that requires one or more witnesses to the signature
53 of a principal may be witnessed by any individual or
54 individuals in the electronic presence of the principal.

55 5. A person who acts in reliance upon an
56 electronically executed written estate planning document
57 shall not be liable to any person for so relying and may
58 assume without inquiry the valid execution of the
59 electronically executed written estate planning document.

60 6. This section does not require a written estate
61 planning document to be electronically signed.

62 7. The laws of this state and principles of equity
63 applicable to any estate planning document shall apply to
64 any electronic estate planning document except as modified
65 by this section.

474.562. The provisions of sections 474.540 to 474.564
2 modify, limit, and supersede the federal Electronic
3 Signatures in Global and National Commerce Act, 15 U.S.C.
4 Section 7001 et seq., but do not modify, limit, or supersede

5 Section 101(c) of that act, 15 U.S.C. Section 7001(c), or
6 authorize electronic delivery of any of the notices
7 described in Section 103(b) of that act, 15 U.S.C. Section
8 7003(b) .

474.564. The provisions of sections 474.540 to 474.564
2 shall apply to the will of a decedent who dies on or after
3 August 28, 2025, and to any other written estate planning
4 document, as the term "estate planning document" is defined
5 in section 474.560, signed or remotely witnessed on or after
6 August 28, 2025.

474.600. 1. As used in this section, the following
2 terms mean:

3 (1) "Applicable state of emergency", the period
4 between April 6, 2020, and December 31, 2021, during which a
5 state of emergency existed due to a COVID-19 public health
6 threat, as proclaimed by the governor, and during which
7 executive orders 20-08, 20-10, 20-12, 20-14, 20-19, 21-07,
8 and 21-09 temporarily suspended the physical appearance
9 requirements under this chapter and authorized the use of
10 audio-visual technology to the extent that any Missouri
11 statute required the physical presence of any testator,
12 settlor, principal, witness, notary, or other person
13 necessary for the effective execution of any estate planning
14 document such as a will, trust, or power of attorney, or a
15 self-proving affidavit of the execution of such document, if
16 the conditions set forth in the executive orders were met;

17 (2) "Estate planning document", includes, but is not
18 limited to:

19 (a) A will;

20 (b) A codicil;

21 (c) A power of attorney or durable power of attorney;

22 (d) A health care declaration;

- 23 (e) An advance directive;
- 24 (f) A power of attorney for health care or a durable
25 power of attorney for health care;
- 26 (g) A revocable trust or amendment thereto, or
27 modification or revocation thereof;
- 28 (h) An irrevocable trust;
- 29 (i) A beneficiary deed;
- 30 (j) A nonprobate transfer; or
- 31 (k) A document modifying, amending, correcting, or
32 revoking any written estate planning document;
- 33 (3) "Necessary person", any testator, settlor,
34 grantor, principal, declarant, witness, notary, or other
35 person required for the effective execution of any estate
36 planning document in this state;
- 37 (4) "Physical presence requirement", includes, but is
38 not limited to, any requirement of physical presence under
39 section 404.705, 459.015, 474.320, or 474.337 or chapter 486.
- 40 2. With respect to the execution of an estate planning
41 document, a necessary person shall be deemed to have
42 satisfied any physical presence requirement under Missouri
43 law during the applicable state of emergency if the
44 following requirements were met:
- 45 (1) The signer affirmatively represented that the
46 signer was physically situated in the state of Missouri;
- 47 (2) The notary was physically located in the state of
48 Missouri and stated in which county the notary was
49 physically located for the jurisdiction on the
50 acknowledgment;
- 51 (3) The notary identified the signers to the
52 satisfaction of the notary and current law;
- 53 (4) Any person whose signature was required appeared
54 using video conference software where live, interactive

55 audio-visual communication between the principal, notary,
56 and any other necessary person allowed for observation,
57 direct interaction, and communication at the time of
58 signing; and

59 (5) The notary recorded in the notary's journal the
60 exact time and means used to perform the notarial act, along
61 with all other required information, absent the wet
62 signatures.

63 3. The requirements of subdivisions (1) to (5) of
64 subsection 2 of this section shall be deemed satisfied if an
65 attorney who is licensed or authorized to practice law in
66 Missouri and who was present at the remote execution signs a
67 written acknowledgment made before an officer authorized to
68 administer oaths under the laws of this state, and evidenced
69 by the officer's certificate, under official seal, affixed
70 to or logically associated with the acknowledgment. The
71 form and content of the acknowledgment shall be
72 substantially as follows:

73 State of _____

74 County of _____

75 AFFIDAVIT OF REMOTE EXECUTION OF DOCUMENTS

76 I, _____, am an attorney licensed or
77 authorized to practice law in the state of
78 Missouri.

79 On _____ (date), I convened with the following
80 individuals via video conference software that
81 allowed for live, interactive audio-visual
82 communication between the parties to the conference
83 and that also allowed for observation, direction,
84 interaction, and communication between:

85 _____, the (testator, settlor, grantor,
86 principal, or declarant);

87 _____, a witness;
88 _____, a second witness; and
89 _____, a notary public.

90 During the conference, _____, the (testator,
91 settlor, grantor, principal, or declarant) signed
92 the following estate planning document or
93 documents: (a will, codicil, power of attorney,
94 durable power of attorney, health care declaration,
95 advance directive, health care power of attorney,
96 revocable trust, irrevocable trust, beneficiary
97 deed, nonprobate transfer, self-proving affidavit
98 of the execution of a will, or a document
99 modifying, amending, correcting, or revoking one of
100 these estate planning documents).

101 All the parties to the conference represented that
102 they were physically located in the state of
103 Missouri at the time of the signing.

104 I have reviewed and am familiar with the
105 requirements of the applicable executive order or
106 orders in effect at the time and affirm that the
107 remote execution of the estate planning document or
108 documents met all the requirements of the
109 applicable executive order or orders.

110 In witness whereof I, an officer authorized to
111 administer oaths, have hereunto subscribed my name
112 and affixed my official seal this (date).

113 (Signed)

114 (SEAL)

115 (Official capacity of officer)

476.1025. A parent, spouse, child, or personal
2 representative of a person who was convicted of a
3 misdemeanor offense may file a motion with the court in
4 which the person was convicted to have the record of such
5 offense made confidential in any automated case management
6 system if such person has been deceased for six months or

7 more. Upon such motion accompanied by a copy of the death
8 certificate of the deceased person, the court shall make the
9 case confidential. Prior to making the case confidential,
10 the court shall determine whether any person would be
11 unfairly prejudiced by making such record confidential in
12 any automated case management system.

477.650. 1. There is hereby created in the state
2 treasury the "Basic Civil Legal Services Fund", to be
3 administered by, or under the direction of, the Missouri
4 supreme court. All moneys collected under section 488.031
5 shall be credited to the fund. In addition to the court
6 filing surcharges, funds from other public or private
7 sources also may be deposited into the fund and all earnings
8 of the fund shall be credited to the fund. The purpose of
9 this section is to increase the funding available for basic
10 civil legal services to eligible low-income persons as such
11 persons are defined by the Federal Legal Services
12 Corporation's Income Eligibility Guidelines.

13 2. Funds in the basic civil legal services fund shall
14 be allocated annually and expended to provide legal
15 representation to eligible low-income persons in the state
16 in civil matters. Moneys, funds, or payments paid to the
17 credit of the basic civil legal services fund shall, at
18 least as often as annually, be distributed to the legal
19 services organizations in this state which qualify for
20 Federal Legal Services Corporation funding. The funds so
21 distributed shall be used by legal services organizations in
22 this state solely to provide legal services to eligible low-
23 income persons as such persons are defined by the Federal
24 Legal Services Corporation's Income Eligibility Guidelines.
25 Fund money shall be subject to all restrictions imposed on
26 such legal services organizations by law. Funds shall be

27 allocated to the programs according to the funding formula
28 employed by the Federal Legal Services Corporation for the
29 distribution of funds to this state. Notwithstanding the
30 provisions of section 33.080, any balance remaining in the
31 basic civil legal services fund at the end of any year shall
32 not be transferred to the state's general revenue fund.
33 Moneys in the basic civil legal services fund shall not be
34 used to pay any portion of a refund mandated by Article X,
35 Section [15] 18 of the Missouri Constitution. State legal
36 services programs shall represent individuals to secure
37 lawful state benefits, but shall not sue the state, its
38 agencies, or its officials, with any state funds.

39 3. Contracts for services with state legal services
40 programs shall provide eligible low-income Missouri citizens
41 with equal access to the civil justice system, with a high
42 priority on families and children, domestic violence, the
43 elderly, and qualification for benefits under the Social
44 Security Act. State legal services programs shall abide by
45 all restrictions, requirements, and regulations of the Legal
46 Services Corporation regarding their cases.

47 4. The Missouri supreme court, or a person or
48 organization designated by the court, is the administrator
49 and shall administer the fund in such manner as determined
50 by the Missouri supreme court, including in accordance with
51 any rules and policies adopted by the Missouri supreme court
52 for such purpose. Moneys from the fund shall be used to pay
53 for the collection of the fee and the implementation and
54 administration of the fund.

55 5. Each recipient of funds from the basic civil legal
56 services fund shall maintain appropriate records accounting
57 for the receipt and expenditure of all funds distributed and
58 received pursuant to this section. These records must be

59 maintained for a period of five years from the close of the
60 fiscal year in which such funds are distributed or received
61 or until audited, whichever is sooner. All funds
62 distributed or received pursuant to this section are subject
63 to audit by the Missouri supreme court or the state auditor.

64 6. The Missouri supreme court, or a person or
65 organization designated by the court, shall, by January
66 thirty-first of each year, report to the general assembly on
67 the moneys collected and disbursed pursuant to this section
68 and section 488.031 by judicial circuit.

69 [7. The provisions of this section shall expire on
70 December 31, 2025.]

478.001. 1. For purposes of sections 478.001 to
2 478.009, the following terms shall mean:

3 (1) "Adult treatment court", a treatment court focused
4 on addressing the substance use disorder or co-occurring
5 disorder of defendants charged with a criminal offense;

6 (2) "Community-based substance use disorder treatment
7 program", an agency certified by the department of mental
8 health as a substance use disorder treatment provider;

9 (3) "Co-occurring disorder", the coexistence of both a
10 substance use disorder and a mental health disorder;

11 (4) "DWI court", a treatment court focused on
12 addressing the substance use disorder or co-occurring
13 disorder of defendants who have pleaded guilty to or been
14 found guilty of driving while intoxicated or driving with
15 excessive blood alcohol content;

16 (5) "Family treatment court", a treatment court
17 focused on addressing a substance use disorder or co-
18 occurring disorder existing in families in the juvenile
19 court, family court, or criminal court in which a parent or
20 other household member has been determined to have a

21 substance use disorder or co-occurring disorder that impacts
22 the safety and well-being of the children in the family;

23 (6) "Juvenile treatment court", a treatment court
24 focused on addressing the substance use disorder or co-
25 occurring disorder of juveniles in the juvenile court;

26 (7) "Medication-assisted treatment", the use of
27 pharmacological medications, in combination with counseling
28 and behavioral therapies, to provide a whole-patient
29 approach to the treatment of substance use disorders;

30 (8) "Mental health disorder", any organic, mental, or
31 emotional impairment that has substantial adverse effects on
32 a person's cognitive, volitional, or emotional function and
33 that constitutes a substantial impairment in a person's
34 ability to participate in activities of normal living;

35 (9) **"Mental health treatment court", a treatment court**
36 **focused on addressing the mental health disorder or co-**
37 **occurring disorder of defendants charged with a criminal**
38 **offense;**

39 (10) "Risk and needs assessment", an actuarial tool,
40 approved by the treatment courts coordinating commission and
41 validated on a targeted population of drug-involved adult
42 offenders, scientifically proven to determine a person's
43 risk to recidivate and to identify criminal risk factors
44 that, when properly addressed, can reduce that person's
45 likelihood of committing future criminal behavior;

46 [(10)] (11) "Substance use disorder", the recurrent
47 use of alcohol or drugs that causes clinically significant
48 impairment, including health problems, disability, and
49 failure to meet major responsibilities at work, school, or
50 home;

51 [(11)] (12) "Treatment court commissioner", a person
52 appointed by a majority of the circuit and associate circuit

53 judges in a circuit to preside as the judicial officer in
54 the treatment court division;

55 [(12)] (13) "Treatment court division", a specialized,
56 nonadversarial court division with jurisdiction over cases
57 involving substance-involved offenders and making extensive
58 use of comprehensive supervision, drug or alcohol testing,
59 and treatment services. Treatment court divisions include,
60 but are not limited to, the following specialized courts:
61 adult treatment court, DWI court, family treatment court,
62 juvenile treatment court, **mental health treatment court**,
63 veterans treatment court, or any combination thereof;

64 [(13)] (14) "Treatment court team", the following
65 members who are assigned to the treatment court: the judge
66 or treatment court commissioner, treatment court
67 administrator or coordinator, prosecutor, public defender or
68 member of the criminal defense bar, a representative from
69 the division of probation and parole, a representative from
70 law enforcement, substance use disorder **or mental health**
71 **disorder** treatment providers, and any other person selected
72 by the treatment court team;

73 [(14)] (15) "Veterans treatment court", a treatment
74 court focused on substance use disorders, co-occurring
75 disorders, or mental health disorders of defendants charged
76 with a criminal offense who are military veterans or current
77 military personnel.

78 2. A treatment court division shall be established,
79 prior to August 28, 2021, by any circuit court pursuant to
80 sections 478.001 to 478.009 to provide an alternative for
81 the judicial system to dispose of cases which stem from, or
82 are otherwise impacted by, **a substance use disorder or**
83 **mental health disorder**. The treatment court division may
84 include, but not be limited to, cases assigned to an adult

85 treatment court, DWI court, family treatment court, juvenile
86 treatment court, **mental health treatment court**, veterans
87 treatment court, or any combination thereof. A treatment
88 court shall combine judicial supervision, drug or alcohol
89 testing, and treatment of participants. Except for good
90 cause found by the court, a treatment court making a
91 referral for substance use disorder **or mental health**
92 **disorder** treatment, when such program will receive state or
93 federal funds in connection with such referral, shall refer
94 the person only to a program which is certified by the
95 department of mental health, unless no appropriate certified
96 treatment program is located within the same county as the
97 treatment court. Upon successful completion of the
98 treatment court program, the charges, petition, or penalty
99 against a treatment court participant may be dismissed,
100 reduced, or modified, unless otherwise stated. **Except for**
101 **those costs waived pursuant to section 488.016**, any fees
102 received by a court from a defendant as payment for
103 substance **or mental health** treatment programs shall not be
104 considered court costs, charges or fines.

105 3. An adult treatment court may be established by any
106 circuit court **[under sections 478.001 to 478.009]** to provide
107 an alternative for the judicial system to dispose of cases
108 which stem from substance use.

109 4. **[Under sections 478.001 to 478.009,]** A DWI court
110 may be established by any circuit court to provide an
111 alternative for the judicial system to dispose of cases that
112 stem from driving while intoxicated.

113 5. A family treatment court may be established by any
114 circuit court. The juvenile division of the circuit court
115 or the family court, if one is established under section
116 487.010, may refer one or more parents or other household

members subject to its jurisdiction to the family treatment court if he or she has been determined to have a substance use disorder or co-occurring disorder that impacts the safety and well-being of the children in the family.

6. A juvenile treatment court may be established by the juvenile division of any circuit court. The juvenile division may refer a juvenile to the juvenile treatment court if the juvenile is determined to have committed acts that violate the criminal laws of the state or ordinances of a municipality or county and a substance use disorder or co-occurring disorder contributed to the commission of the offense.

7. The general assembly finds and declares that it is the public policy of this state to encourage and provide an alternative method for the disposal of cases for military veterans and current military personnel with substance use disorders, mental health disorders, or co-occurring disorders. In order to effectuate this public policy, a veterans treatment court may be established by any circuit court, or combination of circuit courts upon agreement of the presiding judges of such circuit courts, to provide an alternative for the judicial system to dispose of cases that stem from a substance use disorder, mental health disorder, or co-occurring disorder of military veterans or current military personnel. A veterans treatment court shall combine judicial supervision, drug or alcohol testing, and substance use and mental health disorder treatment to participants who have served or are currently serving the United States Armed Forces, including members of the Reserves or National Guard, with preference given to individuals who have combat service. For the purposes of this section, combat service shall be shown through military

149 service documentation that reflects service in a combat
150 theater, receipt of combat service medals, or receipt of
151 imminent danger or hostile fire pay or tax benefits. Except
152 for good cause found by the court, a veterans treatment
153 court shall make a referral for substance use or mental
154 health disorder treatment, or a combination of substance use
155 and mental health disorder treatment, through the Department
156 of Defense health care, the Veterans Administration, or a
157 community-based substance use disorder treatment program.
158 Community-based programs utilized shall receive state or
159 federal funds in connection with such referral and shall
160 only refer the individual to a program certified by the
161 department of mental health, unless no appropriate certified
162 treatment program is located within the same circuit as the
163 veterans treatment court.

164 **8. A mental health treatment court may be established**
165 **by any circuit court to provide an alternative for the**
166 **judicial system to dispose of cases that stem from a mental**
167 **health disorder or co-occurring disorder.**

487.110. The uniform child custody jurisdiction **and**
2 **enforcement** act, as enacted in sections [452.440 to 452.550]
3 **452.700 to 452.930**, shall apply to all **child** custody
4 proceedings, **as defined in section 452.705**, in the family
5 court.

488.040. [1.] Each grand and petit juror shall[,
2 pursuant to the provisions of section 494.455, receive six
3 dollars per day for every day he or she may actually serve
4 as such and seven cents for every mile he or she may
5 necessarily travel going from his or her place of residence
6 to the courthouse and returning, to be paid from funds of
7 the county or a city not within a county.

8 2. Provided that a county or a city not within a
9 county authorizes daily compensation payable from county or
10 city funds for jurors who serve in that county pursuant to
11 subsection 3 of this section in the amount of at least six
12 dollars per day in addition to the amount required by
13 subsection 1 of this section, a person shall receive an
14 additional six dollars per day, pursuant to the provisions
15 of section 494.455, to be reimbursed by the state of
16 Missouri so that the total compensation payable shall be at
17 least eighteen dollars, plus mileage as indicated in
18 subsection 1 of this section, for each day that the person
19 actually serves as a petit juror in a particular case; or
20 for each day that a person actually serves as a grand juror
21 during a term of a grand jury. The state shall reimburse
22 the county for six dollars of the additional juror
23 compensation provided by this subsection.

24 3. The governing body of each county or a city not
25 within a county may authorize additional daily compensation
26 and mileage allowance for jurors, which additional
27 compensation shall be paid from the funds of the county or a
28 city not within a county. The governing body of each county
29 or a city not within a county may authorize additional daily
30 compensation and mileage allowance for jurors attending a
31 coroner's inquest. Jurors may receive the additional
32 compensation and mileage allowance authorized by this
33 subsection only if the governing body of the county or the
34 city not within a county authorizes the additional
35 compensation. The provisions of this subsection authorizing
36 additional compensation shall terminate upon the issuance of
37 a mandate by the Missouri supreme court which results in the
38 state of Missouri being obligated or required to pay any
39 such additional compensation even if such additional

40 compensation is formally approved or authorized by the
41 governing body of a county or a city not within a county.

42 4. When each panel of jurors summoned and attending
43 court has completed its service, the board of jury
44 commissioners shall cause to be submitted to the governing
45 body of the county or a city not within a county a statement
46 of fees earned by each juror. Within thirty days of the
47 submission of the statement of fees, the governing body
48 shall cause payment to be made to those jurors summoned the
49 fees earned during their service as jurors] **receive daily**
50 **compensation and mileage allowance in the amount provided by**
51 **law pursuant to section 494.455.**

488.426. 1. The judges of the circuit court, en banc,
2 in any circuit in this state may require any party filing a
3 civil case in the circuit court, at the time of filing the
4 suit, to deposit with the clerk of the court a surcharge in
5 addition to all other deposits required by law or court
6 rule. Sections 488.426 to 488.432 shall not apply to
7 proceedings when costs are waived or are to be paid by the
8 county or state or any city.

9 2. The surcharge in effect on August 28, 2001, shall
10 remain in effect until changed by the circuit court. The
11 circuit court in any circuit, except the circuit court in
12 Jackson County, **the circuit court in the city of St. Louis,**
13 or the circuit court in any circuit that reimburses the
14 state for the salaries of family court commissioners under
15 and pursuant to section 487.020, may change the fee to any
16 amount not to exceed fifteen dollars. The circuit court in
17 Jackson County, **the circuit court in the city of St. Louis,**
18 or the circuit court in any circuit that reimburses the
19 state for the salaries of family court commissioners under
20 and pursuant to section 487.020 may change the fee to any

21 amount not to exceed twenty dollars. A change in the fee
22 shall become effective and remain in effect until further
23 changed.

24 3. Sections 488.426 to 488.432 shall not apply to
25 proceedings when costs are waived or are paid by the county
26 or state or any city.

27 [4. In addition to any fee authorized by subsection 1
28 of this section, any county of the first classification with
29 more than one hundred one thousand but fewer than one
30 hundred fifteen thousand inhabitants may impose an
31 additional fee of ten dollars excluding cases concerning
32 adoption and those in small claims court. The provisions of
33 this subsection shall expire on December 31, 2019.]

494.455. 1. [Each county or city not within a county
2 may elect to compensate its jurors pursuant to subsection 2
3 of this section except as otherwise provided in subsection 3
4 of this section.

5 [2.] Each grand and petit juror shall receive **a minimum**
6 **of** six dollars per day, for every day [he or she] **the juror**
7 may actually serve as [such] **a juror**, and [seven cents] **the**
8 **mileage rate as provided by section 33.095 for state**
9 **employees** for every mile [he or she] **the juror** may
10 necessarily travel going from [his or her] **the juror's** place
11 of residence to the courthouse and returning, to be paid
12 from funds of the county or a city not within a county.
13 **Each county or city not within a county may elect to**
14 **compensate its jurors pursuant to subsection 2 of this**
15 **section, except as otherwise provided in subsection 3 of**
16 **this section.**

17 2. The governing body of each county or a city not
18 within a county may authorize additional daily compensation
19 and mileage allowance for jurors, which additional

20 compensation shall be paid from the funds of the county or a
21 city not within a county. The governing body of each county
22 or a city not within a county may authorize additional daily
23 compensation and mileage allowance for jurors attending a
24 coroner's inquest. Jurors may receive the additional
25 compensation and mileage allowance authorized by this
26 subsection only if the governing body of the county or the
27 city not within a county authorizes the additional
28 compensation. The provisions of this subsection authorizing
29 additional compensation shall terminate upon the issuance of
30 a mandate by the Missouri supreme court which results in the
31 state of Missouri being obligated or required to pay any
32 such additional compensation even if such additional
33 compensation is formally approved or authorized by the
34 governing body of a county or a city not within a county.
35 Provided that a county or a city not within a county
36 authorizes daily compensation payable from county or city
37 funds for jurors who serve in that county pursuant to this
38 subsection in the amount of at least six dollars per day in
39 addition to the amount required by [this] subsection **1 of**
40 **this section**, a person shall receive an additional six
41 dollars per day to be reimbursed by the state of Missouri so
42 that the total compensation payable shall be at least
43 eighteen dollars, plus mileage for each day that the person
44 actually serves as a petit juror in a particular case; or
45 for each day that a person actually serves as a grand juror
46 during a term of a grand jury. The state shall reimburse
47 the county for six dollars of the additional juror
48 compensation provided by this subsection.

49 3. [In any county of the first classification without
50 a charter form of government and with a population of at
51 least two hundred thousand inhabitants, no grand or petit

juror shall receive compensation for the first two days of service, but shall receive fifty dollars per day for the third day and each subsequent day he or she may actually serve as such, and seven cents for every mile he or she may necessarily travel going from his or her place of residence to the courthouse and returning, to be paid from funds of the county] **Notwithstanding the provisions of subsection 1 or 2 of this section to the contrary, by a majority vote, the governing body of a county or a city not within a county may adopt a system for juror compensation in the county or a city not within a county as follows: each grand or petit juror shall receive fifty dollars per day for the third day the juror may actually serve as a juror and for each subsequent day of actual service, and the mileage rate as provided by section 33.095 for state employees for every mile the juror may necessarily travel from the juror's place of residence to the courthouse and returning, to be paid from funds of the county or a city not within a county, provided that no grand or petit juror shall receive compensation for the first two days the juror may actually serve as such.**

4. When each panel of jurors summoned and attending court has completed its service, the board of jury commissioners shall cause to be submitted to the governing body of the county or a city not within a county a statement of fees earned by each juror. Within thirty days of the submission of the statement of fees, the governing body shall cause payment to be made to those jurors summoned the fees earned during their service as jurors.

509.520. 1. Notwithstanding any provision of law to the contrary, beginning August 28, 2023, pleadings, attachments, exhibits filed with the court in any case, as

4 well as any judgments or orders issued by the court, or
5 other records of the court shall not include the following
6 confidential and personal identifying information:

7 (1) The full Social Security number of any party or
8 any child;

9 (2) The full credit card number, financial institution
10 account number, personal identification number, or password
11 used to secure an account of any party;

12 (3) The full motor vehicle operator license number;

13 (4) **[Victim] Information[, including the name,**
14 **address, and other contact information of the] concerning a**
15 **victim or witness in a criminal case that is confidential as**
16 **otherwise provided by statute or as prescribed in the**
17 **Missouri supreme court rules of criminal procedure or**
18 **operating rules;**

19 (5) **[Witness information, including the name, address,**
20 **and other contact information of the witness;**

21 **(6)] Any other full state identification number;**

22 **[(7)] (6)** The name, address, and date of birth of a
23 minor and, if applicable, any next friend; **[or**

24 **(8)] (7)** The full date of birth of any party; however,
25 the year of birth shall be made available, except for a
26 minor; **or**

27 **(8) Any other information redacted for good cause by**
28 **order of the court.**

29 2. The information provided under subsection 1 of this
30 section shall be provided in a confidential information
31 filing sheet contemporaneously filed with the court or
32 entered by the court, which shall not be subject to public
33 inspection or availability.

34 3. Nothing in this section shall preclude an entity
35 including, but not limited to, a financial institution,

36 insurer, insurance support organization, or consumer
37 reporting agency that is otherwise permitted by law to
38 access state court records from using a person's unique
39 identifying information to match such information contained
40 in a court record to validate that person's record.

41 4. The Missouri supreme court shall promulgate rules
42 to administer this section.

43 5. Contemporaneously with the filing of every petition
44 for dissolution of marriage, legal separation, motion for
45 modification, action to establish paternity, and petition or
46 motion for support or custody of a minor child, the filing
47 party shall file a confidential case filing sheet with the
48 court which shall not be subject to public inspection and
49 which provides:

50 (1) The name and address of the current employer and
51 the Social Security number of the petitioner or movant, if a
52 person;

53 (2) If known to the petitioner or movant, the name and
54 address of the current employer and the Social Security
55 number of the respondent; and

56 (3) The names, dates of birth, and Social Security
57 numbers of any children subject to the action.

58 6. Contemporaneously with the filing of every
59 responsive pleading petition for dissolution of marriage,
60 legal separation, motion for modification, action to
61 establish paternity, and petition or motion for support or
62 custody of a minor child, the responding party shall file a
63 confidential case filing sheet with the court which shall
64 not be subject to public inspection and which provides:

65 (1) The name and address of the current employer and
66 the Social Security number of the responding party, if a
67 person;

68 (2) If known to the responding party, the name and
69 address of the current employer and the Social Security
70 number of the petitioner or movant; and

71 (3) The names, dates of birth, and Social Security
72 numbers of any children subject to the action.

73 7. The full Social Security number of any party or
74 child subject to an order of custody or support shall be
75 retained by the court on the confidential case filing sheet
76 or other confidential record maintained in conjunction with
77 the administration of the case. The full credit card number
78 or other financial account number of any party may be
79 retained by the court on a confidential record if it is
80 necessary to maintain the number in conjunction with the
81 administration of the case.

82 8. Any document described in subsection 1 of this
83 section shall, in lieu of the full number, include only the
84 last four digits of any such number.

85 9. Except as provided in section 452.430, the clerk
86 shall not be required to redact any document described in
87 subsection 1 of this section issued or filed before August
88 28, 2009, prior to releasing the document to the public.

89 10. For good cause shown, the court may release
90 information contained on the confidential case filing sheet;
91 except that, any state agency acting under authority of
92 chapter 454 shall have access to information contained
93 herein without court order in carrying out their official
94 duty.

**510.500. Sections 510.500 to 510.521 shall be known
2 and may be cited as the "Uniform Interstate Depositions and
3 Discovery Act".**

**510.503. As used in sections 510.500 to 510.521, the
2 following terms mean:**

3 (1) "Foreign jurisdiction", a state other than this
4 state;

5 (2) "Foreign subpoena", a subpoena issued under
6 authority of a court of record of a foreign jurisdiction;

7 (3) "Person", an individual, corporation, business
8 trust, estate, trust, partnership, limited liability
9 company, association, joint venture, public corporation,
10 government or political subdivision, agency or
11 instrumentality, or any other legal or commercial entity;

12 (4) "State", a state of the United States, the
13 District of Columbia, Puerto Rico, the United States Virgin
14 Islands, a federally recognized Indian tribe, or any
15 territory or insular possession subject to the jurisdiction
16 of the United States;

17 (5) "Subpoena", a document, however denominated,
18 issued under authority of a court of record requiring a
19 person to:

20 (a) Attend and give testimony at a deposition;

21 (b) Produce and permit inspection and copying of
22 designated books, documents, records, electronically stored
23 information, or tangible items in the possession, custody,
24 or control of the person; or

25 (c) Permit inspection of premises under the control of
26 the person.

510.506. 1. To request issuance of a subpoena under
2 this section, a party shall submit a foreign subpoena to a
3 clerk of court in the county in which discovery is sought to
4 be conducted in this state. A request for the issuance of a
5 subpoena under sections 510.500 to 510.521 shall not
6 constitute an appearance in the courts of this state.

7 2. If a party submits a foreign subpoena to a clerk of
8 court in this state, the clerk, in accordance with such

9 court's procedure, shall promptly issue a subpoena for
10 service upon the person to which the foreign subpoena is
11 directed.

12 3. A subpoena under subsection 2 of this section shall:

13 (1) Incorporate the terms used in the foreign
14 subpoena; and

15 (2) Contain or be accompanied by the names, addresses,
16 and telephone numbers of all counsel of record in the
17 proceeding to which the subpoena relates and of any party
18 not represented by counsel.

510.509. A subpoena issued by a clerk of court under
2 section 510.506 shall be served in compliance with the
3 Missouri supreme court rules of civil procedure and laws of
4 this state.

510.512. The Missouri supreme court rules of civil
2 procedure and laws of this state, and any amendments
3 thereto, apply to subpoenas issued under section 510.506.

510.515. An application to the court for a protective
2 order or to enforce, quash, or modify a subpoena issued by a
3 clerk of court under section 510.506 shall comply with the
4 Missouri supreme court rules of civil procedure and the laws
5 of this state and be submitted to the court in the county in
6 which discovery is to be conducted.

510.518. In applying and construing sections 510.500
2 to 510.521, consideration shall be given to the need to
3 promote uniformity of the law with respect to its subject
4 matter among states that enact it.

510.521. Sections 510.500 to 510.521 apply to requests
2 for discovery in cases pending on August 28, 2025.

536.140. 1. The court shall hear the case without a
2 jury and, except as otherwise provided in subsection 4 of

3 this section, shall hear it upon the petition and record
4 filed as aforesaid.

5 2. The inquiry may extend to a determination of
6 whether the action of the agency

7 (1) Is in violation of constitutional provisions;

8 (2) Is in excess of the statutory authority or
9 jurisdiction of the agency;

10 (3) Is unsupported by competent and substantial
11 evidence upon the whole record;

12 (4) Is, for any other reason, unauthorized by law;

13 (5) Is made upon unlawful procedure or without a fair
14 trial;

15 (6) Is arbitrary, capricious or unreasonable;

16 (7) Involves an abuse of discretion.

17 The scope of judicial review in all contested cases, whether
18 or not subject to judicial review pursuant to sections
19 536.100 to 536.140, and in all cases in which judicial
20 review of decisions of administrative officers or bodies,
21 whether state or local, is now or may hereafter be provided
22 by law, shall in all cases be at least as broad as the scope
23 of judicial review provided for in this subsection[;
24 provided, however, that nothing herein contained shall in
25 any way change or affect the provisions of sections 311.690
26 and 311.700].

27 3. [Whenever the action of the agency being reviewed
28 does not involve the exercise by the agency of
29 administrative discretion in the light of the facts, but
30 involves only the application by the agency of the law to
31 the facts, the court may upon application of any party
32 conduct a de novo review of the agency decision] In
33 interpreting a state statute, rule, regulation, or other

34 subregulatory document, a court or an officer hearing an
35 administrative action shall not defer to a state agency's
36 interpretation of such statute, rule, regulation, or other
37 document, and shall interpret the meaning and effect de
38 novo. In actions brought by or against a state agency,
39 after applying all customary tools of interpretation, the
40 court or hearing officer shall decide any remaining doubt in
41 favor of a reasonable interpretation that limits agency
42 power and maximizes individual liberty.

43 4. Wherever under [subsection 3 of] this section or
44 otherwise the court is entitled to weigh the evidence and
45 determine the facts for itself, the court may hear and
46 consider additional evidence if the court finds that such
47 evidence in the exercise of reasonable diligence could not
48 have been produced or was improperly excluded at the hearing
49 before the agency. Wherever the court is not entitled to
50 weigh the evidence and determine the facts for itself, if
51 the court finds that there is competent and material
52 evidence which, in the exercise of reasonable diligence,
53 could not have been produced or was improperly excluded at
54 the hearing before the agency, the court may remand the case
55 to the agency with directions to reconsider the same in the
56 light of such evidence. The court may in any case hear and
57 consider evidence of alleged irregularities in procedure or
58 of unfairness by the agency, not shown in the record.

59 5. The court shall render judgment affirming,
60 reversing, or modifying the agency's order, and may order
61 the reconsideration of the case in the light of the court's
62 opinion and judgment, and may order the agency to take such
63 further action as it may be proper to require; but the court
64 shall not substitute its discretion for discretion legally

65 vested in the agency, unless the court determines that the
66 agency decision was arbitrary or capricious.

67 6. Appeals may be taken from the judgment of the court
68 as in other civil cases.

537.529. 1. This section shall be known and may be
2 cited as the "Uniform Public Expression Protection Act".

3 2. As used in this section, the following terms mean:

4 (1) "Goods or services", does not include a dramatic,
5 literary, musical, political, journalistic, or artistic work;

6 (2) "Governmental unit", any city, county, or other
7 political subdivision of this state, or any department,
8 division, board, or other agency of any political
9 subdivision of this state;

10 (3) "Person", an individual, estate, trust,
11 partnership, business or nonprofit entity, governmental
12 unit, or other legal entity.

13 3. Except as otherwise provided in subsection 4 of
14 this section, the provisions of this section shall apply to
15 a cause of action asserted in a civil action against a
16 person based on the person's:

17 (1) Communication in a legislative, executive,
18 judicial, administrative, or other governmental proceeding;

19 (2) Communication on an issue under consideration or
20 review in a legislative, executive, judicial,
21 administrative, or other governmental proceeding; or

22 (3) Exercise of the right of freedom of speech or of
23 the press, the right to assemble or petition, or the right
24 of association, guaranteed by the Constitution of the United
25 States or the Constitution of the state of Missouri, on a
26 matter of public concern.

27 4. The provisions of this section shall not apply to a
28 cause of action asserted:

29 (1) Against a governmental unit or an employee or
30 agent of a governmental unit acting or purporting to act in
31 an official capacity;

32 (2) By a governmental unit or an employee or agent of
33 a governmental unit acting in an official capacity to
34 enforce a law to protect against an imminent threat to
35 public health or safety; or

36 (3) Against a person primarily engaged in the business
37 of selling or leasing goods or services if the cause of
38 action arises out of a communication related to the person's
39 sale or lease of the goods or services.

40 5. No later than sixty days after a party is served
41 with a complaint, crossclaim, counterclaim, third-party
42 claim, or other pleading that asserts a cause of action to
43 which this section applies, or at a later time on a showing
44 of good cause, the party may file a special motion to
45 dismiss the cause of action or part of the cause of action.

46 6. (1) Except as otherwise provided in this
47 subsection:

48 (a) All other proceedings between the moving party and
49 responding party in an action, including discovery and a
50 pending hearing or motion, are stayed on the filing of a
51 motion under subsection 5 of this section; and

52 (b) On motion by the moving party, the court may stay:

53 a. A hearing or motion involving another party if the
54 ruling on the hearing or motion would adjudicate a legal or
55 factual issue that is material to the motion under
56 subsection 5 of this section; or

57 b. Discovery by another party if the discovery relates
58 to a legal or factual issue that is material to the motion
59 under subsection 5 of this section.

60 (2) A stay under subdivision (1) of this subsection
61 remains in effect until entry of an order ruling on the
62 motion filed under subsection 5 of this section and the
63 expiration of the time to appeal the order.

64 (3) If a party appeals from an order ruling on a
65 motion under subsection 5 of this section, all proceedings
66 between all parties in an action are stayed. The stay
67 remains in effect until the conclusion of the appeal.

68 (4) During a stay under subdivision (1) of this
69 subsection, the court may allow limited discovery if a party
70 shows that specific information is necessary to establish
71 whether a party has satisfied or failed to satisfy a burden
72 imposed by subdivision (1) of subsection 9 of this section
73 and is not reasonably available without discovery.

74 (5) A motion for costs and expenses under subsection
75 12 of this section shall not be subject to a stay under this
76 section.

77 (6) A stay under this subsection does not affect a
78 party's ability to voluntarily dismiss a cause of action or
79 part of a cause of action or move to sever a cause of action.

80 (7) During a stay under this section, the court for
81 good cause may hear and rule on:

82 (a) A motion unrelated to the motion under subsection
83 5 of this section; and

84 (b) A motion seeking a special or preliminary
85 injunction to protect against an imminent threat to public
86 health or safety.

87 7. (1) The court shall hear a motion under subsection
88 5 of this section no later than sixty days after filing of
89 the motion, unless the court orders a later hearing:

90 (a) To allow discovery under subdivision (4) of
91 subsection 6 of this section; or

92 (b) For other good cause.

93 (2) If the court orders a later hearing under
94 paragraph (a) of subdivision (1) of this subsection, the
95 court shall hear the motion under subsection 5 of this
96 section no later than sixty days after the court order
97 allowing the discovery, subject to paragraph (b) of
98 subdivision (1) of this subsection.

99 8. In ruling on a motion under subsection 5 of this
100 section, the court shall consider the parties' pleadings,
101 the motion, any replies and responses to the motion, and any
102 evidence that could be considered in ruling on a motion for
103 summary judgment.

104 9. (1) In ruling on a motion under subsection 5 of
105 this section, the court shall dismiss with prejudice a cause
106 of action or part of a cause of action if:

107 (a) The moving party establishes under subsection 3 of
108 this section that this section applies;

109 (b) The responding party fails to establish under
110 subsection 4 of this section that this section does not
111 apply; and

112 (c) Either:

113 a. The responding party fails to establish a prima
114 facie case as to each essential element of the cause of
115 action; or

116 b. The moving party establishes that:

117 (i) The responding party failed to state a cause of
118 action upon which relief can be granted; or

119 (ii) There is no genuine issue as to any material fact
120 and the party is entitled to judgment as a matter of law on
121 the cause of action or part of the cause of action.

122 (2) A voluntary dismissal without prejudice of a
123 responding party's cause of action, or part of a cause of

124 action, that is the subject of a motion under subsection 5
125 of this section does not affect a moving party's right to
126 obtain a ruling on the motion and seek costs, reasonable
127 attorney's fees, and reasonable litigation expenses under
128 subsection 12 of this section.

129 (3) A voluntary dismissal with prejudice of a
130 responding party's cause of action, or part of a cause of
131 action, that is the subject of a motion under subsection 5
132 of this section establishes for the purpose of subsection 12
133 of this section that the moving party prevailed on the
134 motion.

135 10. The court shall rule on a motion under subsection
136 5 of this section no later than sixty days after the hearing
137 under subsection 7 of this section.

138 11. A moving party may appeal within twenty-one days
139 as a matter of right from an order denying, in whole or in
140 part, a motion under subsection 5 of this section.

141 12. On a motion under subsection 5 of this section,
142 the court shall award costs, reasonable attorney's fees, and
143 reasonable litigation expenses related to the motion:

144 (1) To the moving party if the moving party prevails
145 on the motion; or

146 (2) To the responding party if the responding party
147 prevails on the motion and the court finds that the motion
148 was frivolous or filed solely with intent to delay the
149 proceeding.

150 13. This section shall be broadly construed and
151 applied to protect the exercise of the right of freedom of
152 speech and of the press, the right to assemble and petition,
153 and the right of association, guaranteed by the Constitution
154 of the United States or the Constitution of the state of
155 Missouri.

156 **14. In applying and construing this section,**
157 **consideration shall be given to the need to promote**
158 **uniformity of the law with respect to its subject matter**
159 **among states that enact it.**

160 **15. This section applies to a civil action filed or**
161 **cause of action asserted in a civil action on or after**
162 **August 28, 2025.**

 621.045. 1. The administrative hearing commission
2 shall conduct hearings and make findings of fact and
3 conclusions of law in those cases when, under the law, a
4 license issued by any of the following agencies may be
5 revoked or suspended or when the licensee may be placed on
6 probation or when an agency refuses to permit an applicant
7 to be examined upon his or her qualifications or refuses to
8 issue or renew a license of an applicant who has passed an
9 examination for licensure or who possesses the
10 qualifications for licensure without examination:

11 Missouri State Board of Accountancy

12 Missouri State Board for Architects, Professional
13 Engineers, Professional Land Surveyors and Landscape
14 Architects

15 Board of Barber Examiners

16 Board of Cosmetology

17 Board of Chiropody and Podiatry

18 Board of Chiropractic Examiners

19 Missouri Dental Board

20 Board of Embalmers and Funeral Directors

21 Board of Registration for the Healing Arts

22 Board of Nursing

23 Board of Optometry

24 Board of Pharmacy

25 Missouri Real Estate Commission

26 Missouri Veterinary Medical Board
27 Supervisor of Liquor Control
28 Department of Health and Senior Services
29 Department of Commerce and Insurance
30 Department of Mental Health
31 Board of Private Investigator Examiners.

32 2. If in the future there are created by law any new
33 or additional administrative agencies which have the power
34 to issue, revoke, suspend, or place on probation any
35 license, then those agencies are under the provisions of
36 this law.

37 3. The administrative hearing commission is authorized
38 to conduct hearings and make findings of fact and
39 conclusions of law in those cases brought by the Missouri
40 state board for architects, professional engineers,
41 professional land surveyors and landscape architects against
42 unlicensed persons under section 327.076.

43 4. **The administrative hearing commission is authorized**
44 **to conduct hearings and make findings of fact and**
45 **conclusions of law in those cases brought by the division of**
46 **workers' compensation of the department of labor and**
47 **industrial relations against administrative law judges under**
48 **section 287.610.**

49 5. Notwithstanding any other provision of this section
50 to the contrary, after August 28, 1995, in order to
51 encourage settlement of disputes between any agency
52 described in subsection 1 or 2 of this section and its
53 licensees, any such agency shall:

54 (1) Provide the licensee with a written description of
55 the specific conduct for which discipline is sought and a
56 citation to the law and rules allegedly violated, together
57 with copies of any documents which are the basis thereof and

58 the agency's initial settlement offer, or file a contested
59 case against the licensee;

60 (2) If no contested case has been filed against the
61 licensee, allow the licensee at least sixty days, from the
62 date of mailing, to consider the agency's initial settlement
63 offer and to contact the agency to discuss the terms of such
64 settlement offer;

65 (3) If no contested case has been filed against the
66 licensee, advise the licensee that the licensee may, either
67 at the time the settlement agreement is signed by all
68 parties, or within fifteen days thereafter, submit the
69 agreement to the administrative hearing commission for
70 determination that the facts agreed to by the parties to the
71 settlement constitute grounds for denying or disciplining
72 the license of the licensee; and

73 (4) In any contact under this subsection by the agency
74 or its counsel with a licensee who is not represented by
75 counsel, advise the licensee that the licensee has the right
76 to consult an attorney at the licensee's own expense.

77 [5.] 6. If the licensee desires review by the
78 administrative hearing commission under subdivision (3) of
79 subsection [4] 5 of this section at any time prior to the
80 settlement becoming final, the licensee may rescind and
81 withdraw from the settlement and any admissions of fact or
82 law in the agreement shall be deemed withdrawn and not
83 admissible for any purposes under the law against the
84 licensee. Any settlement submitted to the administrative
85 hearing commission shall not be effective and final unless
86 and until findings of fact and conclusions of law are
87 entered by the administrative hearing commission that the
88 facts agreed to by the parties to the settlement constitute

89 grounds for denying or disciplining the license of the
90 licensee.

91 [6.] 7. When a holder of a license, registration,
92 permit, or certificate of authority issued by the division
93 of professional registration or a board, commission, or
94 committee of the division of professional registration
95 against whom an affirmative decision is sought has failed to
96 plead or otherwise respond in the contested case and
97 adequate notice has been given under sections 536.067 and
98 621.100 upon a properly pled writing filed to initiate the
99 contested case under this chapter or chapter 536, a default
100 decision shall be entered against the licensee without
101 further proceedings. The default decision shall grant such
102 relief as requested by the division of professional
103 registration, board, committee, commission, or office in the
104 writing initiating the contested case as allowed by law.
105 Upon motion stating facts constituting a meritorious defense
106 and for good cause shown, a default decision may be set
107 aside. The motion shall be made within a reasonable time,
108 not to exceed thirty days after entry of the default
109 decision. "Good cause" includes a mistake or conduct that
110 is not intentionally or recklessly designed to impede the
111 administrative process.

2 [469.409. 1. Any claim for breach of a
3 trustee's duty to impartially administer a trust
4 related, directly or indirectly, to an
5 adjustment made by a fiduciary to the allocation
6 between principal and income pursuant to
7 subsection 1 of section 469.405 or any
8 allocation made by the fiduciary pursuant to any
9 authority or discretion specified in subsection
10 1 of section 469.403, unless previously barred
11 by adjudication, consent or other limitation,
shall be barred as provided in this section.

(1) Any such claim brought by a qualified beneficiary is barred if not asserted in a judicial proceeding commenced within two years after the trustee has sent a report to that qualified beneficiary that adequately discloses the facts constituting the claim.

(2) Any such claim brought by a beneficiary (other than a qualified beneficiary) with any interest whatsoever in the trust, no matter how remote or contingent, or whether or not the beneficiary is ascertainable or has the capacity to contract, is barred if not asserted in a judicial proceeding commenced within two years after the first to occur of:

(a) The date the trustee sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim; or

(b) The date the trustee sent a report to a person that represents the beneficiary under the provisions of subdivision (2) of subsection 2 of this section.

2. For purposes of this section the following rules shall apply:

(1) A report adequately discloses the facts constituting a claim if it provides sufficient information so that the beneficiary should know of the claim or reasonably should have inquired into its existence;

(2) Section 469.402 shall apply in determining whether a beneficiary (including a qualified beneficiary) has received notice for purposes of this section;

(3) The determination of the identity of all qualified beneficiaries shall be made on the date the report is deemed to have been sent; and

(4) This section does not preclude an action to recover for fraud or misrepresentation related to the report.]

[469.411. 1. (1) If the provisions of this section apply to a trust, the unitrust amount determined for each accounting year of the trust shall be a percentage between three and five percent of the average net fair market

6 value of the trust, as of the first day of the
7 trust's current accounting year. The percentage
8 applicable to a trust shall be that percentage
9 specified by the terms of the governing
10 instrument or by the election made in accordance
11 with subdivision (2) of subsection 5 of this
12 section.

13 (2) The unitrust amount for the current
14 accounting year computed pursuant to this
15 section shall be proportionately reduced for any
16 distributions, in whole or in part, other than
17 distributions of the unitrust amount, and for
18 any payments of expenses, including debts,
19 disbursements and taxes, from the trust within a
20 current accounting year that the trustee
21 determines to be material and substantial, and
22 shall be proportionately increased for the
23 receipt, other than a receipt that represents a
24 return on investment, of any additional property
25 into the trust within a current accounting year.

26 (3) For purposes of this section, the net
27 fair market values of the assets held in the
28 trust on the first business day of a prior
29 accounting quarter shall be adjusted to reflect
30 any reduction, in the case of a distribution or
31 payment, or increase, in the case of a receipt,
32 for the prior accounting year pursuant to
33 subdivision (1) of this subsection, as if the
34 distribution, payment or receipt had occurred on
35 the first day of the prior accounting year.

36 (4) In the case of a short accounting
37 period, the trustee shall prorate the unitrust
38 amount on a daily basis.

39 (5) In the case where the net fair market
40 value of an asset held in the trust has been
41 incorrectly determined in any quarter, the
42 unitrust amount shall be increased in the case
43 of an undervaluation, or be decreased in the
44 case of an overvaluation, by an amount equal to
45 the difference between the unitrust amount
46 determined based on the correct valuation of the
47 asset and the unitrust amount originally
48 determined.

49 2. As used in this section, the following
50 terms mean:

51 (1) "Average net fair market value", a
52 rolling average of the fair market value of the
53 assets held in the trust on the first business
54 day of the lessor of the number of accounting
55 quarters of the trust from the date of inception
56 of the trust to the determination of the trust's
57 average net fair market value, or twelve
58 accounting quarters of the trust, regardless of
59 whether this section applied to the
60 ascertainment of net income for all valuation
61 quarters;

62 (2) "Current accounting year", the
63 accounting period of the trust for which the
64 unitrust amount is being determined.

65 3. In determining the average net fair
66 market value of the assets held in the trust,
67 there shall not be included the value of:

68 (1) Any residential property or any
69 tangible personal property that, as of the first
70 business day of the current valuation year, one
71 or more income beneficiaries of the trust have
72 or had the right to occupy, or have or had the
73 right to possess or control, other than in a
74 capacity as trustee, and instead the right of
75 occupancy or the right to possession or control
76 shall be deemed to be the unitrust amount with
77 respect to the residential property or the
78 tangible personal property; or

79 (2) Any asset specifically given to a
80 beneficiary under the terms of the trust and the
81 return on investment on that asset, which return
82 on investment shall be distributable to the
83 beneficiary.

84 4. In determining the average net fair
85 market value of the assets held in the trust
86 pursuant to subsection 1 of this section, the
87 trustee shall, not less often than annually,
88 determine the fair market value of each asset of
89 the trust that consists primarily of real
90 property or other property that is not traded on
91 a regular basis in an active market by appraisal
92 or other reasonable method or estimate, and that

determination, if made reasonably and in good faith, shall be conclusive as to all persons interested in the trust. Any claim based on a determination made pursuant to this subsection shall be barred if not asserted in a judicial proceeding brought by any beneficiary with any interest whatsoever in the trust within two years after the trustee has sent a report to all qualified beneficiaries that adequately discloses the facts constituting the claim. The rules set forth in subsection 2 of section 469.409 shall apply to the barring of claims pursuant to this subsection.

5. This section shall apply to the following trusts:

(1) Any trust created after August 28, 2001, with respect to which the terms of the trust clearly manifest an intent that this section apply;

(2) Any trust created under an instrument that became irrevocable on, before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects to have this section apply unless the instrument creating the trust specifically prohibits an election under this subdivision. The trustee shall deliver notice to all qualified beneficiaries and the settlor of the trust, if he or she is then living, of the trustee's intent to make such an election at least sixty days before making that election. The trustee shall have sole authority to make the election. Section 469.402 shall apply for all purposes of this subdivision. An action or order by any court shall not be required. The election shall be made by a signed writing delivered to the settlor of the trust, if he or she is then living, and to all qualified beneficiaries. The election is irrevocable, unless revoked by order of the court having jurisdiction of the trust. The election may specify the percentage used to determine the unitrust amount pursuant to this section, provided that such percentage is between three and five percent, or if no

percentage is specified, then that percentage shall be three percent. In making an election pursuant to this subsection, the trustee shall be subject to the same limitations and conditions as apply to an adjustment between income and principal pursuant to subsections 3 and 4 of section 469.405; and

(3) No action of any kind based on an election made by a trustee pursuant to subdivision (2) of this subsection shall be brought against the trustee by any beneficiary of that trust three years from the effective date of that election.

6. (1) Once the provisions of this section become applicable to a trust, the net income of the trust shall be the unitrust amount.

(2) Unless otherwise provided by the governing instrument, the unitrust amount distributed each year shall be paid from the following sources for that year up to the full value of the unitrust amount in the following order:

(a) Net income as determined if the trust were not a unitrust;

(b) Other ordinary income as determined for federal income tax purposes;

(c) Assets of the trust principal for which there is a readily available market value; and

(d) Other trust principal.

(3) Additionally, the trustee may allocate to trust income for each taxable year of the trust, or portion thereof:

(a) Net short-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts to trust income, as determined under the provisions of this chapter without regard to this section, for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof;

(b) Net long-term capital gain described in the Internal Revenue Code, 26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the extent that the amount so allocated together with all other amounts, including amounts described in paragraph (a) of this subdivision, allocated to trust income for such year, or portion thereof, does not exceed the unitrust amount for such year, or portion thereof.

7. A trust with respect to which this section applies on August 28, 2011, may calculate the unitrust amount in accordance with the provisions of this section, as it existed either before or after such date, as the trustee of such trust shall determine in a writing kept with the records of the trust in the trustee's discretion.]

[469.461. 1. 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 which arise from:

(1) Elections and decisions, other than those described in subsection 2 of this section, that the fiduciary makes from time to time regarding tax matters;

(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; or

(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 a beneficiary.

2. 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

26 estate, trust or beneficiary are decreased, each
27 estate, trust or beneficiary that benefits from
28 the decrease in income tax shall reimburse the
29 principal from which the increase in estate tax
30 is paid. The total reimbursement shall equal
31 the increase in the estate tax to the extent
32 that the principal used to pay the increase
33 would have qualified for a marital deduction or
34 charitable contribution deduction but for the
35 payment. The proportionate share of the
36 reimbursement for each estate, trust or
37 beneficiary whose income taxes are reduced shall
38 be the same as its proportionate share of the
39 total decrease in income tax. An estate or
40 trust shall reimburse principal from income.]

[537.528. 1. Any action against a person
2 for conduct or speech undertaken or made in
3 connection with a public hearing or public
4 meeting, in a quasi-judicial proceeding before a
5 tribunal or decision-making body of the state or
6 any political subdivision of the state is
7 subject to a special motion to dismiss, motion
8 for judgment on the pleadings, or motion for
9 summary judgment that shall be considered by the
10 court on a priority or expedited basis to ensure
11 the early consideration of the issues raised by
12 the motion and to prevent the unnecessary
13 expense of litigation. Upon the filing of any
14 special motion described in this subsection, all
15 discovery shall be suspended pending a decision
16 on the motion by the court and the exhaustion of
17 all appeals regarding the special motion.

18 2. If the rights afforded by this section
19 are raised as an affirmative defense and if a
20 court grants a motion to dismiss, a motion for
21 judgment on the pleadings or a motion for
22 summary judgment filed within ninety days of the
23 filing of the moving party's answer, the court
24 shall award reasonable attorney fees and costs
25 incurred by the moving party in defending the
26 action. If the court finds that a special
27 motion to dismiss or motion for summary judgment
28 is frivolous or solely intended to cause

29 unnecessary delay, the court shall award costs
30 and reasonable attorney fees to the party
31 prevailing on the motion.

32 3. Any party shall have the right to an
33 expedited appeal from a trial court order on the
34 special motions described in subsection 2 of
35 this section or from a trial court's failure to
36 rule on the motion on an expedited basis.

37 4. As used in this section, a "public
38 meeting in a quasi-judicial proceeding" means
39 and includes any meeting established and held by
40 a state or local governmental entity, including
41 without limitations meetings or presentations
42 before state, county, city, town or village
43 councils, planning commissions, review boards or
44 commissions.

45 5. Nothing in this section limits or
46 prohibits the exercise of a right or remedy of a
47 party granted pursuant to another
48 constitutional, statutory, common law or
49 administrative provision, including civil
50 actions for defamation.

51 6. If any provision of this section or the
52 application of any provision of this section to
53 a person or circumstance is held invalid, the
54 invalidity shall not affect other provisions or
55 applications of this section that can be given
56 effect without the invalid provision or
57 application, and to this end the provisions of
58 this section are severable.

59 7. The provisions of this section shall
60 apply to all causes of actions.]

✓