

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 221
103RD GENERAL ASSEMBLY

0882H.06C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 210.110, 214.330, 217.362, 287.200, 287.470, 287.610, 287.615, 287.812, 287.835, 302.309, 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, 476.806, 476.1300, 476.1302, 476.1304, 476.1306, 476.1308, 476.1310, 476.1313, 477.650, 478.001, 478.330, 478.550, 478.600, 478.610, 478.700, 478.705, 478.710, 483.083, 488.040, 494.455, 536.140, 559.115, 590.653, and 621.045, RSMo, and to enact in lieu thereof one hundred eleven new sections relating to civil jurisprudence.

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

Section A. Sections 210.110, 214.330, 217.362, 287.200, 287.470, 287.610, 287.615,
2 287.812, 287.835, 302.309, 347.143, 455.010, 455.035, 455.513, 456.1-108, 456.10-1005,
3 469.401, 469.402, 469.403, 469.405, 469.409, 469.411, 469.413, 469.415, 469.417, 469.419,
4 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433, 469.435, 469.437,
5 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.451, 469.453, 469.455, 469.457,
6 469.459, 469.461, 469.463, 469.465, 469.467, 476.806, 476.1300, 476.1302, 476.1304,
7 476.1306, 476.1308, 476.1310, 476.1313, 477.650, 478.001, 478.330, 478.550, 478.600,
8 478.610, 478.700, 478.705, 478.710, 483.083, 488.040, 494.455, 536.140, 559.115, 590.653,
9 and 621.045, RSMo, are repealed and one hundred eleven new sections enacted in lieu
10 thereof, to be known as sections 210.110, 214.330, 217.362, 287.200, 287.470, 287.610,
11 287.615, 287.812, 287.835, 302.309, 347.143, 455.010, 455.035, 455.513, 456.1-108,

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

12 456.10-1005, 469.399, 469.401, 469.402, 469.403, 469.404, 469.405, 469.413, 469.415,
13 469.417, 469.419, 469.421, 469.423, 469.425, 469.427, 469.429, 469.431, 469.432, 469.433,
14 469.435, 469.437, 469.439, 469.441, 469.443, 469.445, 469.447, 469.449, 469.450, 469.451,
15 469.453, 469.455, 469.456, 469.457, 469.459, 469.462, 469.463, 469.464, 469.465, 469.467,
16 469.471, 469.473, 469.475, 469.477, 469.479, 469.481, 469.483, 469.485, 469.487, 474.540,
17 474.542, 474.544, 474.546, 474.548, 474.550, 474.552, 474.554, 474.556, 474.558, 474.560,
18 474.562, 474.564, 474.600, 476.806, 476.1025, 476.1300, 476.1302, 476.1304, 476.1306,
19 476.1308, 476.1310, 476.1313, 477.650, 478.001, 478.330, 478.376, 478.550, 478.600,
20 478.610, 478.700, 478.705, 478.710, 483.083, 488.040, 494.455, 510.500, 510.503, 510.506,
21 510.509, 510.512, 510.515, 510.518, 510.521, 536.140, 559.115, 590.653, and 621.045, to
22 read as follows:

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183,
2 the following terms mean:

3 (1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child
4 other than by accidental means by those responsible for the child's care, custody, and control,
5 except that discipline including spanking, administered in a reasonable manner, shall not be
6 construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or
7 severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10);

8 (2) "Assessment and treatment services for children", an approach to be developed by
9 the children's division which will recognize and treat the specific needs of at-risk and abused
10 or neglected children. The developmental and medical assessment may be a broad physical,
11 developmental, and mental health screening to be completed within thirty days of a child's
12 entry into custody and in accordance with the periodicity schedule set forth by the American
13 Academy of Pediatrics thereafter as long as the child remains in care. Screenings may be
14 offered at a centralized location and include, at a minimum, the following:

15 (a) Complete physical to be performed by a pediatrician familiar with the effects of
16 abuse and neglect on young children;

17 (b) Developmental, behavioral, and emotional screening in addition to early periodic
18 screening, diagnosis, and treatment services, including a core set of standardized and
19 recognized instruments as well as interviews with the child and appropriate caregivers. The
20 screening battery may be performed by a licensed mental health professional familiar with the
21 effects of abuse and neglect on young children, who will then serve as the liaison between all
22 service providers in ensuring that needed services are provided. Such treatment services may
23 include in-home services, out-of-home placement, intensive twenty-four-hour treatment
24 services, family counseling, parenting training and other best practices.

25

26 Children whose screenings indicate an area of concern may complete a comprehensive, in-
27 depth health, psychodiagnostic, or developmental assessment within sixty days of entry into
28 custody;

29 (3) "Central registry", a registry of persons where ~~[the division has found probable~~
30 ~~cause to believe prior to August 28, 2004, or by a preponderance of the evidence after August~~
31 ~~28, 2004, or]~~ a court has substantiated through court adjudication that the individual has
32 committed child abuse or neglect or the person has pled guilty or has been found guilty of a
33 crime pursuant to section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or
34 567.050 if the victim is a child less than eighteen years of age, or any other crime pursuant to
35 chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is
36 twenty-one years of age or older, a crime under section 568.020, 568.030, 568.045, 568.050,
37 568.060, 568.080, 568.090, 573.023, 573.025, 573.035, 573.037, 573.040, 573.200, or
38 573.205, or an attempt to commit any such crimes. Any persons placed on the registry prior
39 to August 28, 2004, shall remain on the registry for the duration of time required by section
40 210.152;

41 (4) "Child", any person, regardless of physical or mental condition, under eighteen
42 years of age;

43 (5) "Children's services providers and agencies", any public, quasi-public, or private
44 entity with the appropriate and relevant training and expertise in delivering services to
45 children and their families as determined by the children's division, and capable of providing
46 direct services and other family services for children in the custody of the children's division
47 or any such entities or agencies that are receiving state moneys for such services;

48 (6) "Director", the director of the Missouri children's division within the department
49 of social services;

50 (7) "Division", the Missouri children's division within the department of social
51 services;

52 (8) "Family assessment and services", an approach to be developed by the children's
53 division which will provide for a prompt assessment of a child who has been reported to the
54 division as a victim of abuse or neglect by a person responsible for that child's care, custody
55 or control and of that child's family, including risk of abuse and neglect and, if necessary, the
56 provision of community-based services to reduce the risk and support the family;

57 (9) "Family support team meeting" or "team meeting", a meeting convened by the
58 division or children's services provider in behalf of the family and/or child for the purpose of
59 determining service and treatment needs, determining the need for placement and developing
60 a plan for reunification or other permanency options, determining the appropriate placement
61 of the child, evaluating case progress, and establishing and revising the case plan;

62 (10) "Investigation", the collection of physical and verbal evidence to determine if a
63 child has been abused or neglected;

64 (11) "Jail or detention center personnel", employees and volunteers working in any
65 premises or institution where incarceration, evaluation, care, treatment or rehabilitation is
66 provided to persons who are being held under custody of the law;

67 (12) "Neglect", failure to provide, by those responsible for the care, custody, and
68 control of the child, the proper or necessary support, education as required by law, nutrition or
69 medical, surgical, or any other care necessary for the child's well-being. Victims of neglect
70 shall also include any victims of sex trafficking or severe forms of trafficking as those terms
71 are defined in 22 U.S.C. 78 Section 7102(9)-(10);

72 (13) "Preponderance of the evidence", that degree of evidence that is of greater
73 weight or more convincing than the evidence which is offered in opposition to it or evidence
74 which as a whole shows the fact to be proved to be more probable than not;

75 (14) "Probable cause", available facts when viewed in the light of surrounding
76 circumstances which would cause a reasonable person to believe a child was abused or
77 neglected;

78 (15) "Report", the communication of an allegation of child abuse or neglect to the
79 division pursuant to section 210.115;

80 (16) "Those responsible for the care, custody, and control of the child", includes, but
81 is not limited to:

82 (a) The parents or legal guardians of a child;

83 (b) Other members of the child's household;

84 (c) Those exercising supervision over a child for any part of a twenty-four-hour day;

85 (d) Any adult person who has access to the child based on relationship to the parents
86 of the child or members of the child's household or the family;

87 (e) Any person who takes control of the child by deception, force, or coercion; or

88 (f) School personnel, contractors, and volunteers, if the relationship with the child
89 was established through the school or through school-related activities, even if the alleged
90 abuse or neglect occurred outside of school hours or off school grounds.

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

8 (2) The trust fund records, including all trust fund accounting records, shall be
9 maintained in the state of Missouri at all times or shall be electronically stored so that the
10 records may be made available in the state of Missouri within fifteen business days of receipt
11 of a written request. The operator of an endowed care cemetery shall maintain a current name
12 and address of the trustee and the records custodian for the endowed care trust fund and shall
13 supply such information to the office, or its representative, upon request.

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

17 2. An endowed care trust fund shall be administered in accordance with Missouri law
18 governing trusts, including but not limited to the applicable provisions of chapters 456 and
19 469, except as specifically provided in this subsection or where the provisions of sections
20 214.270 to 214.410 provide differently, provided that a cemetery operator shall not in any
21 circumstances be authorized to restrict, enlarge, change, or modify the requirements of this
22 section or the provisions of chapters 456 and 469 by agreement or otherwise.

23 (1) Income and principal of an endowed care trust fund shall be determined under the
24 provisions of law applicable to trusts, except that the ~~[provisions of section 469.405 shall not~~
25 ~~apply]~~ **trustee shall have:**

26 (a) **No power of adjustment under section 469.405;**

27 (b) **No power of conversion either from an income trust to a unitrust or from a**
28 **unitrust to an income trust under section 469.475;**

29 (c) **No power or discretion to determine or modify the unitrust rate, as**
30 **established in the terms of the endowed care trust agreement; and**

31 (d) **No discretion to determine applicable value for purposes of computing the**
32 **unitrust amount beyond that granted by law and exercised solely for reasons of**
33 **administrative convenience and not to affect the size of distributions.**

34

35 **In determining applicable value under section 469.473, values over a three-year period**
36 **if available, or the duration of the trust if shorter, shall be used.**

37 (2) No principal shall be distributed from an endowed care trust fund except to the
38 extent that a unitrust ~~[election is in effect with respect to such trust under the provisions of~~
39 ~~section 469.411]~~ **amount is required by the terms of the endowed care trust fund**
40 **agreement under subdivision (6) of this subsection.**

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

43 (4) All endowed care trusts shall be irrevocable.

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

46 (6) A unitrust ~~[election made in accordance with the provisions of chapter 469 shall~~
47 ~~be made by the cemetery operator in the terms of the endowed care trust fund agreement~~
48 ~~itself, not by the trustee]~~ **definition of income under sections 469.471 to 469.487 shall be**
49 **established by the cemetery operator in the terms of the endowed care trust fund**
50 **agreement itself, not by the trustee, and shall not provide for a unitrust rate exceeding**
51 **five percent per annum. The unitrust rate shall be changed only by amendment to the**
52 **agreement as provided in this section.**

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

55 (8) The income from the endowed care fund may be distributed to the cemetery
56 operator at least annually on a date designated by the cemetery operator **by record**, but no
57 later than sixty days following the end of the ~~[trust fund]~~ **trust's fiscal** year. Any income not
58 distributed within sixty days following the end of the trust's fiscal year shall be added to and
59 held as part of the principal of the trust fund. **The cemetery operator may instruct by**
60 **record the trustee to distribute less than all the income distributable for the year if the**
61 **cemetery operator determines that the money is not needed.**

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

65 4. In addition to any other duty, obligation, or requirement imposed by sections
66 214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the
67 maintenance of records related to the trust and the accounting for and investment of moneys
68 deposited by the operator to the endowed care trust fund.

69 (1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed
70 responsible for the care, the maintenance, or the operation of the cemetery, or for any other
71 matter relating to the cemetery, or the proper expenditure of funds distributed by the trustee to
72 the cemetery operator, including, but not limited to, compliance with environmental laws and
73 regulations.

74 (2) With respect to cemetery property maintained by endowed care funds, the
75 cemetery operator shall be responsible for the performance of the care and maintenance of the
76 cemetery property.

77 5. If the endowed care cemetery fund is not permanently set aside in a trust fund as
78 required by subsection 1 of this section, then the funds shall be permanently set aside in an
79 escrow account in the state of Missouri. Funds in an escrow account shall be placed in an
80 endowed care trust fund under subsection 1 if the funds in the escrow account exceed three

81 hundred fifty thousand dollars, unless otherwise approved by the division for good cause.
82 The account shall be insured by the Federal Deposit Insurance Corporation or comparable
83 deposit insurance and held in a state or federally chartered financial institution authorized to
84 do business in Missouri and located in this state.

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

89 (2) The cemetery operator shall have the duty and responsibility to apply the interest
90 to provide care and maintenance only for that part of the cemetery in which burial space shall
91 have been sold and with respect to which sales the escrow account shall have been established
92 and not for any other purpose. The principal of such funds shall be kept intact. The cemetery
93 operator's duties shall be the maintenance of records and the accounting for an investment of
94 moneys deposited by the operator to the escrow account. For purposes of sections 214.270 to
95 214.410, the administrator of the office of endowed care cemeteries shall not be deemed to be
96 responsible for the care, maintenance, or operation of the cemetery. With respect to cemetery
97 property maintained by cemetery care funds, the cemetery operator shall be responsible for
98 the performance of the care and maintenance of the cemetery property owned by the cemetery
99 operator.

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

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

105 7. Excluding funds held in an escrow account, all endowed care trust funds shall be
106 administered in accordance with an endowed care trust fund agreement, which shall be
107 submitted to the office by the cemetery operator for review and approval. The endowed care
108 cemetery shall be notified in writing by the office of endowed care cemeteries regarding the
109 approval or disapproval of the endowed care trust fund agreement and regarding any changes
110 required to be made for compliance with sections 214.270 to 214.410 and the rules and
111 regulations promulgated thereunder.

112 8. All endowed care cemeteries shall be under a continuing duty to file with the office
113 of endowed care cemeteries and to submit for prior approval any and all changes,
114 amendments, or revisions of the endowed care trust fund agreement at least thirty days before
115 the effective date of such change, amendment, or revision.

116 9. If the endowed care trust fund agreement, or any changes, amendments, or
117 revisions filed with the office, are not disapproved by the office within thirty days after

118 submission by the cemetery operator, the endowed care trust fund agreement, or the related
119 change, amendment, or revision, shall be deemed approved and may be used by the cemetery
120 operator and the trustee. Notwithstanding any other provision of this section, the office may
121 review and disapprove an endowed care trust fund agreement, or any submitted change,
122 amendment, or revision, after the thirty days provided herein or at any other time if the
123 agreement is not in compliance with sections 214.270 to 214.410 or the rules promulgated
124 thereunder. Notice of disapproval by the office shall be in writing and delivered to the
125 cemetery operator and the trustee within ten days of disapproval.

126 10. Funds in an endowed care trust fund or escrow account may be commingled with
127 endowed care funds for other endowed care cemeteries, provided that the cemetery operator
128 and the trustee shall maintain adequate accounting records of the disbursements,
129 contributions, and income allocated for each cemetery.

130 11. By accepting the trusteeship of an endowed care trust or accepting funds as an
131 escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits
132 personally to the jurisdiction of the courts of this state and the office of endowed care
133 cemeteries regarding the administration of the trust or escrow account. A trustee or escrow
134 agent shall consent in writing to the jurisdiction of the state of Missouri and the office in
135 regards to the trusteeship or the operation of the escrow account and to the appointment of the
136 office of secretary of state as its agent for service of process regarding any administrative or
137 legal actions relating to the trust or the escrow account, if it has no designated agent for
138 service of process located in this state. Such consent shall be filed with the office prior to
139 accepting funds pursuant to sections 214.270 to 214.410 as trustee or as an escrow agent on a
140 form provided by the office by rule.

217.362. 1. The department of corrections shall design and implement an intensive
2 long-term program for the treatment of chronic nonviolent offenders with serious substance
3 abuse addictions who have not pleaded guilty to or been convicted of a dangerous felony as
4 defined in section 556.061.

5 2. Prior to sentencing, any judge considering an offender for this program shall notify
6 the department. The potential candidate for the program shall be screened by the department
7 to determine eligibility. The department shall, by regulation, establish eligibility criteria and
8 inform the court of such criteria. The department shall notify the court as to the offender's
9 eligibility and the availability of space in the program. Notwithstanding any other provision
10 of law to the contrary, except as provided for in section 558.019, if an offender is eligible and
11 there is adequate space, the court may sentence a person to the program which shall consist of
12 institutional drug or alcohol treatment for a period of at least twelve and no more than twenty-
13 four months, as well as a term of incarceration. The department shall determine the nature,
14 intensity, duration, and completion criteria of the education, treatment, and aftercare portions

15 of any program services provided. Execution of the offender's term of incarceration shall be
16 suspended pending completion of said program. Allocation of space in the program may be
17 distributed by the department in proportion to drug arrest patterns in the state. If the court is
18 advised that an offender is not eligible or that there is no space available, the court shall
19 consider other authorized dispositions.

20 3. Upon successful completion of the program, the division of probation and parole
21 shall advise the sentencing court of an offender's probationary release date thirty days prior to
22 release. If the court determines that probation is not appropriate the court may order the
23 execution of the offender's sentence.

24 4. **Upon successful completion of the program, the offender may petition the**
25 **court that sentenced the offender under this section for limited driving privileges as**
26 **provided under section 302.309.**

27 5. If it is determined by the department that the offender has not successfully
28 completed the program, or that the offender is not cooperatively participating in the program,
29 the offender shall be removed from the program and the court shall be advised. Failure of an
30 offender to complete the program shall cause the offender to serve the sentence prescribed by
31 the court and void the right to be considered for probation on this sentence.

32 ~~5-~~ 6. An offender's first incarceration in a department of corrections program
33 pursuant to this section prior to release on probation shall not be considered a previous prison
34 commitment for the purpose of determining a minimum prison term pursuant to the
35 provisions of section 558.019.

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

8 (1) For all injuries occurring on or after September 28, 1983, but before September
9 28, 1986, the weekly compensation shall be an amount equal to sixty-six and two-thirds
10 percent of the injured employee's average weekly earnings during the year immediately
11 preceding the injury, as of the date of the injury; provided that the weekly compensation paid
12 under this subdivision shall not exceed an amount equal to seventy percent of the state
13 average weekly wage, as such wage is determined by the division of employment security, as
14 of the July first immediately preceding the date of injury;

15 (2) For all injuries occurring on or after September 28, 1986, but before August 28,
16 1990, the weekly compensation shall be an amount equal to sixty-six and two-thirds percent

17 of the injured employee's average weekly earnings during the year immediately preceding the
18 injury, as of the date of the injury; provided that the weekly compensation paid under this
19 subdivision shall not exceed an amount equal to seventy-five percent of the state average
20 weekly wage, as such wage is determined by the division of employment security, as of the
21 July first immediately preceding the date of injury;

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

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

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

34 2. Permanent total disability benefits that have accrued through the date of the injured
35 employee's death are the only permanent total disability benefits that are to be paid in
36 accordance with section 287.230. The right to unaccrued compensation for permanent total
37 disability of an injured employee terminates on the date of the injured employee's death in
38 accordance with section 287.230, and does not survive to the injured employee's dependents,
39 estate, or other persons to whom compensation might otherwise be payable.

40 3. **(1)** All claims for permanent total disability shall be determined in accordance
41 with the facts. ~~[When an injured employee receives an award for permanent total disability
42 but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee is
43 restored to his or her regular work or its equivalent, the life payment mentioned in subsection
44 1 of this section shall be suspended during the time in which the employee is restored to his or
45 her regular work or its equivalent.]~~ The employer and the division shall keep the file open in
46 the case during the lifetime of any injured employee who has received an award of permanent
47 total disability.

48 **(2)** **When an injured employee receives an award for permanent total disability**
49 **but by the use of glasses, prosthetic appliances, or physical rehabilitation the employee**
50 **is restored to his or her regular work or its equivalent, the life payment mentioned in**
51 **subsection 1 of this section shall be suspended during the time in which the employee is**
52 **restored to his or her regular work or its equivalent.** In any case where the life payment is
53 suspended under this ~~[subsection]~~ **subdivision**, the commission may at reasonable times

54 review the case and either the employee or the employer may request an informal conference
55 with the commission relative to the resumption of the employee's weekly life payment in the
56 case.

57 **(3) Upon filing of a written agreement signed by the claimant and his or her**
58 **attorney, the commission shall change the name, information, or fee arrangement of the**
59 **attorney or law firm associated with the claimant's case.**

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

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

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

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

72 (a) For employers that have elected to accept mesothelioma liability under this
73 subsection, an additional amount of three hundred percent of the state's average weekly wage
74 for two hundred twelve weeks shall be paid by the employer or group of employers such
75 employer is a member of. Employers that elect to accept mesothelioma liability under this
76 subsection may do so by either insuring their liability, by qualifying as a self-insurer, or by
77 becoming a member of a group insurance pool. A group of employers may enter into an
78 agreement to pool their liabilities under this subsection. If such group is joined, individual
79 members shall not be required to qualify as individual self-insurers. Such group shall comply
80 with section 287.223. In order for an employer to make such an election, the employer shall
81 provide the department with notice of such an election in a manner established by the
82 department. The provisions of this paragraph shall expire on December 31, 2038; or

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

86 (4) The provisions of subdivision (2) and paragraph (a) of subdivision (3) of this
87 subsection shall not be subject to suspension of benefits as provided in subsection 3 of this
88 section; and

89 (5) Notwithstanding any other provision of this chapter to the contrary, should the
90 employee die before the additional benefits provided for in subdivision (2) and paragraph (a)

91 of subdivision (3) of this subsection are paid, the additional benefits are payable to the
92 employee's spouse or children, natural or adopted, legitimate or illegitimate, in addition to
93 benefits provided under section 287.240. If there is no surviving spouse or children and the
94 employee has received less than the additional benefits provided for in subdivision (2) and
95 paragraph (a) of subdivision (3) of this subsection the remainder of such additional benefits
96 shall be paid as a single payment to the estate of the employee;

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

100 5. Any employee who obtains benefits under subdivision (2) of subsection 4 of this
101 section for acquiring asbestosis who later obtains an award for mesothelioma shall not receive
102 more benefits than such employee would receive having only obtained benefits for
103 mesothelioma under this section.

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

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

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

9 ~~2. [The thirteen administrative law judges with the most years of service shall be~~
10 ~~subject to a retention vote on August 28, 2008. The next thirteen administrative law judges~~
11 ~~with the most years of service in descending order shall be subject to a retention vote on~~
12 ~~August 28, 2012. Administrative law judges appointed and not previously referenced in this~~
13 ~~subsection shall be subject to a retention vote on August 28, 2016. Subsequent retention~~
14 ~~votes shall be held every twelve years. Any administrative law judge who has received two~~

15 ~~or more votes of no confidence under performance audits by the committee shall not receive a~~
16 ~~vote of retention.~~

17 ~~3. The administrative law judge review committee members shall not have any direct~~
18 ~~or indirect employment or financial connection with a workers' compensation insurance~~
19 ~~company, claims adjustment company, health care provider nor be a practicing workers'~~
20 ~~compensation attorney. All members of the committee shall have a working knowledge of~~
21 ~~workers' compensation.~~

22 ~~4. The committee shall within thirty days of completing each performance audit make~~
23 ~~a recommendation of confidence or no confidence for each administrative law judge.~~

24 ~~5.]~~ The administrative law judges appointed by the division shall only have
25 jurisdiction to hear and determine claims upon original hearing and shall have no jurisdiction
26 upon any review hearing, either in the way of an appeal from an original hearing or by way of
27 reopening any prior award, except to correct a clerical error in an award or settlement if the
28 correction is made by the administrative law judge within twenty days of the original award
29 or settlement. The labor and industrial relations commission may remand any decision of an
30 administrative law judge for a more complete finding of facts. The commission may also
31 correct a clerical error in awards or settlements within thirty days of its final award. With
32 respect to original hearings, the administrative law judges shall have such jurisdiction and
33 powers as are vested in the division of workers' compensation under other sections of this
34 chapter, and wherever in this chapter the word "commission", "commissioners" or "division"
35 is used in respect to any original hearing, those terms shall mean the administrative law
36 judges appointed under this section. When a hearing is necessary upon any claim, the
37 division shall assign an administrative law judge to such hearing. Any administrative law
38 judge shall have power to approve contracts of settlement, as provided by section 287.390,
39 between the parties to any compensation claim or dispute under this chapter pending before
40 the division of workers' compensation. Any award by an administrative law judge upon an
41 original hearing shall have the same force and effect, shall be enforceable in the same manner
42 as provided elsewhere in this chapter for awards by the labor and industrial relations
43 commission, and shall be subject to review as provided by section 287.480.

44 ~~[6.]~~ 3. Any of the administrative law judges employed pursuant to this section may be
45 assigned on a temporary basis to the branch offices as necessary in order to ensure the proper
46 administration of this chapter.

47 ~~[7.]~~ 4. All administrative law judges shall be required to participate in, on a
48 continuing basis, specific training that shall pertain to those elements of knowledge and
49 procedure necessary for the efficient and competent performance of the administrative law
50 judges' required duties and responsibilities. Such training requirements shall be established
51 by the division subject to appropriations and shall include training in medical determinations

52 and records, mediation and legal issues pertaining to workers' compensation adjudication.
53 Such training may be credited toward any continuing legal education requirements.

54 ~~[8. (1) The administrative law judge review committee shall conduct a performance~~
55 ~~audit of all administrative law judges every two years. The audit results, stating the~~
56 ~~committee's recommendation of confidence or no confidence of each administrative law~~
57 ~~judge shall be sent to the governor no later than the first week of each legislative session~~
58 ~~immediately following such audit. Any administrative law judge who has received three or~~
59 ~~more votes of no confidence under two successive performance audits by the committee may~~
60 ~~have their appointment immediately withdrawn.~~

61 ~~(2) The review committee shall consist of one member appointed by the president pro~~
62 ~~tem of the senate, one member appointed by the minority leader of the senate, one member~~
63 ~~appointed by the speaker of the house of representatives, and one member appointed by the~~
64 ~~minority leader of the house of representatives. The governor shall appoint to the committee~~
65 ~~one member selected from the commission on retirement, removal, and discipline of judges.~~
66 ~~This member shall act as a member ex officio and shall not have a vote in the committee. The~~
67 ~~committee shall annually elect a chairperson from its members for a term of one year. The~~
68 ~~term of service for all members shall be two years. The review committee members shall all~~
69 ~~serve without compensation. Necessary expenses for review committee members and all~~
70 ~~necessary support services to the review committee shall be provided by the division.]~~

71 **5. The director of the division may file a complaint with the administrative**
72 **hearing commission, as provided under chapter 621, seeking to remove an**
73 **administrative law judge from office if the administrative law judge:**

74 **(1) Has committed any felony, as defined in subdivision (26) of section 556.061,**
75 **or misdemeanor, as defined in subdivision (33) of section 556.061, regardless of whether**
76 **a criminal charge has been filed;**

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

80 **(3) Is guilty of misconduct, habitual intoxication, willful neglect of duty,**
81 **corruption in office, or incompetency; or**

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

83 **6. (1) Prior to the filing of the complaint, the director shall notify the**
84 **administrative law judge in writing of the reasons for the complaint.**

85 **(2) If the reason for the complaint is willful neglect of duty or incompetency, the**
86 **administrative law judge shall have ninety days from the date the complaint was made**
87 **to remedy the complained of behavior. If such complained of behavior has not been**

88 remedied after ninety days, the director may file the complaint with the administrative
89 hearing commission as provided by chapter 621.

90 7. After the director has filed a complaint with the administrative hearing
91 commission, the proceedings shall be conducted in accordance with the provisions of
92 chapter 621. Upon a finding by the administrative hearing commission that:

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

100 (2) There are no grounds for disciplinary action, the administrative law judge
101 shall immediately resume duties and shall receive any attorney's fees due under section
102 536.087.

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

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

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

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

112 9. No rule or portion of a rule promulgated pursuant to the authority of this section
113 shall become effective unless it has been promulgated pursuant to the provisions of chapter
114 536.

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

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

9 (2) ~~[~~ For each administrative law judge, compensation at ninety percent of the rate at
10 which an associate division circuit judge is compensated;

11 ~~[(3)]~~ (2) For each administrative law judge in charge, compensation at the same rate
12 as an administrative law judge plus five thousand dollars.

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

16 ~~[2-]~~ 3. The salary of the director of the division of workers' compensation shall be set
17 by the director of the department of labor and industrial relations, but shall not be less than the
18 salary plus two thousand dollars of an administrative law judge in charge. The appointees in
19 each classification shall be selected as nearly as practicable in equal numbers from each of the
20 two political parties casting the highest and the next highest number of votes for governor in
21 the last preceding state election.

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

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

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

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

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

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

24 ~~(6)~~ "Division", the division of workers' compensation of the state of Missouri;

25 ~~[(7)]~~ (6) "Legal advisor", any person appointed or employed pursuant to section
26 287.600~~], or 287.615], or 287.616]~~ to serve in the capacity as a legal advisor or an associate

27 administrative law judge and any person appointed pursuant to section 286.010 or pursuant to
28 section 295.030, and any attorney or legal counsel appointed or employed pursuant to section
29 286.070;

30 ~~[(8)]~~ (7) "Salary", the total annual compensation paid for personal services as an
31 administrative law judge or legal advisor, or both, of the division of workers' compensation
32 by the state or any of its political subdivisions.

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

5 ~~2.]~~ The board of trustees of the Missouri state employees' retirement system shall
6 cease paying benefits to any beneficiary of an administrative law judge or legal advisor who
7 is charged with the intentional killing of the administrative law judge or legal advisor without
8 legal excuse or justification. A beneficiary who is convicted of such charges shall no longer
9 be entitled to receive benefits. If the beneficiary is not convicted of such charge, the board
10 shall resume payment of benefits and shall pay the beneficiary any benefits that were
11 suspended pending resolution of such charge.

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to
2 302.309, the director of revenue shall return the license to the operator immediately upon the
3 termination of the period of suspension and upon compliance with the requirements of
4 chapter 303.

5 2. Any operator whose license is revoked pursuant to ~~[these sections]~~ **sections**
6 **302.302 to 302.309**, upon the termination of the period of revocation, shall apply for a new
7 license in the manner prescribed by law.

8 3. (1) All circuit courts, the director of revenue, or a commissioner operating under
9 section 478.007 shall have jurisdiction to hear applications and make eligibility
10 determinations granting limited driving privileges, except as provided under subdivision
11 (8) of this subsection. Any application may be made in writing to the director of revenue and
12 the person's reasons for requesting the limited driving privilege shall be made therein.

13 (2) When any court of record having jurisdiction or the director of revenue finds that
14 an operator is required to operate a motor vehicle in connection with any of the following:

- 15 (a) A business, occupation, or employment;
- 16 (b) Seeking medical treatment for such operator;
- 17 (c) Attending school or other institution of higher education;
- 18 (d) Attending alcohol- or drug-treatment programs;
- 19 (e) Seeking the required services of a certified ignition interlock device provider; or

20 (f) Any other circumstance the court or director finds would create an undue hardship
21 on the operator,

22

23 the court or director may grant such limited driving privilege as the circumstances of the case
24 justify if the court or director finds undue hardship would result to the individual, and while
25 so operating a motor vehicle within the restrictions and limitations of the limited driving
26 privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

27 (3) An operator may make application to the proper court in the county in which such
28 operator resides or in the county in which is located the operator's principal place of business
29 or employment. Any application for a limited driving privilege made to a circuit court shall
30 name the director as a party defendant and shall be served upon the director prior to the grant
31 of any limited privilege, and shall be accompanied by a copy of the applicant's driving record
32 as certified by the director. Any applicant for a limited driving privilege shall have on file
33 with the department of revenue proof of financial responsibility as required by chapter 303.
34 Any application by a person who transports persons or property as classified in section
35 302.015 may be accompanied by proof of financial responsibility as required by chapter 303,
36 but if proof of financial responsibility does not accompany the application, or if the applicant
37 does not have on file with the department of revenue proof of financial responsibility, the
38 court or the director has discretion to grant the limited driving privilege to the person solely
39 for the purpose of operating a vehicle whose owner has complied with chapter 303 for that
40 vehicle, and the limited driving privilege must state such restriction. When operating such
41 vehicle under such restriction the person shall carry proof that the owner has complied with
42 chapter 303 for that vehicle.

43 (4) No limited driving privilege shall be issued to any person otherwise eligible under
44 the provisions of subdivision (6) of this subsection if such person has a license denial under
45 paragraph (a) or (b) of subdivision (8) of this subsection or on a license revocation resulting
46 from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license
47 revocation under subdivision (2) of subsection 2 of section 302.525, or section 302.574 or
48 577.041, until the applicant has filed proof with the department of revenue that any motor
49 vehicle operated by the person is equipped with a functioning, certified ignition interlock
50 device as a required condition of limited driving privilege. The ignition interlock device
51 required for obtaining a limited driving privilege under paragraph (a) or (b) of subdivision (8)
52 of this subsection shall have a photo identification technology feature, and a court may
53 require a global positioning system feature for such device.

54 (5) The court order or the director's grant of the limited or restricted driving privilege
55 shall indicate the termination date of the privilege, which shall be not later than the end of the
56 period of suspension or revocation. The court order or the director's grant of the limited or

57 restricted driving privilege shall also indicate whether a functioning, certified ignition
58 interlock device is required as a condition of operating a motor vehicle with the limited
59 driving privilege. A copy of any court order shall be sent by the clerk of the court to the
60 director, and a copy shall be given to the driver which shall be carried by the driver whenever
61 such driver operates a motor vehicle. The director of revenue upon granting a limited driving
62 privilege shall give a copy of the limited driving privilege to the applicant. The applicant
63 shall carry a copy of the limited driving privilege while operating a motor vehicle. A
64 conviction which results in the assessment of points pursuant to section 302.302, other than a
65 violation of a municipal stop sign ordinance where no accident is involved, against a driver
66 who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as
67 of the date the points are assessed to the person's driving record. If the date of arrest is prior
68 to the issuance of the limited driving privilege, the privilege shall not be terminated. Failure
69 of the driver to maintain proof of financial responsibility, as required by chapter 303, or to
70 maintain proof of installation of a functioning, certified ignition interlock device, as
71 applicable, shall terminate the privilege. The director shall notify by ordinary mail the driver
72 whose privilege is so terminated.

73 (6) Except as provided in subdivision (8) of this subsection, no person is eligible to
74 receive a limited driving privilege whose license at the time of application has been
75 suspended or revoked for the following reasons:

76 (a) A conviction of any felony in the commission of which a motor vehicle was used
77 and such conviction occurred within the five-year period prior to the date of application.
78 However, any felony conviction for leaving the scene of an accident under section 577.060
79 shall not render the applicant ineligible for a limited driving privilege under this section;

80 (b) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
81 (6), (7), (8), (9), or (10) of subsection 1 of section 302.060; or

82 (c) Due to a suspension pursuant to subdivision (8) or (10) of subsection 1 of section
83 302.302 or subsection 2 of section 302.525.

84 (7) No person who possesses a commercial driver's license shall receive a limited
85 driving privilege issued for the purpose of operating a commercial motor vehicle if such
86 person's driving privilege is suspended, revoked, cancelled, denied, or disqualified. Nothing
87 in this section shall prohibit the issuance of a limited driving privilege for the purpose of
88 operating a noncommercial motor vehicle provided that pursuant to the provisions of this
89 section, the applicant is not otherwise ineligible for a limited driving privilege.

90 (8) (a) Provided that pursuant to the provisions of this section, the applicant is not
91 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
92 manner prescribed in this subsection, allow a person who has had such person's license to
93 operate a motor vehicle revoked where that person cannot obtain a new license for a period of

94 ten years, as prescribed in subdivision (9) of subsection 1 of section 302.060, to apply for a
95 limited driving privilege pursuant to this subsection. Such person shall present evidence
96 satisfactory to the court or the director that such person's habits and conduct show that the
97 person no longer poses a threat to the public safety of this state. A circuit court shall grant a
98 limited driving privilege to any individual who otherwise is eligible to receive a limited
99 driving privilege, has filed proof of installation of a certified ignition interlock device, and has
100 had no alcohol-related enforcement contacts since the alcohol-related enforcement contact
101 that resulted in the person's license denial.

102 (b) Provided that pursuant to the provisions of this section, the applicant is not
103 otherwise ineligible for a limited driving privilege or convicted of acting with criminal
104 negligence while driving while intoxicated to cause the death of another person, a circuit
105 court or the director may, in the manner prescribed in this subsection, allow a person who has
106 had such person's license to operate a motor vehicle revoked where that person cannot obtain
107 a new license for a period of five years because of two convictions of driving while
108 intoxicated, as prescribed in subdivision (10) of subsection 1 of section 302.060, to apply for
109 a limited driving privilege pursuant to this subsection. Such person shall present evidence
110 satisfactory to the court or the director that such person's habits and conduct show that the
111 person no longer poses a threat to the public safety of this state. Any person who is denied a
112 license permanently in this state because of an alcohol-related conviction subsequent to a
113 restoration of such person's driving privileges pursuant to subdivision (9) **of subsection 1** of
114 section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of
115 this subdivision. A circuit court shall grant a limited driving privilege to any individual who
116 otherwise is eligible to receive a limited driving privilege, has filed proof of installation of a
117 certified ignition interlock device, and has had no alcohol-related enforcement contacts since
118 the alcohol-related enforcement contact that resulted in the person's license denial.

119 (9) **An adult treatment court, as defined in section 478.001, or** a DWI docket or
120 court established under section 478.007 may grant a limited driving privilege to a participant
121 in or graduate of the program who would otherwise be ineligible for such privilege under
122 another provision of law.

123 4. Any person who has received notice of denial of a request of limited driving
124 privilege by the director of revenue may make a request for a review of the director's
125 determination in the circuit court of the county in which the person resides or the county in
126 which is located the person's principal place of business or employment within thirty days of
127 the date of mailing of the notice of denial. Such review shall be based upon the records of the
128 department of revenue and other competent evidence and shall be limited to a review of
129 whether the applicant was statutorily entitled to the limited driving privilege.

130 5. The director of revenue shall promulgate rules and regulations necessary to carry
131 out the provisions of this section. Any rule or portion of a rule, as that term is defined in
132 section 536.010, that is created under the authority delegated in this section shall become
133 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
134 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
135 powers vested with the general assembly pursuant to chapter 536 to review, to delay the
136 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then
137 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001,
138 shall be invalid and void.

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

- 5 (1) Has procured its articles of organization through fraud;
- 6 (2) Has exceeded or abused the authority conferred upon it by law;
- 7 (3) Has carried on, conducted, or transacted its business in a fraudulent or illegal
8 manner; or
- 9 (4) By the abuse of its powers contrary to the public policy of the state, has become
10 liable to be dissolved.

11 2. On application by or for a member, the circuit court for the county in which the
12 registered office of the limited liability company is located may decree dissolution of a
13 limited liability company [~~whenever~~] **if the court determines:**

- 14 **(1) It is not reasonably practicable to carry on the business in conformity with the**
15 **operating agreement;**
- 16 **(2) Dissolution is reasonably necessary for the protection of the rights or**
17 **interests of the complaining members;**
- 18 **(3) The business of the limited liability company has been abandoned;**
- 19 **(4) The management of the limited liability company is deadlocked or subject to**
20 **internal dissension;**
- 21 **(5) The business operations of the limited liability company are substantially**
22 **impaired; or**
- 23 **(6) Those in control of the limited liability company have been found guilty of, or**
24 **have knowingly countenanced, persistent and pervasive fraud, mismanagement, or**
25 **abuse of authority.**

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

3 (1) "Abuse", includes but is not limited to the occurrence of any of the following acts,
4 attempts or threats against a person who may be protected pursuant to this chapter, except
5 abuse shall not include abuse inflicted on a child by accidental means by an adult household
6 member or discipline of a child, including spanking, in a reasonable manner:

7 (a) "Abusing a pet", purposely or knowingly causing, attempting to cause, or
8 threatening to cause physical injury to a pet with the intent to control, punish, intimidate, or
9 distress the petitioner;

10 (b) "Assault", purposely or knowingly placing or attempting to place another in fear
11 of physical harm;

12 (c) "Battery", purposely or knowingly causing physical harm to another with or
13 without a deadly weapon;

14 (d) "Coercion", compelling another by force or threat of force to engage in conduct
15 from which the latter has a right to abstain or to abstain from conduct in which the person has
16 a right to engage;

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

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

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

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

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

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

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

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

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

36 (6) "Ex parte order of protection", an order of protection issued by the court before
37 the respondent has received notice of the petition or an opportunity to be heard on it;

38 (7) "Family" or "household member", spouses, former spouses, any person related by
39 blood or marriage, persons who are presently residing together or have resided together in the

40 past, any person who is or has been in a continuing social relationship of a romantic or
41 intimate nature with the victim, and anyone who has a child in common regardless of whether
42 they have been married or have resided together at any time;

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

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

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

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

51 (12) "Petitioner", a family or household member who has been a victim of domestic
52 violence, or any person who has been the victim of stalking or sexual assault, or a person
53 filing on behalf of a child pursuant to section 455.503 who has filed a verified petition
54 pursuant to the provisions of section 455.020 or section 455.505;

55 (13) "Respondent", the family or household member alleged to have committed an act
56 of domestic violence, or person alleged to have committed an act of stalking or sexual assault,
57 against whom a verified petition has been filed or a person served on behalf of a child
58 pursuant to section 455.503;

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

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

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

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

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

9 2. Failure to serve an ex parte order of protection on the respondent shall not affect
10 the validity or enforceability of such order. If the respondent is less than ~~seventeen~~ **eighteen**
11 years of age, unless otherwise emancipated, service of process shall be made upon a custodial
12 parent or guardian of the respondent, or upon a guardian ad litem appointed by the court,
13 requiring that the person appear and bring the respondent before the court at the time and
14 place stated.

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

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

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

6 (2) The respondent is less than ~~seventeen~~ **eighteen** years of age.

7
8 An immediate and present danger of domestic violence, including danger to the child's pet,
9 stalking, or sexual assault to a child shall constitute good cause for purposes of this section.
10 An ex parte order of protection entered by the court shall be in effect until the time of the
11 hearing. The court shall deny the ex parte order and dismiss the petition if the petitioner is not
12 authorized to seek relief pursuant to section 455.505.

13 2. Upon the entry of the ex parte order of protection, the court shall enter its order
14 appointing a guardian ad litem or court-appointed special advocate to represent the child
15 victim.

16 3. If the allegations in the petition would give rise to jurisdiction under section
17 211.031, the court may direct the children's division to conduct an investigation and to
18 provide appropriate services. The division shall submit a written investigative report to the
19 court and to the juvenile officer within thirty days of being ordered to do so. The report shall
20 be made available to the parties and the guardian ad litem or court-appointed special
21 advocate.

22 4. If the allegations in the petition would give rise to jurisdiction under section
23 211.031 because the respondent is less than ~~seventeen~~ **eighteen** years of age, the court may
24 issue an ex parte order and shall transfer the case to juvenile court for a hearing on a full order
25 of protection. Service of process shall be made pursuant to section 455.035.

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

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

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

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

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

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

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

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

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

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

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

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

5. In connection with a transfer of the trust's principal place of administration, the trustee may transfer some or all of the trust property to a successor trustee designated in the terms of the trust or appointed pursuant 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.

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

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

13 (1) the removal, resignation, or death of the trustee;

14 (2) the **occurrence of the event causing** a termination of the beneficiary's interest in
15 the trust; or

16 (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
2 **"Missouri Uniform Fiduciary Income and Principal Act".**

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

3 (1) "Accounting period", a calendar year unless [~~another twelve-month period is~~
4 ~~selected by~~] a fiduciary **selects another period of twelve calendar months or**
5 **approximately twelve calendar months.** The term includes a [~~portion~~] **part** of a
6 calendar year or [~~other twelve-month~~] **another period [that] of twelve calendar months or**
7 **approximately twelve calendar months that** begins when an income interest begins or ends
8 when an income interest ends;

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

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

16 (a) **For a trust:**

17 a. **A current beneficiary, including a current income beneficiary and a**
18 **beneficiary that may receive only principal;**

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

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

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

24 (c) **For a life estate or term interest, a person that holds a life estate, term**
25 **interest, or remainder or other interest following a life estate or term interest;**

26 (4) "Court", any court in this state having jurisdiction relating to a trust, estate,
27 life estate, or other term interest described in subdivision (2) of subsection 1 of section
28 469.402;

29 (5) "Current income beneficiary", a beneficiary to which a fiduciary may
30 distribute net income, whether or not the fiduciary also may distribute principal to the
31 beneficiary;

32 (6) "Distribution", a payment or transfer by a fiduciary to a beneficiary in the
33 beneficiary's capacity as a beneficiary, made under the terms of the trust, without
34 consideration other than the beneficiary's right to receive the payment or transfer
35 under the terms of the trust. "Distribute", "distributed", and "distributee" have
36 corresponding meanings;

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

40 ~~[(3)]~~ (8) "Fiduciary", includes a trustee, trust protector determined under section
41 456.8-808, personal representative, ~~[trustee, executor, administrator, successor personal~~
42 ~~representative, special administrator and any other person performing substantially the same~~
43 ~~function]~~ life tenant, holder of a term interest, and person acting under a delegation
44 from a fiduciary. The term includes a person that holds property for a successor
45 beneficiary whose interest may be affected by an allocation of receipts and expenditures
46 between income and principal. If there are two or more co-fiduciaries, the term
47 includes all co-fiduciaries acting under the terms of the trust and applicable law;

48 ~~[(4)]~~ (9) "Income", money or other property ~~[that]~~ a fiduciary receives as current
49 return from ~~[a]~~ principal ~~[asset, including a portion]~~. The term includes a part of receipts
50 from a sale, exchange, or liquidation of a principal asset, ~~[as]~~ to the extent provided in
51 sections 469.423 to ~~[469.449]~~ 469.450;

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

54 ~~[(6)]~~ (10) "Income interest", the right of ~~[an]~~ a current income beneficiary to receive
55 all or part of net income, whether the terms of the trust require ~~[it]~~ the net income to be
56 distributed or authorize ~~[it]~~ the net income to be distributed in the ~~[trustee's]~~ fiduciary's
57 discretion. The term includes the right of a current beneficiary to use property held by a
58 fiduciary;

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

60 (a) For a trust:

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

62 b. A settlor of the trust; or

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

65 **(b) For an estate, a beneficiary;**

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

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

71 **(e) An employee of a person described in paragraph (a), (b), (c), or (d) of this**
72 **subdivision;**

73 ~~[(7)]~~ **(12) "Mandatory income interest", the right of ~~an~~ a current income**
74 **beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;**

75 ~~[(8)]~~ **(13) "Net income", ~~[if section 469.411 applies to the trust, the unitrust amount,~~**
76 **~~or if section 469.411 does not apply to the trust,] the total ~~[receipts allocated to income]~~~~**
77 **allocations during an accounting period to income under the terms of a trust and sections**
78 **469.399 to 469.487 minus the disbursements ~~[made from income during the same period, plus~~**
79 **~~or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same~~**
80 **~~period] during the period, other than distributions, allocated to income under the terms~~**
81 **of the trust and sections 469.399 to 469.487. To the extent the trust is a unitrust under**
82 **sections 469.471 to 469.487, "net income" means the unitrust amount determined**
83 **thereunder. "Net income" includes an adjustment from principal to income under**
84 **section 469.405. The term does not include an adjustment from income to principal**
85 **under section 469.405;**

86 ~~[(9)]~~ **(14) "Person", an individual, ~~[corporation, business trust,] estate, trust,~~**
87 **~~[partnership, limited liability company, association, joint venture] business or nonprofit~~**
88 **entity, public corporation, government~~;~~ or governmental subdivision, agency, or**
89 **instrumentality, ~~[public corporation] or [any] other legal ~~[or commercial]~~ entity;~~**

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

93 ~~[(10)]~~ **(16) "Principal", property held in trust for distribution to ~~[a remainder],~~**
94 **production of income for, or use by a current or successor beneficiary ~~[when the trust~~**
95 **~~terminates];~~**

96 ~~[(11)]~~ **"Qualified beneficiary", a beneficiary defined in section ~~456.1-103;~~**

97 ~~[(12)]~~ **"Remainder beneficiary", a person entitled to receive principal ~~when an income~~**
98 **~~interest ends;~~**

99 ~~(13)~~ (17) "Record", information that is inscribed on a tangible medium or that
100 is stored in an electronic or other medium and is retrievable in perceivable form;

101 (18) "Settlor", a person, including a testator, that creates or contributes
102 property to a trust. If more than one person creates or contributes property to a trust,
103 the term includes each person, to the extent of the trust property attributable to that
104 person's contribution, except to the extent another person has the power to revoke or
105 withdraw that portion;

106 (19) "Special tax benefit":

107 (a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Section
108 2503(b), as amended, because of the qualification of an income interest in the trust as a
109 present interest in property;

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

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

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

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

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

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

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

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

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

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

132 (22) "Terms of a trust":

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

135 a. Expressed in ~~a manner which is~~ the trust instrument; or

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

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

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

140 **b. Court order; or**

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

142 **(c) For an estate, a will; or**

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

145 **(23) "Trust":**

146 **(a) Includes:**

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

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

151 **(b) Does not include:**

152 **a. A constructive trust;**

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

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

160 ~~[(14)]~~ **(24) "Trustee", a person, other than a personal representative, that owns or**
161 **holds property for the benefit of a beneficiary. The term includes an original, additional,**
162 **or successor trustee, whether or not appointed or confirmed by a court;**

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

164 **(25) "Will", any testamentary instrument recognized by applicable law that**
165 **makes a legally effective disposition of an individual's property, effective at the**
166 **individual's death. The term includes a codicil or other amendment to a testamentary**
167 **instrument.**

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

4 **(1) A trust or estate; and**

5 **(2) A life estate or other term interest in which the interest of one or more**
6 **persons will be succeeded by the interest of one or more other persons.**

7 **2. Except as otherwise provided in the terms of a trust or sections 469.399 to**
8 **469.487, sections 469.399 to 469.487 apply when this state is the principal place of**
9 **administration of a trust or estate or the situs of property that is not held in a trust or**
10 **estate and is subject to a life estate or other term interest described in subdivision (2) of**
11 **subsection 1 of this section. By accepting the trusteeship of a trust having its principal**
12 **place of administration in this state or by moving the principal place of administration**
13 **of a trust to this state, the trustee submits to the application of sections 469.399 to**
14 **469.487 to any matter within the scope of sections 469.399 to 469.487 involving the trust.**

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

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

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

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

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

15 **2. A fiduciary's allocation, determination, or exercise of discretion under**
16 **sections 469.399 to 409.487 is presumed to be fair and reasonable to all beneficiaries. A**
17 **fiduciary may exercise a discretionary power of administration given to the fiduciary by the**
18 **terms of the trust [or the will, even if the], and an exercise of the power that produces a result**
19 **different from a result required or permitted by sections [469.401] 469.399 to [469.467];**
20 **469.487 does not create an inference that the fiduciary abused the fiduciary's discretion.**

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

22 **3. A fiduciary shall:**

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

27 ~~[(4) Shall add a receipt or]~~ **(2)** Charge a disbursement to principal, to the extent ~~[that~~
28 ~~the terms of the trust and sections 469.401 to 469.467 do not provide a rule for allocating the~~
29 ~~receipt or disbursement to or between principal and income.~~

30 ~~2. In exercising the power to adjust pursuant to section 469.405 or a discretionary~~
31 ~~power of administration regarding a matter within the scope of sections 469.401 to 469.467,~~
32 ~~whether granted by the terms of a trust, a will, or sections 469.401 to 469.467, a fiduciary~~
33 ~~shall administer a trust or estate impartially, based on what is fair and reasonable to all of the~~
34 ~~beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an~~
35 ~~intent that the fiduciary shall or may favor one or more of the beneficiaries. A determination~~
36 ~~in accordance with sections 469.401 to 469.467 is presumed to be fair and reasonable to all of~~
37 ~~the beneficiaries]~~ **neither the terms of the trust nor sections 469.399 to 469.487 allocate**
38 **the disbursement between income and principal.**

39 **4. A fiduciary may exercise the power to adjust under section 469.405, convert**
40 **an income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475,**
41 **change the percentage or method used to calculate a unitrust amount under subdivision**
42 **(2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under**
43 **subdivision (3) of subsection 1 of section 469.475, if the fiduciary determines the exercise**
44 **of the power will assist the fiduciary to administer the trust or estate impartially.**

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

47 **(1) The terms of the trust;**

48 **(2) The nature, distribution standards, and expected duration of the trust;**

49 **(3) The effect of the allocation rules, including specific adjustments between**
50 **income and principal, under sections 407.413 to 407.461;**

51 **(4) The desirability of liquidity and regularity of income;**

52 **(5) The desirability of the preservation and appreciation of principal;**

53 **(6) The extent to which an asset is used or may be used by a beneficiary;**

54 **(7) The increase or decrease in the value of principal assets, reasonably**
55 **determined by the fiduciary;**

56 **(8) Whether and to what extent the terms of the trust give the fiduciary power to**
57 **accumulate income or invade principal or prohibit the fiduciary from accumulating**
58 **income or invading principal;**

59 **(9) The extent to which the fiduciary has accumulated income or invaded**
60 **principal in preceding accounting periods;**

61 **(10) The effect of current and reasonably expected economic conditions; and**

62 **(11) The reasonably expected tax consequences of the exercise of the power.**

469.404. 1. In this section, "fiduciary decision" means:

2 **(1) A fiduciary’s allocation between income and principal or other**
3 **determination regarding income and principal required or authorized by the terms of**
4 **the trust or sections 469.399 to 469.487;**

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

12 **(3) The fiduciary’s implementation of a decision described in subdivision (1) or**
13 **(2) of this subsection.**

14 **2. The court shall not order a fiduciary to change a fiduciary decision unless the**
15 **court determines that the fiduciary decision was an abuse of the fiduciary’s discretion.**

16 **3. If the court determines that a fiduciary decision was an abuse of the**
17 **fiduciary’s discretion, the court may order a remedy authorized by law, including under**
18 **section 456.10-1001. To place the beneficiaries in the positions the beneficiaries would**
19 **have occupied if there had not been an abuse of the fiduciary’s discretion, the court may**
20 **order:**

21 **(1) The fiduciary to exercise or refrain from exercising the power to adjust**
22 **under section 469.405;**

23 **(2) The fiduciary to exercise or refrain from exercising the power to convert an**
24 **income trust to a unitrust under subdivision (1) of subsection 1 of section 469.475,**
25 **change the percentage or method used to calculate a unitrust amount under subdivision**
26 **(2) of subsection 1 of section 469.475, or convert a unitrust to an income trust under**
27 **subdivision (3) of subsection 1 of section 469.475;**

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

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

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

32 **4. On petition by a fiduciary for instruction, the court may determine whether a**
33 **proposed fiduciary decision will result in an abuse of the fiduciary’s discretion. If the**
34 **petition describes the proposed decision, contains sufficient information to inform the**
35 **beneficiary of the reasons for making the proposed decision and the facts on which the**
36 **fiduciary relies, and explains how the beneficiary will be affected by the proposed**
37 **decision, a beneficiary that opposes the proposed decision has the burden to establish**
38 **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.**

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

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

~~[2-]~~ 4. In deciding whether and to what extent to exercise the power ~~[conferred by]~~ to **adjust under** subsection 1 of this section, a ~~[trustee]~~ **fiduciary** shall consider all factors **the fiduciary considers** relevant ~~[to the trust and its beneficiaries]~~, including ~~[the following]~~ **relevant factors** ~~[to the extent relevant:]~~ **in subsection 5 of section 469.403 and the application of sections 469.423, 469.435, and 469.445.**

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

~~(2) The intent of the settlor;~~

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

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

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

~~(6) The net amount allocated to income pursuant to 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;~~

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

39 ~~(9) The anticipated tax consequences of an adjustment.~~

40 ~~3.]~~ **5. A [trustee may] fiduciary shall not exercise the power under subsection 1 of**
41 **this section to make an adjustment or under section 469.435 to make a determination that**
42 **an allocation is insubstantial if:**

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

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

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

54 **(2) The adjustment or determination would change the amount payable to a**
55 **beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the**
56 **terms of the trust;**

57 ~~[(4) From any]~~ **(3) The adjustment or determination would reduce an amount that**
58 **is permanently set aside for a charitable [purposes] purpose under [a will or] the terms of [a]**
59 **the trust [to the extent that the existence of the power to adjust would change the character of**
60 **the amount] , unless both income and principal are set aside for [federal income, gift or**
61 **estate tax purposes] the charitable purpose;**

62 ~~[(5) If]~~ **(4) Possessing or exercising the power [to make an adjustment causes an**
63 **individual] would cause a person to be treated as the owner of all or part of the trust for**
64 **[income tax purposes, and the individual would not be treated as the owner if the trustee did**
65 **not possess the power to make an adjustment] federal income tax purposes;**

66 ~~[(6) If]~~ **(5) Possessing or exercising the power [to make an adjustment causes] would**
67 **cause all or part of the value of the trust assets to be included [for estate tax purposes] in the**
68 **gross estate of an individual [who has] for federal estate tax purposes;**

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

71 **(7) The fiduciary is not an independent person;**

72 **(8) The trust is irrevocable and [the assets would not be included in the estate of the**
73 **individual if the trustee did not possess] provides for income to be paid to the settlor and**

74 **possessing or exercising the power [to make an adjustment] would cause the adjusted**
75 **principal or income to be considered an available resource or available income under a**
76 **public-benefit program; or**

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

78 ~~(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee~~
79 ~~directly or indirectly]~~

80 **(9) The trust is a unitrust under sections 469.471 to 469.487.**

81 ~~[4.] 6. If [subdivision (5), (6), (7) or (8) of] subsection [3] 5 of this section applies to a~~
82 ~~[trustee and there is more than one trustee, a cotrustee to whom the provision does] fiduciary:~~

83 **(1) A co-fiduciary to which subdivisions (4) to (7) of subsection 5 of this section**
84 **do not apply may [make] exercise the [adjustment] power to adjust unless the exercise of the**
85 **power by the remaining [trustee or trustees] co-fiduciary or co-fiduciaries is not permitted**
86 **by the terms of the trust or law other than sections 469.399 to 469.487; and**

87 **(2) If there is no co-fiduciary to which subdivisions (4) to (7) of subsection 5 of**
88 **this section do not apply, the fiduciary may appoint a co-fiduciary to which subdivisions**
89 **(4) to (7) of subsection 5 of this section do not apply, which may be a special fiduciary**
90 **with limited powers, and the appointed co-fiduciary may exercise the power to adjust**
91 **under subsection 1 of this section, unless the appointment of a co-fiduciary or the**
92 **exercise of the power by a co-fiduciary is not permitted by the terms of the trust or law**
93 **other than under sections 469.399 to 469.487.**

94 ~~[5.] 7. A [trustee] fiduciary may release [the entire power conferred by subsection 1~~
95 ~~of this section, or may release only the power to adjust from income to principal or the power~~
96 ~~to adjust from principal to income if the trustee is uncertain about whether possessing or~~
97 ~~exercising the power will] or delegate to a co-fiduciary the power to adjust under~~
98 **subsection 1 of this section if the fiduciary determines that the fiduciary's possession or**
99 **exercise of the power will or may:**

100 **(1) Cause a result described in subdivisions (1) to (6) or subdivision (8) of subsection**
101 **[3] 5 of this section [-]; or [if the trustee determines that possessing or exercising the power**
102 **will or may]**

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

105 **8. A fiduciary's release or delegation to a co-fiduciary under subsection 7 of this**
106 **section of the power to adjust under subsection 1 of this section:**

107 **(1) Shall be in a record;**

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

110 **(a) From income to principal;**

- 111 **(b) From principal to income;**
 112 **(c) For specified property; or**
 113 **(d) In specified circumstances;**
 114 **(3) For a delegation, may be modified by a re-delegation under this subsection**
 115 **by the co-fiduciary to which the delegation is made; and**
 116 **(4) Subject to subdivision (3) of this subsection, is ~~may be~~ permanent ~~or for~~**
 117 **unless the release or delegation provides a specified period, including a period measured by**
 118 **the life of an individual or the lives of more than one individual.**

119 ~~[6.]~~ **9.** Terms of a trust that **deny or** limit the power ~~[of a trustee]~~ to ~~[make an~~
 120 ~~adjustment]~~ **adjust** between **income and** principal ~~[and income]~~ do not affect the application
 121 of this section unless ~~[it is clear from]~~ the terms of the trust ~~[that the terms are intended to]~~
 122 **expressly deny ~~[the trustee]~~ or limit** the power ~~[of adjustment conferred by]~~ **to adjust under**
 123 subsection 1 of this section.

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

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

129 **(1)** Included in a report, if any, sent to beneficiaries under subsection 3 of section
 130 456.8-813; or

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

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

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

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

6 ~~[(1)]~~ **2.** A fiduciary of an estate or ~~[of a terminating]~~ trust with an income interest
 7 that terminates shall determine, under subsection 7 of this section and sections 469.417 to
 8 469.462, the amount of net income and net principal receipts received from property
 9 specifically given to a beneficiary ~~[pursuant to the rules in sections 469.417 to 469.461 which~~
 10 ~~apply to trustees and the rules in subdivision (5) of this section]~~. The fiduciary shall distribute
 11 the net income and net principal receipts to the beneficiary ~~[who]~~ that is to receive the
 12 specific property~~[-]~~.

13 ~~[(2)]~~ **3.** A fiduciary shall determine the ~~[remaining]~~ **income and** net income of ~~[a~~
14 ~~decedent's]~~ **an** estate or ~~[a terminating]~~ income interest ~~[pursuant to the rules in]~~ **in a trust**
15 **that terminates, other than the amount of net income determined under subsection 2 of**
16 **this section, under** sections 469.417 to ~~[469.461 which apply to trustees]~~ **469.462** and by:

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

19 ~~[(b)]~~ **(2)** Paying from income or principal, in the fiduciary's discretion, fees of
20 attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and
21 interest on ~~[death]~~ **estate and inheritance taxes and other taxes imposed because of the**
22 **decedent's death**, but the fiduciary may pay ~~[those]~~ **the** expenses from income of property
23 passing to a trust for which the fiduciary claims ~~[an]~~ **a federal** estate tax marital or charitable
24 deduction only to the extent ~~[that]:~~

25 **(a)** The payment of ~~[those]~~ **the** expenses from income will not cause the reduction or
26 loss of the deduction; ~~[and]~~ **or**

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

29 ~~[(c)]~~ **(3)** Paying from principal ~~[all]~~ other disbursements made or incurred in
30 connection with the settlement of ~~[a decedent's]~~ **the** estate or the winding up of ~~[a~~
31 ~~terminating]~~ **an** income interest~~]~~ **that terminates**, including:

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

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

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

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

49 **5.** If a beneficiary is to receive a pecuniary amount outright from a trust after an
 50 income interest ends **because of an income beneficiary's death**, and no **payment of** interest
 51 or ~~[other amount]~~ **the equivalent of interest** is provided for by the terms of the trust or
 52 applicable law, the fiduciary shall ~~[distribute]~~ **pay** the interest or ~~[other amount]~~ **the**
 53 **equivalent of interest** to which the beneficiary would be entitled under applicable law if the
 54 pecuniary amount were required to be paid under a will[;].

55 ~~[(4)]~~ **6.** A fiduciary shall distribute ~~[the]~~ net income remaining after ~~[distributions]~~
 56 **payments** required by ~~[subdivision (3)]~~ **subsections 4 and 5** of this section in the manner
 57 described in section 469.415 to all other beneficiaries, including a beneficiary ~~[who]~~ **that**
 58 receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to
 59 withdraw assets from the trust or other presently exercisable general power of appointment
 60 over the trust[;].

61 ~~[(5)]~~ **7.** A fiduciary ~~[may]~~ **shall** not reduce principal or income receipts from property
 62 described in ~~[subdivision (1)]~~ **subsection 2** of this section because of a payment described in
 63 sections 469.451 and 469.453 to the extent ~~[that]~~ **the decedent's** will, the terms of the trust, or
 64 applicable law requires the fiduciary to make the payment from assets other than the property
 65 or to the extent ~~[that]~~ the fiduciary recovers or expects to recover the payment from a third
 66 party. The net income and principal receipts from the property ~~[are]~~ **shall be** determined by
 67 including ~~[all of]~~ the amounts the fiduciary receives or pays ~~[with respect to]~~ **regarding** the
 68 property, whether ~~[those amounts]~~ **the amount** accrued or became due before, on, or after the
 69 date of ~~[a decedent's]~~ **the decedent's** death or an income interest's terminating event, and ~~[by]~~
 70 making a reasonable provision for ~~[amounts that the fiduciary believes]~~ **an amount** the estate
 71 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**
 2 beneficiary **that is a trust, each beneficiary** described in ~~[subdivision (4)]~~ **subsection 6** of
 3 section 469.413 is entitled to receive a ~~[portion]~~ **share** of the net income equal to the
 4 beneficiary's fractional interest in undistributed principal assets, using values as of the
 5 distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to
 6 ~~[whom]~~ **which** this section applies, each beneficiary, including ~~[one who]~~ **a beneficiary that**
 7 does not receive part of the distribution, is entitled, as of each distribution date, to **a share of**
 8 the net income the fiduciary ~~[has]~~ received after the ~~[date of]~~ **decedent's** death ~~[or]~~ , **an**
 9 **income interest's other** terminating event, or ~~[earlier]~~ **the preceding** distribution ~~[date but~~
 10 ~~has not distributed as of the current distribution date]~~ **by the fiduciary.**

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

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

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

20 ~~(3) The beneficiary's fractional interest in the undistributed principal assets shall be~~
 21 ~~calculated];~~

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

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

25 a. **Property specifically given to a beneficiary under the decedent's will or the**
 26 **terms of the trust; and**

27 b. **Property required to pay pecuniary amounts not in trust; and**

28 ~~[(4)] (3) The distribution date [for purposes of this section]~~ **under subdivision (1) of**
 29 **this subsection** may be the date as of which the fiduciary calculates the value of the assets if
 30 that date is reasonably near the date on which **the** assets are ~~[actually]~~ distributed.

31 3. ~~[If]~~ **To the extent** a fiduciary does not distribute **under this section** all ~~[of]~~ the
 32 collected but undistributed net income to each ~~[person]~~ **beneficiary** as of a distribution date,
 33 the fiduciary shall maintain ~~[appropriate]~~ records showing the interest of each beneficiary in
 34 ~~[that]~~ **the** net income.

35 4. **If this section applies to income from an asset**, a fiduciary may apply the rules in
 36 this section~~], to the extent that the fiduciary considers it appropriate,~~ to net gain or loss
 37 realized **from the disposition of the asset** after the ~~[date of death or]~~ **decedent's death, an**
 38 **income interest's** terminating event, or ~~[earlier]~~ **the preceding** distribution ~~[date from the~~
 39 ~~disposition of a principal asset if this section applies to the income from the asset]~~ **by the**
 40 **fiduciary.**

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

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

6 (2) **A successive interest for a successor beneficiary.**

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

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

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

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

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

23 4. An income interest ends on the day before an income beneficiary dies or another
 24 terminating event occurs~~[-]~~ or on the last day of a period during which there is no beneficiary
 25 to ~~[whom]~~ **which a [trustee] fiduciary may or shall** distribute income.

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

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

5 (2) **For a trust or successive interest**, an income interest begins ~~[in the case of a trust~~
 6 ~~or successive income interest]~~.

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

11 3. **If an income receipt or disbursement is not periodic or has no due date, a**
 12 **fiduciary shall [be treated] treat the receipt or disbursement under this section** as
 13 accruing from day to day ~~[if its due date is not periodic or it has no due date]~~. The **fiduciary**
 14 **shall allocate to principal** the portion of the receipt or disbursement accruing before the date
 15 on which a decedent ~~[dies]~~ **died** or an income interest ~~[begins shall be allocated to principal]~~
 16 **began, and to income** the balance ~~[shall be allocated to income]~~.

17 ~~[3-]~~ 4. **A receipt or disbursement is periodic under subsections 2 and 3 of this**
 18 **section if:**

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

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

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

25 **6.** Distributions to shareholders or other owners from an entity to which section
26 469.423 applies are ~~[deemed to be]~~ due:

27 **(1)** On the date fixed by **or on behalf of** the entity for determining ~~[who is]~~ **the**
28 **persons** entitled to receive the distribution ~~[or];~~

29 **(2)** If no date is fixed, on the ~~[declaration]~~ date ~~[for]~~ **of the decision by or on behalf**
30 **of the entity to make** the distribution~~[- A due date is periodic for receipts or disbursements~~
31 ~~that shall be paid at regular intervals under a lease or an obligation to pay interest or if an~~
32 ~~entity customarily makes distributions at regular intervals]; or~~

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

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

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

12 **3. If a beneficiary has an unqualified power to [revoke] withdraw** more than five
13 percent of the **value of a** trust immediately before ~~[the]~~ **an** income interest ends~~[- In the latter~~
14 ~~case,];~~

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

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

19 ~~[3-]~~ **4.** When a ~~[trustee's]~~ **fiduciary's** obligation to pay a fixed annuity or a fixed
20 fraction of the value of ~~[the trust's]~~ assets ends, the ~~[trustee]~~ **fiduciary** shall prorate the final
21 payment ~~[if and to the extent]~~ **as required** ~~[by applicable law to accomplish a purpose of the~~

22 ~~trust or its settlor relating]~~ to **preserve an income tax, gift tax, estate tax, or other tax**
 23 ~~[requirements]~~ **benefit.**

469.423. 1. ~~[For purposes of]~~ **In this section**~~[- the term]:~~

2 **(1) "Capital distribution" means an entity distribution of money that is a:**

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

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

5 **(2) "Entity":**

6 **(a) Means a corporation, partnership, limited liability company, regulated investment**
 7 **company, real estate investment trust, common trust fund, or any other organization** ~~[in which~~
 8 ~~a trustee has an interest, other than a trust or estate to which section 469.425 applies, a~~
 9 ~~business or activity to which section 469.427 applies, or an asset-backed security to which~~
 10 ~~section 469.449 applies.]~~ **or arrangement in which a fiduciary owns or holds an interest,**
 11 **whether or not the entity is a taxpayer for federal income tax purposes; and**

12 **(b) Does not include:**

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

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

16 **c. An asset-backed security; or**

17 **d. An instrument or arrangement to which section 469.450 applies;**

18 **(3) "Entity distribution" means a payment or transfer by an entity made to a**
 19 **person in the person's capacity as an owner or holder of an interest in the entity.**

20 **2. In this section, an attribute or action of an entity includes an attribute or**
 21 **action of any other entity in which the entity owns or holds an interest, including an**
 22 **interest owned or held indirectly through another entity.**

23 ~~[2-]~~ **3. Except as otherwise provided in** ~~[this section]~~ **subdivisions (2) to (4) of**
 24 **subsection 4 of this section, a** ~~[trustee]~~ **fiduciary shall allocate to income:**

25 **(1) Money received** ~~[from]~~ **in an entity**~~[-~~

26 ~~3. A trustee shall allocate the following receipts from an entity to principal:~~

27 ~~(1) Property other than money;~~

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

30 ~~(3) Money received in total or partial liquidation of the entity; and~~

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

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

33 **4. A fiduciary shall allocate to principal:**

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

35 **(a) Money; or**

36 (b) **Tangible personal property of nominal value;**

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

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

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

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

46 ~~4. Money is received in partial liquidation:~~

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

49 ~~(2) If]; or~~

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

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

54 (1) **By relying, without inquiry or investigation, on a characterization of the**
55 **entity distribution provided by or on behalf of the entity unless the fiduciary:**

56 (a) **Determines, on the basis of information known to the fiduciary, that the**
57 **characterization is or may be incorrect; or**

58 (b) **Owens or holds more than fifty percent of the voting interest in the entity;**

59 (2) **By determining or estimating, on the basis of information known to the**
60 **fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount**
61 **of money and property received by the fiduciary in [a] the entity distribution or a series of**
62 **related entity distributions is or will be greater than twenty percent of the [entity's gross**
63 **assets, as shown by the entity's year-end financial statements immediately preceding the**
64 **initial receipt.**

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

69 ~~6. A trustee may rely upon a statement made by an entity about the source or~~
70 ~~character of a distribution if the statement is made at or near the time of distribution by the~~
71 ~~entity's board of directors or other person or group of persons authorized to exercise powers to~~

72 ~~pay money or transfer property comparable to those of a corporation's board of directors.] fair~~
73 **market value of the fiduciary's interest in the entity; or**

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

77 **6. In making a determination or estimate under subdivision (3) of subsection 5 of**
78 **this section, a fiduciary may consider:**

79 **(1) A characterization of an entity distribution provided by or on behalf of the**
80 **entity;**

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

82 **(a) The entity distribution; or**

83 **(b) What the fiduciary determines is or will be a series of related entity**
84 **distributions;**

85 **(3) The amount described in subdivision (2) of this subsection compared to the**
86 **amount the fiduciary determines or estimates is, during the current or preceding**
87 **accounting periods:**

88 **(a) The entity's operating income;**

89 **(b) The proceeds of the entity's sale or other disposition of:**

90 **a. All or part of the business or other activity conducted by the entity;**

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

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

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

97 **(d) The entity's regular, periodic entity distributions;**

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

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

100 **(g) The amount of money the entity has received from the sources described in**
101 **sections 469.433, 469.439, 469.441, and 469.443; and**

102 **(h) The amount of money the entity has received from a source not otherwise**
103 **described in this paragraph; and**

104 **(4) Any other factor the fiduciary determines is relevant.**

105 **7. If, after applying subsections 3 to 6 of this section, a fiduciary determines that**
106 **a part of an entity distribution is a capital distribution but is in doubt about the amount**
107 **of the entity distribution that is a capital distribution, the fiduciary shall allocate to**
108 **principal the amount of the entity distribution that is in doubt.**

109 **8. If a fiduciary receives additional information about the application of this**
110 **section to an entity distribution before the fiduciary has paid part of the entity**
111 **distribution to a beneficiary, the fiduciary may consider the additional information**
112 **before making the payment to the beneficiary and may change a decision to make the**
113 **payment to the beneficiary.**

114 **9. If a fiduciary receives additional information about the application of this**
115 **section to an entity distribution after the fiduciary has paid part of the entity**
116 **distribution to a beneficiary, the fiduciary is not required to change or recover the**
117 **payment to the beneficiary but may consider that information in determining whether**
118 **to exercise the power to adjust under section 469.405.**

 469.425. A ~~trustee~~ **fiduciary** shall allocate to income an amount received as a
2 distribution of income, **including a unitrust distribution under sections 469.471 to**
3 **469.487**, from a trust or ~~an~~ estate in which the ~~trust~~ **fiduciary** has an interest, other than ~~a~~
4 **an interest the fiduciary purchased [interest] in a trust that is an investment entity**, and
5 shall allocate to principal an amount received as a distribution of principal from ~~such a~~ **the**
6 trust or estate. If a ~~trustee~~ **fiduciary** purchases, **or receives from a settlor**, an interest in a
7 trust that is an investment entity, ~~or a decedent or donor transfers an interest in such a trust to~~
8 ~~a trustee,~~ section 469.423 ~~or~~, 469.449 ~~shall apply~~, **or 469.450 applies** to a receipt from
9 the trust.

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

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

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

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

13 ~~[2.]~~ **3. A [trustee who] fiduciary that** accounts separately **under this section** for a
14 business or other activity:

15 **(1) May determine:**

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

18 **a. Working capital[;]**

- 19 **b.** The acquisition or replacement of fixed assets~~[-]~~; and
- 20 **c.** Other reasonably foreseeable needs of the business or **other** activity~~[-]~~; and
- 21 **(b)** The extent to which the remaining net cash receipts are accounted for as principal
- 22 or income in the ~~[trust's]~~ **fiduciary's** general accounting records~~[- If a trustee sells assets of~~
- 23 ~~the business or other activity, other than in the ordinary course of the business or activity, the~~
- 24 ~~trustee] for the trust;~~
- 25 **(2)** May make a determination under subdivision (1) of this subsection
- 26 separately and differently from the fiduciary's decisions concerning distributions of
- 27 income or principal; and
- 28 **(3)** Shall account for the net amount received from the sale of an asset of the
- 29 business or other activity, other than a sale in the ordinary course of the business or
- 30 other activity, as principal in the ~~[trust's]~~ **fiduciary's** general accounting records for the
- 31 trust, to the extent the ~~[trustee]~~ **fiduciary** determines that the net amount received is no
- 32 longer required in the conduct of the business or other activity.
- 33 ~~[3-]~~ **4.** Activities for which a ~~[trustee may maintain separate accounting records]~~
- 34 **fiduciary may account separately under this section** include:
- 35 (1) Retail, manufacturing, service, and other traditional business activities;
- 36 (2) Farming;
- 37 (3) Raising and selling livestock and other animals;
- 38 (4) ~~[Management of]~~ **Managing** rental properties;
- 39 (5) ~~[Extraction of]~~ **Extracting** minerals, water, and other natural resources;
- 40 (6) **Growing and cutting** timber ~~[operations]; [and]~~
- 41 (7) ~~[Activities]~~ **An activity** to which section 469.447, **469.449, or 469.450** applies~~[-]~~;
- 42 **and**
- 43 **(8) Any other business conducted by the fiduciary.**
- 469.429. A ~~[trustee]~~ **fiduciary** shall allocate to principal:
- 2 (1) To the extent not allocated to income ~~[pursuant to]~~ **under** sections ~~[469.401]~~
- 3 **469.399 to [469.467] 469.487, [assets] an asset** received from ~~[a transferor]~~:
- 4 **(a) An individual** during the ~~[transferor's]~~ **individual's** lifetime~~[- a decedent's]~~;
- 5 **(b) An estate**~~[-]~~;
- 6 **(c) A trust** ~~[with a terminating]~~ **on termination of an** income interest~~[-]~~; or
- 7 **(d) A payer** under a contract naming the ~~[trust or its trustee]~~ **fiduciary** as beneficiary;
- 8 (2) **Except as otherwise provided in sections 469.423 to 469.450,** money or other
- 9 property received from the sale, exchange, liquidation, or change in form of a principal asset~~[-~~
- 10 ~~including realized profit, subject to sections 469.423 to 469.467];~~
- 11 (3) ~~[Amounts]~~ **An amount** recovered from a third ~~[parties]~~ **party** to reimburse the
- 12 ~~[trust]~~ **fiduciary** because of ~~[disbursements]~~ **a disbursement** described in ~~[subdivision (7) of]~~

13 subsection 1 of section 469.453 or for ~~[other reasons]~~ **another reason** to the extent not based
14 on ~~[the]~~ loss of income;

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

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

21 (6) Other receipts as provided in sections 469.435 to ~~[469.449]~~ **469.450.**

469.431. To the extent ~~[that a trustee accounts]~~ **a fiduciary does not account** for
2 ~~[receipts from]~~ **the management of** rental property ~~[pursuant to this section]~~ **as a business**
3 **under section 469.427,** the ~~[trustee]~~ **fiduciary** shall allocate to income an amount received as
4 rent of real or personal property, including an amount received for cancellation or renewal of
5 a lease. An amount received as a refundable deposit, including a security deposit or a deposit
6 that is to be applied as rent for future periods~~], shall be added to principal and held subject to~~
7 ~~the terms of the lease and is not available for distribution to a beneficiary until the trustee's~~
8 ~~contractual obligations have been satisfied with respect to that amount.]:~~

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

11 **(2) Is not allocated to income or available for distribution to a beneficiary until**
12 **the fiduciary's contractual obligations have been satisfied with respect to that amount.**

469.432. 1. **This section does not apply to an obligation to which section 469.437,**
2 **469.439, 469.441, 469.443, 469.447, 469.449, or 469.450 applies.**

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

8 ~~[2.]~~ **3. A [trustee] fiduciary** shall allocate to principal an amount received from the
9 sale, redemption, or other disposition of an obligation to pay money to the ~~[trustee more than~~
10 ~~one year after it is purchased or acquired by the trustee, including an obligation whose~~
11 ~~purchase price or value when it is acquired is less than its value at maturity. If the obligation~~
12 ~~matures within one year after it is purchased or acquired by the trustee, an amount received in~~
13 ~~excess of its purchase price or its value when acquired by the trust shall be allocated to~~
14 ~~income] fiduciary. A fiduciary shall allocate to income the increment in value of a bond~~
15 **or other obligation for the payment of money bearing no stated interest but payable or**

16 **redeemable, at maturity or another future time, in an amount that exceeds the amount**
 17 **in consideration of which it was issued.**

18 ~~[3. This section does not apply to an obligation to which section 469.437, 469.439,~~
 19 ~~469.441, 469.443, 469.447 or 469.449 applies.]~~

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

3 2. Except as otherwise provided in subsection ~~[2]~~ **3** of this section, a ~~[trustee]~~
 4 **fiduciary** shall allocate to principal the proceeds of a life insurance policy or other contract
 5 ~~[in which the trust or its trustee is named]~~ **received by the fiduciary** as beneficiary, including
 6 a contract that insures ~~[the trust or its trustee]~~ against ~~[loss for]~~ damage to, destruction of, or
 7 loss of title to ~~[a trust]~~ **an asset**. The ~~[trustee]~~ **fiduciary** shall allocate dividends on an
 8 insurance policy to income ~~[if]~~ **to the extent** premiums on the policy are paid from income~~[-]~~
 9 and to principal ~~[if]~~ **to the extent** premiums **on the policy** are paid from principal.

10 ~~[2.]~~ **3.** A ~~[trustee]~~ **fiduciary** shall allocate to income proceeds of a contract that
 11 insures the ~~[trustee]~~ **fiduciary** against loss of:

12 (1) Occupancy or other use by ~~[an income beneficiary, loss of]~~ **a current income[-]**
 13 **beneficiary;**

14 (2) **Income;** or~~[-]~~

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

16 ~~[3. This section does not apply to a contract to which section 469.437 applies.]~~

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

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

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

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

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

17 **(1) Exercised by a co-fiduciary in the manner described in subsection 6 of section**
18 **469.405; or**

19 **(2) Released or delegated for a reason described in subsection 7 of section**
20 **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:

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

3 ~~(a) Received or withdrawn from a plan; or~~

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

8 (2) ~~"Plan", a contractual, custodial, trust or other arrangement that provides for~~
9 ~~distributions to the trust, including, but not limited to, qualified retirement plans, Individual~~
10 ~~Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and~~
11 ~~deferred compensation, including payments received directly from an entity as defined in~~
12 ~~section 469.423 regardless of whether or not such distributions are made from a specific fund~~
13 ~~or account.~~

14 ~~2. If any portion of a payment is characterized as a distribution to the trustee of~~
15 ~~interest, dividends or a dividend equivalent, the trustee shall allocate the portion so~~
16 ~~characterized to income. The trustee shall allocate the balance of that payment to principal.~~

17 ~~3. If no part of a payment is allocated to income pursuant to subsection 2 of this~~
18 ~~section, then for each accounting period of the trust that any payment is received by the trust~~
19 ~~with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of~~
20 ~~the aggregate value of all payments received by the trustee in that accounting period equal to~~
21 ~~the amount of plan income attributable to the trust's interest in the plan for that calendar year.~~
22 ~~The trustee shall allocate the balance of that payment to principal.~~

23 ~~4. For purposes of this section, if a payment is received from a plan that maintains a~~
24 ~~separate account or fund for its participants or account holders, including, but not limited to,~~
25 ~~defined contribution retirement plans, Individual Retirement Accounts, Roth Individual~~
26 ~~Retirement Accounts, and some types of deferred compensation plans, the phrase "plan~~
27 ~~income" shall mean either the amount of the plan account or fund held for the benefit of the~~
28 ~~trust that, if the plan account or fund were a trust, would be allocated to income pursuant to~~
29 ~~sections 469.401 to 469.467 for that accounting period, or four percent of the value of the~~
30 ~~plan account or fund on the first day of that accounting period. The method of determining~~
31 ~~plan income pursuant to this subsection shall be chosen by the trustee in the trustee's~~
32 ~~discretion. The trustees may change the method of determining plan income pursuant to this~~
33 ~~subsection for any future accounting period.~~

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

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

52 ~~7. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate~~
53 ~~more of a payment to income than provided for by this section, the trustee shall allocate to~~
54 ~~income the additional amount necessary to obtain the marital deduction.] "Internal income~~
55 ~~of a separate fund", the amount determined under subsection 2 of this section;~~

56 **(2) "Marital trust", a trust:**

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

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

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

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

65 **(3) "Payment", an amount a fiduciary may receive over a fixed number of years**
66 **or during the life of one or more individuals because of services rendered or property**
67 **transferred to the payer in exchange for future amounts the fiduciary may receive. The**
68 **term includes an amount received in money or property from the payer's general assets**
69 **or from a separate fund created by the payer;**

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

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

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

75 (2) If the fiduciary cannot determine the internal income of the separate fund
76 under subdivision (1) of this subsection, the internal income of the separate fund is
77 deemed to equal three percent of the value of the separate fund, according to the most
78 recent statement of value preceding the beginning of the accounting period; and

79 (3) If the fiduciary cannot determine the value of the separate fund under
80 subdivision (2) of this subsection, the value of the separate fund is deemed to equal the
81 present value of the expected future payments, as determined under 26 U.S.C. Section
82 7520, as amended, for the month preceding the beginning of the accounting period for
83 which the computation is made.

84 3. A fiduciary shall allocate a payment received from a separate fund during an
85 accounting period to income, to the extent of the internal income of the separate fund
86 during the period, and the balance to principal.

87 4. The fiduciary of a marital trust shall:

88 (1) Withdraw from a separate fund the amount the current income beneficiary
89 of the trust requests the fiduciary to withdraw, not greater than the amount by which
90 the internal income of the separate fund during the accounting period exceeds the
91 amount the fiduciary otherwise receives from the separate fund during the period;

92 (2) Transfer from principal to income the amount the current income
93 beneficiary requests the fiduciary to transfer, not greater than the amount by which
94 the internal income of the separate fund during the period exceeds the amount the
95 fiduciary receives from the separate fund during the period after the application of
96 subdivision (1) of this subsection; and

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

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

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

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

469.439. 1. ~~[As used]~~ In this section, ~~[the phrase]~~ "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** 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]~~ 469.447, ~~[an asset subject to section]~~ 469.449, **469.450**, or ~~[any asset for which the trustee establishes a reserve for depreciation pursuant to section]~~ 469.455.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) As a royalty, shut-in-well payment, take-or-pay payment, or bonus ~~[or delay rental is more than nominal, ninety percent shall be allocated to principal and the balance to income]; or~~

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

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

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

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

35 4. If a ~~[trust]~~ **fiduciary** owns **or holds** an interest in minerals, water, or other natural
 36 resources ~~[on]~~ **before** August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** may allocate receipts
 37 from the interest as provided in ~~[sections 469.401 to 469.467]~~ **this section** or in the manner
 38 used by the ~~[trustee]~~ **fiduciary** before August 28, ~~[2001]~~ **2025**. If the ~~[trust]~~ **fiduciary**
 39 acquires an interest in minerals, water, or other natural resources **on or** after August 28,
 40 ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** shall allocate receipts from the interest as provided in
 41 ~~[sections 469.401 to 469.467]~~ **this section.**

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

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

7 (2) To principal, to the extent ~~[that]~~ the amount of timber ~~[removed]~~ **cut** from the land
 8 exceeds the rate of growth of the timber or the net receipts are from the sale of standing
 9 timber;

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

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

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

20 3. ~~[Sections 469.401 to 469.467 apply]~~ **This section applies to land owned or held**
21 **by a fiduciary** whether or not a ~~[decedent or transferor]~~ **settlor** was ~~[harvesting]~~ **cutting**
22 timber from the **land before the fiduciary owned or held the property** ~~[before it became~~
23 ~~subject to the trust]~~.

24 4. If a ~~[trust]~~ **fiduciary** owns **or holds** an interest in ~~[timberland on]~~ **land used for**
25 **growing and cutting timber before** August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~ **fiduciary** may
26 allocate net receipts from the sale of timber and related products as provided in ~~[sections~~
27 ~~469.401 to 469.467]~~ **this section** or in the manner used by the ~~[trustee]~~ **fiduciary** before
28 August 28, ~~[2001]~~ **2025**. If the ~~[trust]~~ **fiduciary** acquires an interest in ~~[timberland]~~ **land**
29 **used for growing and cutting timber on or** after August 28, ~~[2001]~~ **2025**, the ~~[trustee]~~
30 **fiduciary** shall allocate net receipts from the sale of timber and related products as provided
31 in ~~[sections 469.401 to 469.467]~~ **this section**.

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

10 (1) Make property productive of income~~];~~

11 (2) Convert property **to property productive of income** within a reasonable time~~];~~

12 or

13 (3) Exercise the power ~~[conferred by subsection 1 of]~~ **to adjust under** section
14 469.405.

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

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

 469.447. 1. ~~[As used]~~ In this section, ~~[the term]~~ "derivative" means a contract ~~[or~~
2 ~~financial]~~, instrument, **other arrangement**, or a combination of contracts ~~[and financial]~~,
3 instruments, **or other arrangements, the value, rights, and obligations of** which ~~[gives a~~

4 ~~trust the right or obligation to participate in some or all changes in the price of a]~~ **are, in**
 5 **whole or in part, dependent on or derived from an underlying** tangible or intangible asset
 6 ~~[or group of assets, or changes in a rate, an index of prices or],~~ **group of tangible or**
 7 **intangible assets, index, or occurrence of an event. The term includes stocks, fixed**
 8 **income securities, and financial instruments and arrangements based on indices,**
 9 **commodities, interest rates,** ~~[or other market indicator for an asset or a group of assets]~~
 10 **weather-related events, and credit default events.**

11 2. To the extent ~~[that a trustee]~~ **a fiduciary** does not account ~~[pursuant to section~~
 12 ~~469.427 for transactions]~~ **for a transaction** in derivatives~~[- the trustee]~~ **as a business under**
 13 **section 469.427, the fiduciary shall allocate [to principal] ten percent of receipts from the**
 14 **transaction and ten percent of disbursements made in connection with [those transactions]**
 15 **the transaction to income and the balance to principal.**

16 3. **Subsection 4 of this section applies if:**

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

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

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

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

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

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

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

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

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

469.449. 1. ~~[As used in this section, the phrase "asset-backed security" means an~~
 2 ~~asset whose value is based upon the right it gives the owner to receive distributions from the~~
 3 ~~proceeds of financial assets that provide collateral for the security. The phrase includes an~~
 4 ~~asset that gives the owner the right to receive from the collateral financial assets only the~~
 5 ~~interest or other current return or only the proceeds other than interest or current return. The~~
 6 ~~phrase does not include an asset to which section 469.423 or 469.437 applies.~~

7 ~~2. If a trust receives a payment from interest or other current return and from other~~
 8 ~~proceeds of the collateral financial assets, the trustee]~~ **Except as otherwise provided in**
 9 **subsection 2 of this section, a fiduciary shall allocate to income [the portion of] a receipt**

10 **from or related to an asset-backed security, to the extent** the ~~[payment which the]~~ payer
 11 identifies **the payment** as being from interest or other current return, and ~~[shall allocate]~~ to
 12 **principal** the balance of the ~~[payment to principal]~~ receipt.

13 ~~[3.]~~ **2.** If a ~~[trust]~~ **fiduciary** receives one or more payments in exchange for **part or**
 14 **all of** the ~~[trust's entire]~~ **fiduciary's** interest in an asset-backed security ~~[in one accounting~~
 15 ~~period, the trustee shall allocate the payments to principal. If a payment is one of a series of~~
 16 ~~payments that will result in the], including a liquidation or redemption~~ of the ~~[trust's]~~
 17 **fiduciary's** interest in the security ~~[over more than one accounting period], the [trustee]~~
 18 **fiduciary** shall allocate ~~[ten]~~ **ten** percent of receipts from the ~~[payment to~~
 19 ~~income]~~ **transaction** and ~~[the balance to principal]~~ **ten** percent of disbursements made in
 20 **connection with the transaction, and to principal the balance of the receipts and**
 21 **disbursements.**

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

469.451. ~~[A trustee shall make the following disbursements from income to the extent~~
 2 ~~that they are not disbursements to which paragraph (b) or (c) of]~~ **Subject to section 469.456,**
 3 **and except as otherwise provided in subdivision (2) or (3) of subsection 3** of section
 4 469.413 ~~[applies], a fiduciary shall disburse from income:~~

5 (1) One-half of:

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

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

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

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

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

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

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

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

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

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

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

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

19 ~~[(6)]~~ (7) **A payment of an estate[-] or inheritance [and other transfer taxes] tax or**
20 **other tax imposed because of the death of a decedent,** including penalties, apportioned to
21 the trust; and

22 ~~[(7) Extraordinary expenses incurred in connection with the management and~~
23 ~~preservation of trust property;~~

24 ~~(8) Expenses for a capital improvement to a principal asset, whether in the form of~~
25 ~~changes to an existing asset or the construction of a new asset, including special assessments;~~
26 **and**

27 ~~(9) Disbursements]~~ (8) **A payment:**

28 (a) Related to environmental matters, including:

29 a. Reclamation[-];

30 b. Assessing environmental conditions[-];

31 c. Remedying and removing environmental contamination[-];

32 d. Monitoring remedial activities and the release of substances[-];

33 e. Preventing future releases of substances[-];

34 f. Collecting amounts from persons liable or potentially liable for the costs of ~~[these]~~
35 activities[-] **described in subparagraphs a. to e. of this paragraph;**

- 36 g. Penalties imposed under environmental laws or regulations ~~[and];~~
 37 h. Other ~~[payments made]~~ **actions** to comply with ~~[those]~~ **environmental** laws or
 38 regulations~~[-];~~
 39 i. Statutory or common law claims by third parties~~[-];~~ and
 40 j. Defending claims based on environmental matters~~[-];~~ **and**
 41 **(b) For a premium for insurance for matters described in paragraph (a) of this**
 42 **subdivision.**

43 2. If a principal asset is encumbered with an obligation that requires income from
 44 ~~[that]~~ **the** asset to be paid directly to ~~[the]~~ **a** creditor, the ~~[trustee]~~ **fiduciary** shall transfer from
 45 principal to income an amount equal to the income paid to the creditor in reduction of the
 46 principal balance of the obligation.

469.455. 1. ~~[As used]~~ In this section, ~~[the term]~~ "depreciation" means a reduction in
 2 value due to wear, tear, decay, corrosion, or gradual obsolescence of a ~~[fixed]~~ **tangible** asset
 3 having a useful life of more than one year.

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

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

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

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

12 (3) ~~[Pursuant to]~~ **Under** this section ~~[if the trustee is accounting pursuant to section~~
 13 ~~469.427]~~, **to the extent the fiduciary accounts:**

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

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

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

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

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

8 **(1) An amount chargeable to principal but paid from income because principal**
 9 **is illiquid;**

10 **(2) A disbursement made to prepare property for sale, including improvements**
 11 **and commissions; and**

12 **(3) A disbursement described in subsection 1 of section 469.453.**

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

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

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

9 **(1) An amount chargeable to income but paid from principal because ~~[it]~~ income is**
 10 **~~[unusually large, including extraordinary repairs] not sufficient;~~**

11 **~~[Disbursements] The cost of an improvement to principal, whether a change~~**
 12 **to an existing asset or the construction of a new asset, including a special assessment;**

13 **(3) A disbursement** made to prepare property for rental, including tenant allowances,
 14 leasehold improvements, and ~~[broker's]~~ commissions;

15 ~~[(3)]~~ **(4) A periodic ~~[payments]~~ payment** on an obligation secured by a principal
 16 asset, to the extent ~~[that]~~ the amount transferred from income to principal for depreciation is
 17 less than the periodic ~~[payments]~~ **payment**; and

18 ~~[(4) Disbursements]~~ **(5) A disbursement** described in ~~[subdivision (7) of]~~ subsection
 19 1 of section 469.453.

20 **3. If ~~[the]~~ an asset whose ownership gives rise to ~~[the disbursements]~~ a principal**
 21 **disbursement** becomes subject to a successive ~~[income]~~ interest after an income interest
 22 ends, ~~[a trustee]~~ **the fiduciary** may continue to ~~[transfer amounts from income to principal as~~
 23 ~~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
 2 receipts allocated to income shall be paid from income.

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

6 3. **Subject to subsection 4 of this section and sections 469.456, 469.457, and**
7 **469.462**, a tax required to be paid by a ~~[trustee]~~ **fiduciary** on ~~[the trust's]~~ a share of an entity's
8 taxable income **in an accounting period** shall be paid **from**:

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

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

14 4. After applying subsections 1 to 3 of this section, ~~[the trustee]~~ **a fiduciary** shall
15 adjust income or principal receipts, to the extent ~~[that]~~ the ~~[trust's]~~ **taxes the fiduciary pays**
16 are reduced because ~~[the trust receives]~~ **of** a deduction for a payment made to a beneficiary.

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

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

7 (2) **An income tax or other tax imposed on the fiduciary or a beneficiary as a**
8 **result of a transaction involving the fiduciary or a distribution by the fiduciary; or**

9 (3) **Ownership by the fiduciary of an interest in an entity, a part of whose taxable**
10 **income, whether or not distributed, is includable in the taxable income of the fiduciary**
11 **or a beneficiary.**

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

23 3. **A fiduciary that charges a beneficiary under subsection 2 of this section may**
24 **offset the charge by obtaining payment from the beneficiary, withholding an amount**
25 **from future distributions to the beneficiary, or adopting another method or combination**
26 **of methods.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **(1) An income trust, unless the terms of the trust expressly prohibit use of**
4 **sections 469.471 to 469.487 by a specific reference to these sections or an explicit**
5 **expression of intent that net income not be calculated as a unitrust amount; and**

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

7 **(a) Prohibit use of sections 469.471 to 469.487 by a specific reference to such**
8 **sections;**

9 **(b) Prohibit conversion to an income trust; or**

10 **(c) Limit changes to the method of calculating the unitrust amount.**

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

13 **3. An income trust to which sections 469.471 to 469.487 apply under subdivision**
14 **(1) of subsection 1 of this section may be converted to a unitrust under sections 469.471**
15 **to 469.487 regardless of the terms of the trust concerning distributions. Conversion to a**
16 **unitrust under sections 469.471 to 469.487 does not affect other terms of the trust**
17 **concerning distributions of income or principal.**

18 **4. Sections 469.471 to 469.487 apply to an estate only to the extent a trust is a**
19 **beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may**
20 **be administered as a unitrust, the administration of the estate as a unitrust may be**
21 **discontinued, or the percentage or method used to calculate the unitrust amount may be**
22 **changed, in the same manner as for a trust under sections 469.471 to 469.487.**

23 **5. Sections 469.471 to 469.487 do not create a duty to take or consider action**
24 **under sections 469.471 to 469.487 or to inform a beneficiary about the applicability of**
25 **sections 469.471 to 469.487.**

26 **6. A fiduciary that in good faith takes or fails to take an action under sections**
27 **469.471 to 469.487 is not liable to a person affected by the action or inaction.**

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

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

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

8 **(b) The percentage and method used to calculate the unitrust amount;**

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

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

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

18 **(1) The fiduciary determines that the action will assist the fiduciary to**
19 **administer a trust impartially;**

20 **(2) The fiduciary sends a notice in a record, in the manner required by section**
21 **469.477, describing and proposing to take the action;**

22 **(3) The fiduciary sends a copy of the notice under subdivision (2) of this**
23 **subsection to each settlor of the trust that is:**

24 **(a) If an individual, living; or**

25 **(b) If not an individual, in existence;**

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

28 **(a) If an individual, legally competent;**

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

30 **(c) Represented in the manner provided in subsection 2 of section 469.477; and**

31 **(5) The fiduciary does not receive, by the date specified in the notice under**
32 **subdivision (5) of subsection 4 of section 469.477, an objection in a record to the action**
33 **proposed under subdivision (2) of this subsection from a person to which the notice**
34 **under subdivision (2) of this subsection is sent.**

35 **3. If a fiduciary receives, not later than the date stated in the notice under**
36 **subdivision (5) of subsection 4 of section 469.477, an objection in a record described in**
37 **subdivision (4) of subsection 4 of section 469.477 to a proposed action, the fiduciary or a**
38 **beneficiary may request the court to have the proposed action taken as proposed, taken**
39 **with modifications, or prevented. A person described in subsection 1 of section 469.477**
40 **may oppose the proposed action in the proceeding under this subsection, whether or not**
41 **the person:**

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

43 **(2) Objected under subdivision (4) of subsection 4 of section 469.477.**

44 **4. If, after sending a notice under subdivision (2) of subsection 2 of this section, a**
45 **fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify**
46 **in a record each person described in subsection 1 of section 469.477 of the decision not to**
47 **take the action and the reasons for the decision.**

48 **5. If a beneficiary requests in a record that a fiduciary take an action described**
49 **in subsection 1 of this section and the fiduciary declines to act or does not act within**

50 ninety days after receiving the request, the beneficiary may request the court to direct
51 the fiduciary to take the action requested.

52 **6. In deciding whether and how to take an action authorized by subsection 1 of**
53 **this section, or whether and how to respond to a request by a beneficiary under**
54 **subsection 5 of this section, a fiduciary shall consider all factors relevant to the trust and**
55 **the beneficiaries, including relevant factors in subsection 5 of section 469.403.**

56 **7. A fiduciary may release or delegate the power to convert an income trust to a**
57 **unitrust under subdivision (1) of subsection 1 of this section, change the percentage or**
58 **method used to calculate a unitrust amount under subdivision (2) of subsection 1 of this**
59 **section, or convert a unitrust to an income trust under subdivision (3) of subsection 1 of**
60 **this section, for a reason described in subsection 7 of section 469.405 and in the manner**
61 **described in subsection 8 of section 469.405.**

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

- 3 **(1) The qualified beneficiaries defined under section 456.1-103;**
4 **(2) Each person acting as trust protector under section 456.8-808; and**
5 **(3) Each person that is granted a power over the trust by the terms of the trust,**
6 **to the extent the power is exercisable when the person is not then serving as a trustee:**
7 **(a) Including a:**
8 **a. Power over the investment, management, or distribution of trust property or**
9 **other matters of trust administration; and**
10 **b. Power to appoint or remove a trustee or person described in this paragraph;**
11 **and**
12 **(b) Excluding a:**
13 **a. Power of appointment;**
14 **b. Power of a beneficiary over the trust, to the extent the exercise or nonexercise**
15 **of the power affects the beneficial interest of the beneficiary or another beneficiary**
16 **represented by the beneficiary under sections 456.3-301 to 456.3-305 with respect to the**
17 **exercise or nonexercise of the power; and**
18 **c. Power over the trust if the terms of the trust provide that the power is held in**
19 **a nonfiduciary capacity and the power shall be held in a nonfiduciary capacity to**
20 **achieve a tax objective under Title 26 of the United States Code, as amended.**

21 **2. The representation provisions of sections 456.3-301 to 456.3-305 apply to**
22 **notice under this section.**

23 **3. A person may consent in a record at any time to action proposed under**
24 **subdivision (2) of subsection 2 of section 469.475. A notice required by subdivision (2) of**

25 subsection 2 of section 469.475 need not be sent to a person that consents under this
26 subsection.

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

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

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

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

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

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

41 (6) The date on which the action is proposed to be taken and the date on which
42 the action is proposed to take effect;

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

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

46 469.479. 1. In administering a unitrust under sections 469.471 to 469.487, a
2 fiduciary shall follow a unitrust policy adopted under subdivision (1) or (2) of subsection
3 1 of section 469.475 or amended or replaced under subdivision (2) of section 1 of section
4 469.475.

5 2. A unitrust policy shall provide:

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

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

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

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

13 (b) Optional, as provided in section 469.481, subsection 2 of section 469.483,
14 subsection 2 of section 469.485, and subsection 1 of section 469.487, to the extent the
15 fiduciary elects to adopt such rules.

2 **469.481. 1. Except as otherwise provided in subdivision (1) of subsection 2 of**
3 **section 469.487, a unitrust rate may be:**

4 **(1) A fixed unitrust rate; or**

5 **(2) A unitrust rate that is determined for each period using:**

6 **(a) A market index or other published data; or**

7 **(b) A mathematical blend of market indices or other published data over a**
8 **stated number of preceding periods.**

9 **2. Except as otherwise provided in subdivision (1) of subsection 2 of section**
10 **469.487, a unitrust policy may provide:**

11 **(1) A limit on how high the unitrust rate determined under subdivision (2) of**
12 **subsection 1 of this section may rise;**

13 **(2) A limit on how low the unitrust rate determined under subdivision (2) of**
14 **subsection 1 of this section may fall;**

15 **(3) A limit on how much the unitrust rate determined under subdivision (2) of**
16 **subsection 1 of this section may increase over the unitrust rate for the preceding period**
17 **or a mathematical blend of unitrust rates over a stated number of preceding periods;**

18 **(4) A limit on how much the unitrust rate determined under subdivision (2) of**
19 **subsection 1 of this section may decrease below the unitrust rate for the preceding**
20 **period or a mathematical blend of unitrust rates over a stated number of preceding**
21 **periods; or**

22 **(5) A mathematical blend of any of the unitrust rates determined under**
23 **subdivision (2) of subsection 1 of this section and subdivisions (1) to (4) of this**
24 **subsection.**

25 **469.483. 1. A unitrust policy shall provide the method for determining the fair**
26 **market value of an asset for the purpose of determining the unitrust amount, including:**

27 **(1) The frequency of valuing the asset, which need not require a valuation in**
28 **every period; and**

29 **(2) The date for valuing the asset in each period in which the asset is valued.**

30 **2. Except as otherwise provided in subdivision (2) of subsection 2 of section**
31 **469.487, a unitrust policy may provide methods for determining the amount of the net**
32 **fair market value of the trust to take into account in determining the applicable value,**
33 **including:**

34 **(1) Obtaining an appraisal of an asset for which fair market value is not readily**
35 **available;**

36 **(2) Exclusion of specific assets or groups or types of assets;**

37 **(3) Other exceptions or modifications of the treatment of specific assets or**
38 **groups or types of assets;**

- 15 **(4) Identification and treatment of cash or property held for distribution;**
16 **(5) Use of:**
17 **(a) An average of fair market values over a stated number of preceding periods;**
18 **or**
19 **(b) Another mathematical blend of fair market values over a stated number of**
20 **preceding periods;**
21 **(6) A limit on how much the applicable value of all assets, groups of assets, or**
22 **individual assets may increase over:**
23 **(a) The corresponding applicable value for the preceding period; or**
24 **(b) A mathematical blend of applicable values over a stated number of preceding**
25 **periods;**
26 **(7) A limit on how much the applicable value of all assets, groups of assets, or**
27 **individual assets may decrease below:**
28 **(a) The corresponding applicable value for the preceding period; or**
29 **(b) A mathematical blend of applicable values over a stated number of preceding**
30 **periods;**
31 **(8) The treatment of accrued income and other features of an asset that affect**
32 **value; and**
33 **(9) Determining the liabilities of the trust, including treatment of liabilities to**
34 **conform with the treatment of assets under subdivisions (1) to (8) of this subsection.**
- 469.485. 1. A unitrust policy shall provide the period used under sections**
2 **469.481 and 469.483. Except as otherwise provided in subdivision (3) of subsection 2 of**
3 **section 469.481, the period may be:**
4 **(1) A calendar year;**
5 **(2) A twelve-month period other than a calendar year;**
6 **(3) A calendar quarter;**
7 **(4) A three-month period other than a calendar quarter; or**
8 **(5) Another period.**
- 2. Except as otherwise provided in subsection 2 of section 469.487, a unitrust**
10 **policy may provide standards for:**
11 **(1) Using fewer preceding periods under paragraph (b) of subdivision (2) of**
12 **subsection 1 of section 469.481 or subdivision (3) or (4) of subsection 2 of section 469.481**
13 **if:**
14 **(a) The trust was not in existence in a preceding period; or**
15 **(b) Market indices or other published data are not available for a preceding**
16 **period;**

17 **(2) Using fewer preceding periods under paragraph (a) or (b) of subdivision (5)**
18 **of subsection 2 of section 469.483, paragraph (b) of subdivision (6) of subsection 2 of**
19 **section 469.483, or paragraph (b) of subdivision (7) of subsection 2 of section 469.483 if:**

20 **(a) The trust was not in existence in a preceding period; or**

21 **(b) Fair market values are not available for a preceding period; and**

22 **(3) Prorating the unitrust amount on a daily basis for a part of a period in which**
23 **the trust or the administration of the trust as a unitrust or the interest of any beneficiary**
24 **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 in cash and partly in kind;**

5 **or**

6 **(c) Correcting an underpayment or overpayment to a beneficiary based on the**
7 **unitrust amount if there is an error in calculating the unitrust amount;**

8 **(2) Specify sources and the order of sources, including categories of income for**
9 **federal income tax purposes, from which distributions of a unitrust amount are paid; or**

10 **(3) Provide other standards and rules the fiduciary determines serve the**
11 **interests of the beneficiaries.**

12 **2. If a trust qualifies for a special tax benefit or a fiduciary is not an independent**
13 **person:**

14 **(1) The unitrust rate established under section 469.481 shall not be less than**
15 **three percent or more than five percent;**

16 **(2) The only provisions of section 469.483 that apply are subsection 1 of section**
17 **469.483; subdivisions (1), (4), and (9) of subsection 2 of section 469.483; and paragraph**
18 **(a) of subdivision (5) of subsection 2 of section 469.483;**

19 **(3) The only period that may be used under section 469.485 is a calendar year**
20 **under subdivision (1) of subsection 1 of section 469.485; and**

21 **(4) The only other provisions of section 469.485 that apply are paragraph (a) of**
22 **subdivision (2) of subsection 2 of section 469.485 and subdivision (3) of subsection 2 of**
23 **section 469.485.**

474.540. Sections 474.540 to 474.564 shall be known and may be cited as the
2 **"Missouri Electronic Wills and Electronic Estate Planning Documents Act".**

474.542. As used in sections 474.540 to 474.564, the following terms mean:

2 **(1) "Electronic", technology having electrical, digital, magnetic, wireless,**
3 **optical, electromagnetic, or similar capabilities;**

4 (2) "Electronic presence", the relationship of two or more individuals in
5 different locations in real time using technology enabling live, interactive audio-visual
6 communication that allows for observation, direct interaction, and communication
7 between or among the individuals;

8 (3) "Electronic will", a will executed electronically in compliance with
9 subsection 1 of section 474.548;

10 (4) "Record", information that is inscribed on a tangible medium or that is
11 stored in an electronic or other medium and is retrievable in perceivable form;

12 (5) "Security procedure", a procedure to verify that an electronic signature,
13 record, or performance is that of a specific person or to detect a change or error in an
14 electronic record, including a procedure that uses an algorithm, code, identifying word
15 or number, encryption, or callback or other acknowledgment procedure;

16 (6) "Sign", with present intent to authenticate or adopt a record, to:

17 (a) Execute or adopt a tangible symbol; or

18 (b) Affix to or logically associate with the record an electronic symbol or
19 process;

20 (7) "State", a state of the United States, the District of Columbia, Puerto Rico,
21 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or
22 insular possession subject to the jurisdiction of the United States;

23 (8) "Will", a codicil and any testamentary instrument that appoints an executor,
24 revokes or revises another will, nominates a guardian, or expressly excludes or limits the
25 right of an individual or class to succeed to property of the decedent passing by intestate
26 succession.

 474.544. An electronic will is a will for all purposes of the laws of this state. The
2 laws of this state applicable to wills and principles of equity applies to an electronic will
3 except as modified by sections 474.540 to 474.564.

 474.546. A will executed electronically but not in compliance with subsection 1 of
2 section 474.548 is an electronic will under sections 474.540 to 474.564 if executed in
3 compliance with the law of the jurisdiction where the testator is:

4 (1) Physically located when the will is signed; or

5 (2) Domiciled, or where the testator resides, when the will is signed or when the
6 testator dies.

 474.548. 1. An electronic will shall be:

2 (1) A record that is readable as text at the time of signing under subdivision (2)
3 of this subsection and remains accessible as text for later reference;

4 (2) Signed by:

5 (a) The testator; or

6 (b) Another individual in the testator's name, in the testator's physical presence,
7 and by the testator's direction; and

8 (3) Signed in the physical or electronic presence of the testator by at least two
9 individuals after witnessing:

10 (a) The signing of the will under subdivision (2) of this subsection; or

11 (b) The testator's acknowledgment of the signing of the will under subdivision
12 (2) of this subsection or acknowledgment of the will.

13 2. The intent of a testator that the record under subdivision (1) of subsection 1 of
14 this section be the testator's electronic will may be established by extrinsic evidence.

15 3. In accordance with section 474.337 or 474.550, a witness to a will shall be a
16 resident of a state and physically located in a state at the time of signing if no self-
17 proving affidavit is signed contemporaneously with the execution of the electronic will.

474.550. At the time of its execution or at any subsequent date, an electronic will
2 may be made self-proved in the same manner as specified in section 474.337 or, if fewer
3 than two witnesses are physically present in the same location as the testator at the time
4 of such acknowledgments, before a remote online notary authorized to perform a
5 remote online notarization in this state under the law of any state or the United States,
6 and evidenced by a remote online notarial certificate, in form and content substantially
7 as follows, subject to the additional requirements under section 486.1165:

8 State of _____

9 County (and/or City) of _____

10 I, the undersigned notary, certify that _____, the testator, and the witnesses,
11 whose names are signed to the attached or foregoing instrument, having
12 personally appeared before me by remote online means, and having been first
13 duly sworn, each then declared to me that the testator signed and executed the
14 instrument as the testator's last will, and that the testator had willingly signed or
15 willingly directed another to sign for the testator, and that the testator executed it
16 as the testator's free and voluntary act for the purposes therein expressed; and
17 that each of the witnesses, in the presence and hearing of the testator, signed the
18 will as witness and that to the best of the witnesses' knowledge the testator was at
19 that time eighteen or more years of age, of sound mind, and under no constraint
20 or undue influence.

21 In witness thereof I have hereunto subscribed my name and affixed my official
22 seal this _____ (date).

23 _____ (official signature and seal of notary)

474.552. 1. An electronic will may revoke all or part of a previous will.

2 2. All or part of an electronic will is revoked by:

3 **(1) A subsequent will that revokes all or part of the electronic will expressly or**
4 **by inconsistency;**

5 **(2) A written instrument signed by the testator declaring the revocation; or**

6 **(3) A physical act, if it is established by a preponderance of the evidence that the**
7 **testator, with the intent of revoking all or part of the will, performed the act or directed**
8 **another individual who performed the act in the testator's physical presence.**

9 **3. If there is evidence that a testator signed an electronic will and neither an**
10 **electronic will nor a certified paper copy of the electronic will can be located after a**
11 **testator's death, there is a presumption that the testator revoked the electronic will even**
12 **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
2 **estate or, if there is no grant of administration, upon such notice and in such manner as**
3 **the court directs, the court may issue an order under sections 472.400 to 472.490 for a**
4 **custodian of an account held under a terms-of-service agreement to disclose digital**
5 **assets for the purposes of obtaining an electronic will from the account of a deceased**
6 **user. If there is no grant of administration at the time the court issues the order, the**
7 **court's order shall grant disclosure to the petitioner who is deemed a personal**
8 **representative under sections 472.400 to 472.490.**

474.556. 1. An individual may create a certified paper copy of an electronic will
2 **by affirming under penalty of perjury that a paper copy of the electronic will is a**
3 **complete, true, and accurate copy of the electronic will. If the electronic will is made**
4 **self-proving, the certified paper copy of the will shall include the self-proving affidavit**
5 **under section 474.337 or 474.550.**

6 **2. If a rule of law or procedure requires a will to be presented or retained in its**
7 **original form or provides consequences for the information not being presented or**
8 **retained in its original form, that rule of law or procedure shall be satisfied by a**
9 **certified paper copy of an electronic will.**

474.558. In applying and construing sections 474.540 to 474.564, consideration
2 **shall be given to the need to promote uniformity of the law with respect to its subject**
3 **matter among states that enact it.**

474.560. 1. Any written estate planning document may be executed
2 **electronically, and no such estate planning document shall be invalid or void solely**
3 **because it is in electronic form or because it is signed electronically by a settlor, trustee,**
4 **principal, grantor, declarant, or owner, or by a witness to any such person's signature.**
5 **For purposes of this section, "estate planning document" shall include, but not be**
6 **limited to:**

7 **(1) A power of attorney or durable power of attorney;**

- 8 **(2) A health care declaration;**
9 **(3) An advance directive;**
10 **(4) A power of attorney for health care or durable power of attorney for health**
11 **care;**
12 **(5) A revocable trust or amendment thereto, or modification or revocation**
13 **thereof;**
14 **(6) An irrevocable trust;**
15 **(7) A beneficiary deed;**
16 **(8) A nonprobate transfer; or**
17 **(9) A document modifying, amending, correcting, or revoking any written estate**
18 **planning document.**
- 19 **2. (1) An electronic estate planning document or an electronic signature on such**
20 **document shall be attributable to a person if it was the act of the person. The act of the**
21 **person may be shown in any manner, including a showing of the efficacy of a security**
22 **procedure applied to determine the person to which the electronic record or signature**
23 **was attributable.**
- 24 **(2) The effect of attribution of a document or signature to a person under**
25 **subdivision (1) of this subsection shall be determined from the context and surrounding**
26 **circumstances at the time of its creation, execution, or adoption and as provided by**
27 **other law.**
- 28 **3. (1) Unless otherwise provided under its terms, any electronic estate planning**
29 **document may be signed in one or more counterparts, and each separate counterpart**
30 **may be an electronic document or a paper document, provided that all signed**
31 **counterpart pages of each document are incorporated into, or attached to, the**
32 **document.**
- 33 **(2) An individual may create a certified paper copy of any such electronic estate**
34 **planning document by affirming under penalty of perjury that a paper copy of the**
35 **electronic estate planning document is a complete, true, and accurate copy of such**
36 **document. If a rule of law or procedure requires an estate planning document to be**
37 **presented or retained in its original form or provides consequences for the information**
38 **not being presented or retained in its original form, such rule of law or procedure shall**
39 **be satisfied by a certified paper copy of an electronic document.**
- 40 **4. Any written estate planning document, other than a will, that requires one or**
41 **more witnesses to the signature of a principal may be witnessed by any individual or**
42 **individuals in the electronic presence of the principal.**
- 43 **5. A person who acts in reliance upon an electronically executed written estate**
44 **planning document shall not be liable to any person for so relying and may assume**

45 without inquiry the valid execution of the electronically executed written estate planning
46 document.

47 6. This section does not require a written estate planning document to be
48 electronically signed.

49 7. The laws of this state and principles of equity applicable to any estate
50 planning document shall apply to any electronic estate planning document except as
51 modified by this section.

474.562. The provisions of sections 474.540 to 474.564 modify, limit, and
2 supersede the federal Electronic Signatures in Global and National Commerce Act, 15
3 U.S.C. Section 7001 et seq., but do not modify, limit, or supersede Section 101(c) of that
4 act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in
5 Section 103(b) of that act, 15 U.S.C. Section 7003(b).

474.564. The provisions of sections 474.540 to 474.564 shall apply to the will of a
2 decedent who dies on or after August 28, 2025, and to each other written estate planning
3 document signed or remotely witnessed on or after August 28, 2025.

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

2 (1) "Applicable state of emergency", the period between April 6, 2020, and
3 December 31, 2021, during which a state of emergency existed due to a COVID-19
4 public health threat, as proclaimed by the governor, and during which executive orders
5 20-08, 20-10, 20-12, 20-14, 20-19, 21.07, and 21.09 temporarily suspended the physical
6 appearance requirements under this chapter and authorized the use of audio-visual
7 technology to the extent that any Missouri statute required the physical presence of any
8 testator, settlor, principal, witness, notary, or other person necessary for the effective
9 execution of any estate planning document such as a will, trust, or power of attorney, or
10 a self-proving affidavit of the execution of such document, if the conditions set forth in
11 the executive orders were met;

12 (2) "Estate planning document", includes, but is not limited to:

13 (a) A will;

14 (b) A codicil;

15 (c) A power of attorney or durable power of attorney;

16 (d) A health care declaration;

17 (e) An advance directive;

18 (f) A power of attorney for health care or a durable power of attorney for health
19 care;

20 (g) A revocable trust or amendment thereto, or modification or revocation
21 thereof;

22 (h) An irrevocable trust;

- 23 (i) A beneficiary deed;
- 24 (j) A nonprobate transfer; or
- 25 (k) A document modifying, amending, correcting, or revoking any written estate
- 26 planning document;
- 27 (3) "Necessary person", any testator, settlor, grantor, principal, declarant,
- 28 witness, notary, or other person required for the effective execution of any estate
- 29 planning document in this state;
- 30 (4) "Physical presence requirement", includes, but is not limited to, any
- 31 requirement of physical presence under section 404.705, 459.015, 474.320, or 474.337 or
- 32 chapter 486.

33 2. With respect to the execution of an estate planning document, a necessary
 34 person shall be deemed to have satisfied any physical presence requirement under
 35 Missouri statute during the applicable state of emergency if the following requirements
 36 were met:

- 37 (1) The signer affirmatively represented that the signer was physically located in
- 38 the state of Missouri;
- 39 (2) The notary was physically located in the state of Missouri and stated in which
- 40 county the notary was physically located for the jurisdiction on the acknowledgment;
- 41 (3) The notary identified the signers to the satisfaction of the notary and current
- 42 law;
- 43 (4) Any person whose signature was required appeared using video conference
- 44 software where live, interactive audio-visual communication between the principal,
- 45 notary, and any other necessary person allowed for observation, direct interaction, and
- 46 communication at the time of signing; and
- 47 (5) The notary recorded in the notary's journal the exact time and means used to
- 48 perform the notarial act, along with all other required information, absent the wet
- 49 signatures.

50 3. The requirements of subdivisions (1) to (5) of subsection 2 of this section shall
 51 be deemed satisfied if an attorney who is licensed or authorized to practice law in
 52 Missouri and who was present at the remote execution signs a written acknowledgment
 53 made before an officer authorized to administer oaths under the laws of this state, and
 54 evidenced by the officer's certificate, under official seal, affixed to or logically associated
 55 with the acknowledgment. The form and content of the acknowledgment shall be
 56 substantially as follows:

57 State of _____
 58 County of _____

60 I, _____, am an attorney licensed or authorized to practice law in the state
61 of Missouri.

62 On ____ (date), I convened with the following individuals via video conference
63 software that allowed for live, interactive audio-visual communication between
64 the parties to the conference and that also allowed for observation, direction,
65 interaction, and communication between:

66 _____, the (testator, settlor, grantor, principal, or declarant);

67 _____, a witness;

68 _____, a second witness; and

69 _____ a notary public.

70 During the conference, _____, the (testator, settlor, grantor, principal, or
71 declarant) signed the following estate planning document or documents: (a will,
72 codicil, power of attorney, durable power of attorney, health care declaration,
73 advance directive, health care power of attorney, revocable trust, irrevocable
74 trust, beneficiary deed, nonprobate transfer, self-proving affidavit of the
75 execution of a will, or a document modifying, amending, correcting, or
76 revoking one of these estate planning documents).

77 All the parties to the conference represented that they were physically located in
78 the state of Missouri at the time of the signing.

79 I have reviewed and am familiar with the requirements of the applicable
80 executive order or orders in effect at the time and affirm that the remote
81 execution of the estate planning document or documents met all the requirements
82 of the applicable executive order or orders.

83 In witness whereof I, an officer authorized to administer oaths, have hereunto
84 subscribed my name and affixed my official seal this ____ (date).

85 (Signed)

86 _____

87 (SEAL)

88 _____

89 (Official capacity of officer)

476.806. 1. Interpreters and translators in civil, juvenile, and criminal proceedings
2 shall be allowed a reasonable fee approved by the court and necessary travel expenses not to
3 exceed state rates. Interpreters shall not be compensated for travel time.

4 2. If the person requiring an interpreter or translator during the proceeding is a party
5 to or a witness in ~~any criminal~~ the proceeding, such fees and expenses shall be payable by
6 the state from funds appropriated for such purpose.

7 3. In all cases not included in subsection 2 of this section, such fees and expenses may
8 be taxed as costs by the court to the parties. Prior to any proceeding requiring an interpreter
9 or translator, the court may order either party, or both, to deposit money with the court in an
10 amount reasonably necessary to cover such fees and expenses. Upon disposition of the
11 proceeding the court may order such costs paid from such deposit and shall return any portion
12 of the deposit not used for such court costs to the parties.

**476.1025. A parent, spouse, child, or personal representative of a person who
2 was convicted of a misdemeanor offense may file a motion with the court in which the
3 person was convicted to have the record of such offense made confidential in any
4 automated case management system if such person has been deceased for six months or
5 more. Upon such motion accompanied by a copy of the death certificate of the deceased
6 person, the court shall make the case confidential. Prior to making the case
7 confidential, the court shall determine whether any person would be unfairly prejudiced
8 by making such record confidential in any automated case management system.**

476.1300. 1. Sections 476.1300 to [~~476.1310~~] **476.1313** shall be known and may be
2 cited as the "Judicial Privacy Act".

3 2. As used in sections 476.1300 to [~~476.1310~~] **476.1313**, the following terms mean:

- 4 (1) **"Court-related officer", an actively employed, a formerly employed, or a
5 retired:**
- 6 (a) **Justice of the Supreme Court of the United States;**
 - 7 (b) **Judge of the United States Court of Appeals;**
 - 8 (c) **Judge or magistrate judge of the United States District Courts;**
 - 9 (d) **Judge of the United States Bankruptcy Court;**
 - 10 (e) **Judge of the supreme court of Missouri;**
 - 11 (f) **Judge of the Missouri court of appeals;**
 - 12 (g) **Judge or commissioner of the Missouri circuit courts, including of the
13 divisions of a circuit court;**
 - 14 (h) **Prosecuting or circuit attorney, or assistant prosecuting or circuit attorney;**
 - 15 (i) **Circuit clerk, court administrator, deputy circuit clerk, division clerk, or
16 municipal clerk; and**
 - 17 (j) **Juvenile officer or chief deputy juvenile officer;**
- 18 (2) **"Government agency", all agencies, authorities, boards, commissions,
19 departments, institutions, offices, and any other bodies politic and corporate of the state
20 created by the constitution or statute, whether in the executive, judicial, or legislative branch;
21 all units and corporate outgrowths created by executive order of the governor or any
22 constitutional officer, by the supreme court, or by resolution of the general assembly;
23 agencies, authorities, boards, commissions, departments, institutions, offices, and any other**

24 bodies politic and corporate of a political subdivision, including school districts; and any
 25 public governmental body as that term is defined in section 610.010;

26 ~~[(2)]~~ (3) "Home address", a ~~[judicial]~~ **court-related** officer's permanent residence and
 27 any secondary residences affirmatively identified by the ~~[judicial]~~ **court-related** officer, but
 28 does not include a ~~[judicial]~~ **court-related** officer's work address;

29 ~~[(3)]~~ (4) "Immediate family", a ~~[judicial]~~ **court-related** officer's spouse, child,
 30 adoptive child, foster child, parent, or any unmarried companion of the ~~[judicial]~~ **court-**
 31 **related** officer or other familial relative of the ~~[judicial]~~ **court-related** officer or the ~~[judicial]~~
 32 **court-related** officer's spouse who lives in the same residence;

33 ~~[(4) "Judicial officer", actively employed, formerly employed, or retired:~~

34 ~~(a) Justices of the Supreme Court of the United States;~~

35 ~~(b) Judges of the United States Court of Appeals;~~

36 ~~(c) Judges and magistrate judges of the United States District Courts;~~

37 ~~(d) Judges of the United States Bankruptcy Court;~~

38 ~~(e) Judges of the Missouri supreme court;~~

39 ~~(f) Judges of the Missouri court of appeals;~~

40 ~~(g) Judges and commissioners of the Missouri circuit courts, including of the~~
 41 ~~divisions of a circuit court; and~~

42 ~~(h) Prosecuting or circuit attorney, or assistant prosecuting or circuit attorney;]~~

43 (5) "Personal information", a home address, home telephone number, mobile
 44 telephone number, pager number, personal email address, Social Security number, federal tax
 45 identification number, checking and savings account numbers, credit card numbers, marital
 46 status, and identity of children under eighteen years of age;

47 (6) "Publicly available content", any written, printed, or electronic document or
 48 record that provides information or that serves as a document or record maintained,
 49 controlled, or in the possession of a government agency that may be obtained by any person
 50 or entity, from the internet, from the government agency upon request either free of charge or
 51 for a fee, or in response to a request pursuant to chapter 610 or the federal Freedom of
 52 Information Act, 5 U.S.C. Section 552, as amended;

53 (7) "Publicly post or display", to communicate to another or to otherwise make
 54 available to the general public;

55 (8) "Written request", written or electronic notice signed by:

56 (a) A state ~~[judicial]~~ **court-related** officer and submitted to the clerk of the Missouri
 57 supreme court or the clerk's designee; or

58 (b) A federal ~~[judicial]~~ **court-related** officer and submitted to that ~~[judicial]~~ **court-**
 59 **related** officer's clerk of the court or the clerk's designee;

60

61 that is transmitted by the applicable clerk to a government agency, person, business, or
62 association ~~[to request such government agency, person, business, or association refrain from~~
63 ~~posting or displaying publicly available content that includes the judicial officer's personal~~
64 ~~information].~~

476.1302. 1. A government agency shall not publicly post or display publicly
2 available content that includes a ~~[judicial]~~ **court-related** officer's personal information,
3 provided that the government agency has received a written request that the agency refrain
4 from disclosing the ~~[judicial]~~ **court-related** officer's personal information. After a
5 government agency has received a written request, the government agency shall remove
6 the ~~[judicial]~~ **court-related** officer's personal information from publicly available content
7 within five business days. After the government agency has removed the ~~[judicial]~~ **court-**
8 **related** officer's personal information from publicly available content, the government
9 agency shall not publicly post or display the ~~[judicial]~~ **court-related** officer's personal
10 information and the ~~[judicial]~~ **court-related** officer's personal information shall be exempted
11 from the provisions of chapter 610, unless the government agency has received a written
12 ~~[consent from the judicial officer]~~ **request** to make the personal information available to the
13 public.

14 2. If a government agency fails to comply with a written request to refrain from
15 disclosing personal information, the ~~[judicial]~~ **court-related** officer may bring an action
16 seeking injunctive or declaratory relief in any court of competent jurisdiction. If the court
17 grants injunctive or declaratory relief, the court may award costs and reasonable attorney's
18 fees to the ~~[judicial]~~ **court-related** officer.

19 3. The provisions of ~~[subsection 1 of]~~ this section shall not apply to any government
20 agency created under section 43.020 **or to a court-related officer's personal information**
21 **present in records of proceedings of any court of this state contained within any**
22 **statewide court automation system, which shall be governed by rules promulgated by**
23 **the supreme court.**

476.1304. 1. No person, business, or association shall publicly post or display on the
2 internet publicly available content that includes a ~~[judicial]~~ **court-related** officer's personal
3 information, provided that the ~~[judicial officer has made a written request to the]~~ person,
4 business, or association **has received a written request** that it refrain from disclosing the
5 personal information.

6 2. No person, business, or association shall solicit, sell, or trade on the internet a
7 ~~[judicial]~~ **court-related** officer's personal information for purposes of tampering with a
8 ~~[judicial]~~ **court-related** officer in violation of section 575.095 or with the intent to pose an
9 imminent and serious threat to the health and safety of the ~~[judicial]~~ **court-related** officer or
10 the ~~[judicial]~~ **court-related** officer's immediate family.

11 3. As prohibited in this section, persons, businesses, or associations posting,
12 displaying, soliciting, selling, or trading a ~~[judicial]~~ **court-related** officer's personal
13 information on the internet includes, but is not limited to, internet phone directories,
14 internet search engines, internet data aggregators, and internet service providers.

 476.1306. 1. After a person, business, or association has received a written request
2 ~~[from a judicial officer]~~ to protect the privacy of the **court-related** officer's personal
3 information, that person, business, or association shall have five business days to remove the
4 personal information from the internet.

 2. After a person, business, or association has received a written request ~~[from a~~
6 ~~judicial officer]~~ **to protect the privacy of the court-related officer's personal information**,
7 that person, business, or association shall ensure that the ~~[judicial]~~ **court-related** officer's
8 personal information is not made available on any website or subsidiary website controlled by
9 that person, business, or association.

10 3. After receiving a ~~[judicial officer's]~~ written request **to protect the privacy of the**
11 **court-related officer's personal information**, no person, business, or association shall make
12 available the ~~[judicial]~~ **court-related** officer's personal information to any other person,
13 business, or association through any medium.

 476.1308. A ~~[judicial]~~ **court-related** officer whose personal information is made
2 public as a result of a violation of sections 476.1304 to 476.1306 may bring an action seeking
3 injunctive or declaratory relief in any court of competent jurisdiction. If the court grants
4 injunctive or declaratory relief, the person, business, or association responsible for the
5 violation shall be required to pay the ~~[judicial officer's]~~ costs and reasonable attorney's fees of
6 **the court-related officer**.

 476.1310. 1. No government agency, person, business, or association shall be found
2 to have violated any provision of sections 476.1300 to ~~[476.1310]~~ **476.1313** if the ~~[judicial~~
3 ~~officer fails to submit]~~ **government agency, person, business, or association has not**
4 **received a valid** written request calling for the protection of the ~~[judicial]~~ **court-related**
5 officer's personal information.

 2. A written request shall be valid if:

7 (1) The ~~[judicial]~~ **court-related** officer sends a written request directly to a
8 government agency, person, business, or association; or

9 (2) The ~~[judicial]~~ **court-related** officer complies with a Missouri supreme court rule
10 for a state ~~[judicial]~~ **court-related** officer to file the written request with the clerk of the
11 Missouri supreme court or the clerk's designee to notify government agencies and such notice
12 is properly delivered by mail or electronic format.

13 3. In each quarter of a calendar year, the clerk of the Missouri supreme court or the
14 clerk's designee shall provide a list of all state ~~[judicial]~~ **court-related** officers who have

15 submitted a written request under this section to the appropriate officer with ultimate
16 supervisory authority for a government agency. The officer shall promptly provide a copy of
17 the list to all government agencies under his or her supervision. Receipt of the written request
18 list compiled by the clerk of the Missouri supreme court or the clerk's designee by a
19 government agency shall constitute a written request to that government agency for the
20 purposes of sections 476.1300 to ~~[476.1310]~~ **476.1313**.

21 4. The chief clerk or circuit clerk of the court where the ~~[judicial]~~ **court-related**
22 officer serves may submit a written request on the ~~[judicial]~~ **court-related** officer's behalf,
23 provided that the ~~[judicial]~~ **court-related** officer gives written consent to the clerk and
24 provided that the clerk agrees to furnish a copy of that consent when a written request is
25 made. The chief clerk or circuit clerk shall submit the written request as provided by
26 subsection 2 of this section.

27 5. A ~~[judicial]~~ **court-related** officer's written request shall specify what personal
28 information shall be maintained as private. If a ~~[judicial]~~ **court-related** officer wishes to
29 identify a secondary residence as a home address, the designation shall be made in the written
30 request. A ~~[judicial]~~ **court-related** officer shall disclose the identity of his or her immediate
31 family and indicate that the personal information of those members of the immediate family
32 shall also be excluded to the extent that it could reasonably be expected to reveal the personal
33 information of the ~~[judicial]~~ **court-related** officer. A ~~[judicial]~~ **court-related** officer shall
34 make reasonable efforts to identify specific publicly available content in the possession of a
35 government agency.

36 6. A ~~[judicial]~~ **court-related** officer's written request is valid until the ~~[judicial]~~
37 **court-related** officer provides the government agency, person, business, or association with
38 written consent to release the personal information. A ~~[judicial]~~ **court-related** officer's
39 written request expires on such ~~[judicial]~~ **court-related** officer's death.

40 7. The provisions of sections 476.1300 to ~~[476.1310]~~ **476.1313** shall not apply to any
41 disclosure of personal information of a ~~[judicial]~~ **court-related** officer or a member of a
42 ~~[judicial]~~ **court-related** officer's immediate family as required by Article VIII, Section 23 of
43 the Missouri Constitution, sections 105.470 to 105.482, section 105.498, and chapter 130.

476.1313. 1. Notwithstanding any other provision of law to the contrary, a recorder
2 of deeds shall meet the requirements of the provisions of sections 476.1300 to 476.1310 by
3 complying with this section. As used in this section, the following terms mean:

4 (1) "Eligible documents", documents or instruments that are maintained by and
5 located in the office of the recorder of deeds that are accessed electronically;

6 (2) ~~["Immediate family" shall have the same meaning as in section 476.1300;~~

7 (3) "Indexes", indexes maintained by and located in the office of the recorder of
8 deeds that are accessed electronically;

9 ~~[(4) "Judicial officer" shall have the same meaning as in section 476.1300;~~

10 ~~(5)]~~ (3) "Recorder of deeds" shall have the same meaning as in section 59.005;

11 ~~[(6)]~~ (4) "Shield", "shielded", or "shielding", a prohibition against the general public's
12 electronic access to eligible documents and the ~~[unique identifier]~~ **document locator**
13 **number, address, property description**, and recording date contained in indexes for eligible
14 documents; **except that, nothing in this definition shall prohibit a recorder of deeds from**
15 **attaching a notice to the grantor's name in the indexes indicating a document is**
16 **shielded;**

17 ~~[(7)]~~ (5) "Written request", written or electronic notice signed by:

18 (a) A state ~~[judicial]~~ **court-related** officer and submitted to the clerk of the Missouri
19 supreme court or the clerk's designee; or

20 (b) A federal ~~[judicial]~~ **court-related** officer and submitted to that ~~[judicial]~~ **court-**
21 **related** officer's clerk of the court or the clerk's designee;

22

23 that is transmitted electronically by the applicable clerk to a recorder of deeds to request that
24 eligible documents be shielded.

25 2. Written requests transmitted to a recorder of deeds shall only include information
26 specific to eligible documents maintained by that county. Any written request transmitted to a
27 recorder of deeds shall include the requesting ~~[judicial]~~ **court-related** officer's full legal name
28 or legal alias and a document locator number for each eligible document for which the
29 ~~[judicial]~~ **court-related** officer is requesting shielding. If the ~~[judicial]~~ **court-related** officer
30 is not a party to the instrument but is requesting shielding for an eligible document in which
31 an immediate family member is a party to the instrument, the full legal name or legal alias of
32 the immediate family member shall also be provided.

33 3. Not more than five business days after the date on which the recorder of deeds
34 receives the written request, the recorder of deeds shall shield the eligible documents listed in
35 the written request. Within five business days of receipt, the recorder of deeds shall
36 electronically reply to the written request with a list of any document locator numbers
37 submitted under subsection 2 of this section not found in the records maintained by that
38 recorder of deeds.

39 4. If the full legal name or legal alias of the ~~[judicial]~~ **court-related** officer or
40 immediate family member provided does not appear on an eligible document listed in the
41 written request, the recorder of deeds may electronically reply to the written request with this
42 information. The recorder of deeds may delay shielding such eligible document until
43 electronic confirmation is received from the applicable court clerk or ~~[judicial]~~ **court-related**
44 officer.

45 5. In order to shield subsequent eligible documents, the ~~[judicial]~~ **court-related**
46 officer shall present to the recorder of deeds at the time of recording a copy of his or her
47 written request. The recorder of deeds shall ensure that the eligible document is shielded
48 within five business days.

49 6. Eligible documents shall remain shielded until the recorder of deeds receives a
50 court order or notarized affidavit signed by the ~~[judicial]~~ **court-related** officer directing the
51 recorder of deeds to terminate shielding.

52 7. The provisions of this section shall not prohibit access to a shielded eligible
53 document by **a party to the instrument or** an individual or entity that provides to the
54 recorder of deeds a court order or notarized affidavit signed by the ~~[judicial]~~ **court-related**
55 officer.

56 8. No recorder of deeds shall be liable for any damages under this section, provided
57 the recorder of deeds made a good faith effort to comply with the provisions of this section.
58 No recorder of deeds shall be liable for the release of any eligible document or any data from
59 any eligible document that was released or accessed prior to the eligible document being
60 shielded pursuant to this section.

477.650. 1. There is hereby created in the state treasury the "Basic Civil Legal
2 Services Fund", to be administered by, or under the direction of, the Missouri supreme court.
3 All moneys collected under section 488.031 shall be credited to the fund. In addition to the
4 court filing surcharges, funds from other public or private sources also may be deposited into
5 the fund and all earnings of the fund shall be credited to the fund. The purpose of this section
6 is to increase the funding available for basic civil legal services to eligible low-income
7 persons as such persons are defined by the Federal Legal Services Corporation's Income
8 Eligibility Guidelines.

9 2. Funds in the basic civil legal services fund shall be allocated annually and
10 expended to provide legal representation to eligible low-income persons in the state in civil
11 matters. Moneys, funds, or payments paid to the credit of the basic civil legal services fund
12 shall, at least as often as annually, be distributed to the legal services organizations in this
13 state which qualify for Federal Legal Services Corporation funding. The funds so distributed
14 shall be used by legal services organizations in this state solely to provide legal services to
15 eligible low-income persons as such persons are defined by the Federal Legal Services
16 Corporation's Income Eligibility Guidelines. Fund money shall be subject to all restrictions
17 imposed on such legal services organizations by law. Funds shall be allocated to the
18 programs according to the funding formula employed by the Federal Legal Services
19 Corporation for the distribution of funds to this state. Notwithstanding the provisions of
20 section 33.080, any balance remaining in the basic civil legal services fund at the end of any
21 year shall not be transferred to the state's general revenue fund. Moneys in the basic civil

22 legal services fund shall not be used to pay any portion of a refund mandated by Article X,
23 Section [45] 18 of the Missouri Constitution. State legal services programs shall represent
24 individuals to secure lawful state benefits, but shall not sue the state, its agencies, or its
25 officials, with any state funds.

26 3. Contracts for services with state legal services programs shall provide eligible low-
27 income Missouri citizens with equal access to the civil justice system, with a high priority on
28 families and children, domestic violence, the elderly, and qualification for benefits under the
29 Social Security Act. State legal services programs shall abide by all restrictions,
30 requirements, and regulations of the Legal Services Corporation regarding their cases.

31 4. The Missouri supreme court, or a person or organization designated by the court, is
32 the administrator and shall administer the fund in such manner as determined by the Missouri
33 supreme court, including in accordance with any rules and policies adopted by the Missouri
34 supreme court for such purpose. Moneys from the fund shall be used to pay for the collection
35 of the fee and the implementation and administration of the fund.

36 5. Each recipient of funds from the basic civil legal services fund shall maintain
37 appropriate records accounting for the receipt and expenditure of all funds distributed and
38 received pursuant to this section. These records must be maintained for a period of five years
39 from the close of the fiscal year in which such funds are distributed or received or until
40 audited, whichever is sooner. All funds distributed or received pursuant to this section are
41 subject to audit by the Missouri supreme court or the state auditor.

42 6. The Missouri supreme court, or a person or organization designated by the court,
43 shall, by January thirty-first of each year, report to the general assembly on the moneys
44 collected and disbursed pursuant to this section and section 488.031 by judicial circuit.

45 ~~[7. The provisions of this section shall expire on December 31, 2025.]~~

478.001. 1. For purposes of sections 478.001 to 478.009, the following terms shall
2 mean:

3 (1) "Adult treatment court", a treatment court focused on addressing the substance use
4 disorder or co-occurring disorder of defendants charged with a criminal offense;

5 (2) "Community-based substance use disorder treatment program", an agency
6 certified by the department of mental health as a substance use disorder treatment provider;

7 (3) "Co-occurring disorder", the coexistence of both a substance use disorder and a
8 mental health disorder;

9 (4) "DWI court", a treatment court focused on addressing the substance use disorder
10 or co-occurring disorder of defendants who have pleaded guilty to or been found guilty of
11 driving while intoxicated or driving with excessive blood alcohol content;

12 (5) "Family treatment court", a treatment court focused on addressing a substance use
13 disorder or co-occurring disorder existing in families in the juvenile court, family court, or

14 criminal court in which a parent or other household member has been determined to have a
15 substance use disorder or co-occurring disorder that impacts the safety and well-being of the
16 children in the family;

17 (6) "Juvenile treatment court", a treatment court focused on addressing the substance
18 use disorder or co-occurring disorder of juveniles in the juvenile court;

19 (7) "Medication-assisted treatment", the use of pharmacological medications, in
20 combination with counseling and behavioral therapies, to provide a whole-patient approach to
21 the treatment of substance use disorders;

22 (8) "Mental health disorder", any organic, mental, or emotional impairment that has
23 substantial adverse effects on a person's cognitive, volitional, or emotional function and that
24 constitutes a substantial impairment in a person's ability to participate in activities of normal
25 living;

26 (9) **"Mental health treatment court", a treatment court focused on addressing**
27 **the mental health disorder or co-occurring disorder of defendants charged with a**
28 **criminal offense;**

29 (10) "Risk and needs assessment", an actuarial tool, approved by the treatment courts
30 coordinating commission and validated on a targeted population of drug-involved adult
31 offenders, scientifically proven to determine a person's risk to recidivate and to identify
32 criminal risk factors that, when properly addressed, can reduce that person's likelihood of
33 committing future criminal behavior;

34 ~~[(10)]~~ (11) "Substance use disorder", the recurrent use of alcohol or drugs that causes
35 clinically significant impairment, including health problems, disability, and failure to meet
36 major responsibilities at work, school, or home;

37 ~~[(11)]~~ (12) "Treatment court commissioner", a person appointed by a majority of the
38 circuit and associate circuit judges in a circuit to preside as the judicial officer in the treatment
39 court division;

40 ~~[(12)]~~ (13) "Treatment court division", a specialized, nonadversarial court division
41 with jurisdiction over cases involving substance-involved offenders and making extensive use
42 of comprehensive supervision, drug or alcohol testing, and treatment services. Treatment
43 court divisions include, but are not limited to, the following specialized courts: adult
44 treatment court, DWI court, family treatment court, juvenile treatment court, **mental health**
45 **treatment court**, veterans treatment court, or any combination thereof;

46 ~~[(13)]~~ (14) "Treatment court team", the following members who are assigned to the
47 treatment court: the judge or treatment court commissioner, treatment court administrator or
48 coordinator, prosecutor, public defender or member of the criminal defense bar, a
49 representative from the division of probation and parole, a representative from law

50 enforcement, substance use disorder **or mental health disorder** treatment providers, and any
51 other person selected by the treatment court team;

52 ~~[(14)]~~ (15) "Veterans treatment court", a treatment court focused on substance use
53 disorders, ~~[co-occurring]~~ **mental health** disorders, or ~~[mental health]~~ **co-occurring** disorders
54 of defendants charged with a criminal offense who are military veterans or current military
55 personnel.

56 2. A treatment court division shall be established, prior to August 28, 2021, by any
57 circuit court pursuant to sections 478.001 to 478.009 to provide an alternative for the judicial
58 system to dispose of cases which stem from, or are otherwise impacted by, a substance use
59 **disorder or mental health disorder**. The treatment court division may include, but not be
60 limited to, cases assigned to an adult treatment court, DWI court, family treatment court,
61 juvenile treatment court, **mental health treatment court**, veterans treatment court, or any
62 combination thereof. A treatment court shall combine judicial supervision, drug or alcohol
63 testing, and treatment of participants. Except for good cause found by the court, a treatment
64 court making a referral for substance use disorder **or mental health disorder** treatment, when
65 such program will receive state or federal funds in connection with such referral, shall refer
66 the person only to a program which is certified by the department of mental health, unless no
67 appropriate certified treatment program is located within the same county as the treatment
68 court. Upon successful completion of the treatment court program, the charges, petition, or
69 penalty against a treatment court participant may be dismissed, reduced, or modified, unless
70 otherwise stated. **Except for those costs waived pursuant to section 488.016**, any fees
71 received by a court from a defendant as payment for ~~[substance]~~ treatment programs shall not
72 be considered court costs, charges or fines.

73 3. An adult treatment court may be established by any circuit court ~~[under sections~~
74 ~~478.001 to 478.009]~~ to provide an alternative for the judicial system to dispose of cases which
75 stem from a substance use **disorder**.

76 4. ~~[Under sections 478.001 to 478.009,]~~ A DWI court may be established by any
77 circuit court to provide an alternative for the judicial system to dispose of cases that stem
78 from driving while intoxicated.

79 5. A family treatment court may be established by any circuit court. The juvenile
80 division of the circuit court or the family court, if one is established under section 487.010,
81 may refer one or more parents or other household members subject to its jurisdiction to the
82 family treatment court if he or she has been determined to have a substance use disorder or
83 co-occurring disorder that impacts the safety and well-being of the children in the family.

84 6. A juvenile treatment court may be established by the juvenile division of any
85 circuit court. The juvenile division may refer a juvenile to the juvenile treatment court if the
86 juvenile is determined to have committed acts that violate the criminal laws of the state or

87 ordinances of a municipality or county and a substance use disorder or co-occurring disorder
88 contributed to the commission of the offense.

89 7. The general assembly finds and declares that it is the public policy of this state to
90 encourage and provide an alternative method for the disposal of cases for military veterans
91 and current military personnel with substance use disorders, mental health disorders, or co-
92 occurring disorders. In order to effectuate this public policy, a veterans treatment court may
93 be established by any circuit court, or combination of circuit courts upon agreement of the
94 presiding judges of such circuit courts, to provide an alternative for the judicial system to
95 dispose of cases that stem from a substance use disorder, mental health disorder, or co-
96 occurring disorder of military veterans or current military personnel. A veterans treatment
97 court shall combine judicial supervision, drug or alcohol testing, and substance use **disorder**
98 and mental health disorder treatment to participants who have served or are currently serving
99 the United States Armed Forces, including members of the Reserves or National Guard, with
100 preference given to individuals who have combat service. For the purposes of this section,
101 combat service shall be shown through military service documentation that reflects service in
102 a combat theater, receipt of combat service medals, or receipt of imminent danger or hostile
103 fire pay or tax benefits. Except for good cause found by the court, a veterans treatment court
104 shall make a referral for substance use **disorder** or mental health disorder treatment, or a
105 combination of substance use **disorder** and mental health disorder treatment, through the
106 Department of Defense health care, the **United States Department of Veterans**
107 **[Administration] Affairs**, or a community-based substance use disorder treatment program.
108 Community-based **substance use disorder treatment** programs utilized shall receive state or
109 federal funds in connection with such referral and shall only refer the individual to a program
110 certified by the department of mental health, unless no appropriate certified treatment
111 program is located within the same circuit as the veterans treatment court.

112 **8. A mental health treatment court may be established by any circuit court to**
113 **provide an alternative for the judicial system to dispose of cases that stem from a mental**
114 **health disorder or co-occurring disorder.**

478.330. 1. When an annual judicial performance report submitted pursuant to
2 section 477.405 indicates for three consecutive calendar years the need for two or more full-
3 time judicial positions in any judicial circuit there shall be one additional circuit judge
4 position authorized in such circuit, subject to ~~[appropriations]~~ **an initial appropriation** made
5 for that purpose. **The clerk of the supreme court shall notify the Missouri revisor of**
6 **statutes of any new circuit judgeships authorized under this section, and the Missouri**
7 **revisor of statutes shall publish a footnote to this section listing the authorized**
8 **judgeships and corresponding judicial circuits.**

9 2. **Except in circuits where circuit judges are selected under the provisions of**
10 **Sections 25(a) to 25(g) of Article V of the Missouri Constitution, a circuit judge**
11 **authorized under subsection 1 of this section shall be elected at the next general election**
12 **after the authorization, and every six years thereafter. Such judicial position shall not**
13 **be considered vacant or filled by appointment until January first next following the**
14 **authorization.** Except in circuits where circuit judges are selected under the provisions of
15 Sections 25(a) to 25(g) of Article V of the Missouri Constitution, the election of circuit judges
16 authorized by this section shall be conducted in accordance with chapter 115.

478.376. There shall be three circuit judges in the sixth judicial circuit.

478.550. 1. There shall be four circuit judges in the twenty-third judicial circuit
2 consisting of the county of Jefferson. These judges shall sit in divisions numbered one, two,
3 three and four. Beginning on January 1, 2007, there shall be six circuit judges in the twenty-
4 third judicial district and these judges shall sit in divisions numbered one, two, three, four,
5 five, and six. The division eleven associate circuit judge position and the division twelve
6 associate circuit judge shall become circuit judge positions beginning January 1, 2007. The
7 division eleven associate circuit judge shall be numbered as division five and the division
8 twelve associate circuit judge shall be numbered as division six.

9 2. The circuit judge in division three shall be elected in 1980. The circuit judges in
10 divisions one and four shall be elected in 1982. The circuit judge in division two shall be
11 elected in 1984. The circuit judges in divisions five and six shall be elected for a six-year
12 term in 2006.

13 3. Beginning January 1, 2007, the family court commissioner position in the twenty-
14 third judicial district appointed under section 487.020 shall become an associate circuit judge
15 position in all respects and shall be designated as division eleven. This position may retain
16 the duties and responsibilities with regard to the family court. The associate circuit judge in
17 division eleven shall be elected in 2006 for a full four-year term. This associate circuit
18 judgeship shall not be included in the statutory formula for authorizing additional associate
19 circuit judgeships per county under section 478.320.

20 4. Beginning January 1, 2007, the treatment court commissioner position in the
21 twenty-third judicial district appointed under section 478.003 shall become an associate
22 circuit judge position in all respects and shall be designated as division twelve. This position
23 may retain the duties and responsibilities with regard to the treatment court. The associate
24 circuit judge in division twelve shall be elected in 2006 for a full four-year term. This
25 associate circuit judgeship shall not be included in the statutory formula for authorizing
26 additional associate circuit judgeships per county under section 478.320.

27 **5. There shall be one additional associate circuit judge position in the twenty-**
28 **third judicial circuit. This associate circuit judgeship shall not be included in the**

29 **statutory formula for authorizing additional associate circuit judgeships per county**
30 **under section 478.320. The governor shall appoint such judge, and that judge shall**
31 **serve until January 1, 2029. An associate circuit judge shall be elected in 2028.**

478.600. 1. There shall be four circuit judges in the eleventh judicial circuit. These
2 judges shall sit in divisions numbered one, two, three and four. Beginning on January 1,
3 2007, there shall be six circuit judges in the eleventh judicial circuit and these judges shall sit
4 in divisions numbered one, two, three, four, five, and seven. The division five associate
5 circuit judge position and the division seven associate circuit judge position shall become
6 circuit judge positions beginning January 1, 2007, and shall be numbered as divisions five and
7 seven. **Beginning January 1, 2027, there shall be seven circuit judges in the eleventh**
8 **judicial circuit and the judges shall sit in divisions numbered one, two, three, four, five,**
9 **seven, and seventeen.**

10 2. The circuit judge in division two shall be elected in 1980. The circuit judge in
11 division four shall be elected in 1982. The circuit judge in division one shall be elected in
12 1984. The circuit judge in division three shall be elected in 1992. The circuit judges in
13 divisions five and seven shall be elected for a six-year term in 2006. **The governor shall**
14 **appoint a circuit judge for division seventeen, and that circuit judge shall serve until**
15 **January 1, 2029. The circuit judge in division seventeen shall be elected in 2028.**

16 3. Beginning January 1, 2007, the family court commissioner positions in the
17 eleventh judicial circuit appointed under section 487.020 shall become associate circuit judge
18 positions in all respects and shall be designated as divisions nine and ten respectively. These
19 positions may retain the duties and responsibilities with regard to the family court. The
20 associate circuit judges in divisions nine and ten shall be elected in 2006 for full four-year
21 terms.

22 4. Beginning on January 1, 2007, the treatment court commissioner position in the
23 eleventh judicial circuit appointed under section 478.003 shall become an associate circuit
24 judge position in all respects. Such associate circuit judge shall be elected in 2006 for a full
25 four-year term. This associate circuit judgeship shall not be included in the statutory formula
26 for authorizing additional associate circuit judgeships per county under section 478.320.

27 5. Beginning in fiscal year 2015, there shall be one additional associate circuit judge
28 position in the eleventh judicial circuit. The associate circuit judge shall be elected in 2016.
29 This associate circuit judgeship shall not be included in the statutory formula for authorizing
30 additional circuit judgeships per county under section 478.320. Beginning in fiscal year
31 2019, there shall be one additional associate circuit judge position in the eleventh judicial
32 circuit. The associate circuit judge shall be elected in 2020. This associate circuit judgeship
33 shall not be included in the statutory formula for authorizing additional circuit judgeships per
34 county under section 478.320.

35 **6. Subject to appropriation, there shall be an additional associate circuit judge**
36 **position in the eleventh judicial circuit. The associate circuit judge shall be appointed**
37 **by the governor upon appropriation and shall be elected in the next general election.**

478.610. 1. ~~[There shall be three circuit judges in the thirteenth judicial circuit~~
2 ~~consisting of the counties of Boone and Callaway. These judges shall sit in divisions~~
3 ~~numbered one, two and three. Beginning on January 1, 2007,]~~ There shall be ~~[four]~~ **five**
4 circuit judges in the thirteenth judicial circuit and these judges shall sit in divisions numbered
5 one, two, three, ~~[and]~~ **four, and thirteen.**

6 2. The circuit judge in division two shall be elected in 1980. The circuit judges in
7 divisions one and three shall be elected in 1982. The circuit judge in division four shall be
8 elected in ~~[2006 for a two-year term and thereafter in]~~ 2008 ~~[for a full six-year term]~~, **and**
9 **every six years thereafter. The circuit judge in division thirteen shall be elected in 2030,**
10 **and every six years thereafter.**

11 3. Beginning August 28, 2001, there shall be one more additional associate circuit
12 judge position in Boone County than is provided pursuant to section 478.320.

478.700. 1. There shall be ~~[two]~~ **three** circuit judges in the twenty-fifth judicial
2 circuit ~~[consisting of the counties of Maries, Phelps, Pulaski and Texas].~~ These judges shall
3 sit in divisions numbered one ~~[and]~~, two, **and three.**

4 2. The circuit judge in division two shall be elected in 1980. The circuit judge in
5 division one shall be elected in 1982. **The governor shall appoint a circuit judge for**
6 **division three, and that circuit judge shall serve until January 1, 2027. A circuit judge**
7 **for division three shall be elected in 2026, and every six years thereafter.**

478.705. 1. There shall be three circuit judges in the twenty-sixth judicial circuit
2 ~~[consisting of the counties of Camden, Laclede, Miller, Moniteau and Morgan].~~ These judges
3 shall sit in divisions numbered one, two, and three.

4 2. The circuit judge in division two shall be elected in 1980. The circuit judge in
5 division one shall be elected in 1982. The governor shall appoint a judge for division three
6 and notwithstanding the provisions of section 105.030, that judge shall serve until January 1,
7 2021. A judge for division three shall be elected in 2020, **and every six years thereafter.**

8 **3. There shall be one additional associate circuit judge in Miller County. This**
9 **associate circuit judge shall not be included in the statutory formula for authorizing**
10 **additional associate circuit judges per county as provided under section 478.320. The**
11 **governor shall appoint such judge, and that judge shall serve until January 1, 2029. An**
12 **associate circuit judge shall be elected in 2028, and every four years thereafter.**

478.710. 1. There shall be ~~[two]~~ **three** circuit judges in the thirty-second judicial
2 circuit ~~[consisting of the counties of Perry, Bollinger and Cape Girardeau].~~ These judges
3 shall sit in ~~[two]~~ **three** divisions numbered one ~~[and]~~, two, **and three.**

4 2. The circuit judge in division two shall be elected in 1982. The circuit judge in
5 division one shall be elected in 1984. **The governor shall appoint a circuit judge for**
6 **division three and that circuit judge shall serve until January 1, 2029. A circuit judge**
7 **for division three shall be elected in 2028.**

483.083. 1. **(1)** Each circuit clerk shall annually receive as compensation the
2 following amounts as base salary:

3 ~~[(1)]~~ **(a)** In counties of the first classification, ~~[thirty-six thousand one hundred forty-~~
4 ~~five dollars;]~~ except those counties where court is held in two cities, in which instance an
5 additional four thousand dollars shall be added to the base salary:

6 **a. Before September 1, 2025, thirty-six thousand one hundred forty-five dollars;**
7 **and**

8 **b. Beginning on September 1, 2025, ninety-four thousand three hundred thirty**
9 **dollars;**

10 ~~[(2)]~~ **(b)** In all counties of the second or fourth classification:

11 **a. Before September 1, 2025,** thirty-one thousand nine hundred seventy-eight
12 dollars; except those counties where court is held in two cities, thirty-five thousand five
13 hundred forty-nine dollars; **and**

14 **b. Beginning on September 1, 2025, ninety thousand five hundred seventy-three**
15 **dollars; and**

16 ~~[(3)]~~ **(c)** In the counties of the third classification:

17 **a. Before September 1, 2025,** twenty-seven thousand two hundred eighteen dollars
18 except those counties where court is held in two cities; thirty thousand three hundred eight
19 dollars; except Marion County circuit clerks, district one and district two in Hannibal, thirty-
20 one thousand three hundred eighty-three dollars; **and**

21 **b. Beginning on September 1, 2025, eighty-five thousand five hundred sixty-five**
22 **dollars.**

23 ~~[(4) In the city of St. Louis, sixty seven thousand three hundred sixty dollars;~~

24 ~~[(5)]~~ **(2)** The compensation of circuit clerks provided by **subdivision (1)** of this
25 subsection shall annually be increased by an amount equivalent to the annual salary
26 adjustment approved pursuant to section 476.405 for employees of the judicial department.

27 **(3) The annual salary of a circuit clerk shall not be less than the previous yearly**
28 **compensation.**

29 2. Such circuit clerks shall receive in addition to any salary provided by this section
30 any salary adjustment provided pursuant to section 476.405.

31 3. ~~[In the event the judge orders child support payments in Marion County to be made~~
32 ~~through the clerk, the clerk shall annually, on or before February first of each year, charge ten~~

33 dollars per year to each such person so obligated to make child support payments, which fee
34 shall be paid to the state.

35 4.] Payment of the compensation provided in this section shall be payable in equal
36 monthly installments, except that the salary of the circuit clerk of the city of St. Louis shall be
37 paid in semimonthly installments and except that all such compensation paid by the state shall
38 be paid ~~[in]~~ installments as provided in section 33.100. The compensation of all circuit clerks
39 shall be paid by the state and they shall be considered state employees for all purposes except
40 the manner of their selection, appointment, or removal from office; except that, the circuit
41 clerk of the city of St. Louis, the circuit clerk of St. Louis County, and the court administrator
42 of Jackson County shall continue to be paid by the city and those counties and shall not
43 become state employees, but the city of St. Louis, St. Louis County, and Jackson County shall
44 ~~[each]~~ be paid an amount which is equivalent to a circuit clerk's salary as provided in
45 subsection 3 of section 483.015.

46 ~~[5.]~~ 4. The compensation provided in this section shall be in lieu of all fees, and all
47 fees collected shall be paid over to the state or to the counties and the city of St. Louis as
48 otherwise provided by law.

49 **5. The salary adjustments provided by this section shall not be effective unless**
50 **an initial appropriation necessary to fully fund the adjustments is approved by the**
51 **general assembly and the governor.**

488.040. ~~[4.]~~ Each grand and petit juror shall~~], pursuant to the provisions of section~~
2 ~~494.455, receive six dollars per day for every day he or she may actually serve as such and~~
3 ~~seven cents for every mile he or she may necessarily travel going from his or her place of~~
4 ~~residence to the courthouse and returning, to be paid from funds of the county or a city not~~
5 ~~within a county.~~

6 2. ~~Provided that a county or a city not within a county authorizes daily compensation~~
7 ~~payable from county or city funds for jurors who serve in that county pursuant to subsection 3~~
8 ~~of this section in the amount of at least six dollars per day in addition to the amount required~~
9 ~~by subsection 1 of this section, a person shall receive an additional six dollars per day,~~
10 ~~pursuant to the provisions of section 494.455, to be reimbursed by the state of Missouri so~~
11 ~~that the total compensation payable shall be at least eighteen dollars, plus mileage as~~
12 ~~indicated in subsection 1 of this section, for each day that the person actually serves as a petit~~
13 ~~juror in a particular case; or for each day that a person actually serves as a grand juror during~~
14 ~~a term of a grand jury. The state shall reimburse the county for six dollars of the additional~~
15 ~~juror compensation provided by this subsection.~~

16 3. ~~The governing body of each county or a city not within a county may authorize~~
17 ~~additional daily compensation and mileage allowance for jurors, which additional~~
18 ~~compensation shall be paid from the funds of the county or a city not within a county.~~

19 ~~The governing body of each county or a city not within a county may authorize additional~~
20 ~~daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors~~
21 ~~may receive the additional compensation and mileage allowance authorized by this subsection~~
22 ~~only if the governing body of the county or the city not within a county authorizes the~~
23 ~~additional compensation. The provisions of this subsection authorizing additional~~
24 ~~compensation shall terminate upon the issuance of a mandate by the Missouri supreme~~
25 ~~court which results in the state of Missouri being obligated or required to pay any such~~
26 ~~additional compensation even if such additional compensation is formally approved or~~
27 ~~authorized by the governing body of a county or a city not within a county.~~

28 ~~4. When each panel of jurors summoned and attending court has completed its~~
29 ~~service, the board of jury commissioners shall cause to be submitted to the governing body of~~
30 ~~the county or a city not within a county a statement of fees earned by each juror. Within thirty~~
31 ~~days of the submission of the statement of fees, the governing body shall cause payment to be~~
32 ~~made to those jurors summoned the fees earned during their service as jurors] receive daily~~
33 **compensation and mileage allowance in the amount provided by law pursuant to section**
34 **494.455.**

~~494.455. 1. [Each county or city not within a county may elect to compensate its~~
2 ~~jurors pursuant to subsection 2 of this section except as otherwise provided in subsection 3 of~~
3 ~~this section.~~

4 ~~2.] Each grand and petit juror shall receive a minimum of six dollars per day, for~~
5 ~~every day [he or she] the juror may actually serve as [such] a juror, and [seven cents] the~~
6 ~~mileage rate as provided by section 33.095 for state employees for every mile [he or she]~~
7 ~~the juror may necessarily travel going from [his or her] the juror's place of residence to the~~
8 ~~courthouse and returning, to be paid from funds of the county or a city not within a county.~~
9 **Each county or city not within a county may elect to compensate its jurors pursuant to**
10 **subsection 2 of this section, except as otherwise provided in subsection 3 of this section.**

11 **2.** The governing body of each county or a city not within a county may authorize
12 additional daily compensation and mileage allowance for jurors, which additional
13 compensation shall be paid from the funds of the county or a city not within a county.
14 The governing body of each county or a city not within a county may authorize additional
15 daily compensation and mileage allowance for jurors attending a coroner's inquest. Jurors
16 may receive the additional compensation and mileage allowance authorized by this subsection
17 only if the governing body of the county or the city not within a county authorizes the
18 additional compensation. The provisions of this subsection authorizing additional
19 compensation shall terminate upon the issuance of a mandate by the Missouri supreme
20 court which results in the state of Missouri being obligated or required to pay any such
21 additional compensation even if such additional compensation is formally approved or

22 authorized by the governing body of a county or a city not within a county. Provided that a
23 county or a city not within a county authorizes daily compensation payable from county or
24 city funds for jurors who serve in that county pursuant to this subsection in the amount of at
25 least six dollars per day in addition to the amount required by ~~[this]~~ subsection **1 of this**
26 **section**, a person shall receive an additional six dollars per day to be reimbursed by the state
27 of Missouri so that the total compensation payable shall be at least eighteen dollars, plus
28 mileage for each day that the person actually serves as a petit juror in a particular case; or for
29 each day that a person actually serves as a grand juror during a term of a grand jury. The state
30 shall reimburse the county for six dollars of the additional juror compensation provided by
31 this subsection.

32 3. ~~[In any county of the first classification without a charter form of government and~~
33 ~~with a population of at least two hundred thousand inhabitants, no grand or petit juror shall~~
34 ~~receive compensation for the first two days of service, but shall receive fifty dollars per day~~
35 ~~for the third day and each subsequent day he or she may actually serve as such, and seven~~
36 ~~cents for every mile he or she may necessarily travel going from his or her place of residence~~
37 ~~to the courthouse and returning, to be paid from funds of the county.] Notwithstanding the~~
38 **provisions of subsection 1 or 2 of this section, by a majority vote, the governing body of**
39 **a county or city not within a county may adopt a system for juror compensation in the**
40 **county or city not within a county as follows: each grand or petit juror shall receive fifty**
41 **dollars per day for the third day the juror may actually serve as a juror and for each**
42 **subsequent day of actual service, and the mileage rate as provided by section 33.095 for**
43 **state employees for every mile the juror may necessarily travel from the juror's place of**
44 **residence to the courthouse and returning, to be paid from funds of the county or city**
45 **not within a county, provided that no grand or petit juror shall receive compensation for**
46 **the first two days the juror may actually serve as such.**

47 4. When each panel of jurors summoned and attending court has completed its
48 service, the board of jury commissioners shall cause to be submitted to the governing body of
49 the county or a city not within a county a statement of fees earned by each juror. Within thirty
50 days of the submission of the statement of fees, the governing body shall cause payment to be
51 made to those jurors summoned the fees earned during their service as jurors.

510.500. Sections 510.500 to 510.521 shall be known and may be cited as the
2 **"Uniform Interstate Depositions and Discovery Act".**

510.503. As used in sections 510.500 to 510.521, the following terms mean:

2 (1) "Foreign jurisdiction", a state other than this state;

3 (2) "Foreign subpoena", a subpoena issued under authority of a court of record
4 of a foreign jurisdiction;

5 (3) "Person", an individual, corporation, business trust, estate, trust,
6 partnership, limited liability company, association, joint venture, public corporation,
7 government or political subdivision, agency or instrumentality, or any other legal or
8 commercial entity;

9 (4) "State", a state of the United States, the District of Columbia, Puerto Rico,
10 the United States Virgin Islands, a federally recognized Indian tribe, or any territory or
11 insular possession subject to the jurisdiction of the United States;

12 (5) "Subpoena", a document, however denominated, issued under authority of a
13 court of record requiring a person to:

14 (a) Attend and give testimony at a deposition;

15 (b) Produce and permit inspection and copying of designated books, documents,
16 records, electronically stored information, or tangible items in the possession, custody,
17 or control of the person; or

18 (c) Permit inspection of premises under the control of the person.

510.506. 1. To request issuance of a subpoena under this section, a party shall
2 submit a foreign subpoena to a clerk of court in the county in which discovery is sought
3 to be conducted in this state. A request for the issuance of a subpoena under sections
4 510.500 to 510.521 shall not constitute an appearance in the courts of this state.

5 **2.** If a party submits a foreign subpoena to a clerk of court in this state, the clerk,
6 in accordance with such court's procedure, shall promptly issue a subpoena for service
7 upon the person to which the foreign subpoena is directed.

8 **3.** A subpoena under subsection 2 of this section shall:

9 (1) Incorporate the terms used in the foreign subpoena; and

10 (2) Contain or be accompanied by the names, addresses, and telephone numbers
11 of all counsel of record in the proceeding to which the subpoena relates and of any party
12 not represented by counsel.

510.509. A subpoena issued by a clerk of court under section 510.506 shall be
2 served in compliance with the Missouri supreme court rules of civil procedure and laws
3 of this state.

510.512. The Missouri supreme court rules of civil procedure and laws of this
2 state, and any amendments thereto, apply to subpoenas issued under section 510.506.

510.515. An application to the court for a protective order or to enforce, quash,
2 or modify a subpoena issued by a clerk of court under section 510.506 shall comply with
3 the Missouri supreme court rules of civil procedure and statutes of this state and be
4 submitted to the court in the county in which discovery is to be conducted.

2 **510.518. In applying and construing sections 510.500 to 510.521, consideration**
3 **shall be given to the need to promote uniformity of the law with respect to its subject**
4 **matter among states that enact it.**

2 **510.521. Sections 510.500 to 510.521 apply to requests for discovery in cases**
3 **pending on August 28, 2025.**

2 536.140. 1. The court shall hear the case without a jury and, except as otherwise
3 provided in subsection 4 of this section, shall hear it upon the petition and record filed as
4 aforesaid.

5 2. The inquiry may extend to a determination of whether the action of the agency

6 (1) Is in violation of constitutional provisions;

7 (2) Is in excess of the statutory authority or jurisdiction of the agency;

8 (3) Is unsupported by competent and substantial evidence upon the whole record;

9 (4) Is, for any other reason, unauthorized by law;

10 (5) Is made upon unlawful procedure or without a fair trial;

11 (6) Is arbitrary, capricious or unreasonable;

12 (7) Involves an abuse of discretion.

13 The scope of judicial review in all contested cases, whether or not subject to judicial review
14 pursuant to sections 536.100 to 536.140, and in all cases in which judicial review of decisions
15 of administrative officers or bodies, whether state or local, is now or may hereafter be
16 provided by law, shall in all cases be at least as broad as the scope of judicial review provided
17 for in this subsection~~]; provided, however, that nothing herein contained shall in any way~~
18 ~~change or affect the provisions of sections 311.690 and 311.700].~~

19 3. ~~[Whenever the action of the agency being reviewed does not involve the exercise~~
20 ~~by the agency of administrative discretion in the light of the facts, but involves only the~~
21 ~~application by the agency of the law to the facts, the court may upon application of any party~~
22 ~~conduct a de novo review of the agency decision]~~ **In interpreting a state statute, rule,**
23 **regulation, or other subregulatory document, a court or an officer hearing an**
24 **administrative action shall not defer to a state agency's interpretation of such statute,**
25 **rule, regulation, or other document, and shall interpret the meaning and effect de novo.**
26 **In actions brought by or against a state agency, after applying all customary tools of**
27 **interpretation, the court or hearing officer shall decide any remaining doubt in favor of**
28 **a reasonable interpretation that limits agency power and maximizes individual liberty.**

29 4. Wherever under ~~[subsection 3 of]~~ this section or otherwise the court is entitled to
30 weigh the evidence and determine the facts for itself, the court may hear and consider
31 additional evidence if the court finds that such evidence in the exercise of reasonable
32 diligence could not have been produced or was improperly excluded at the hearing before the

33 agency. Wherever the court is not entitled to weigh the evidence and determine the facts for
34 itself, if the court finds that there is competent and material evidence which, in the exercise of
35 reasonable diligence, could not have been produced or was improperly excluded at the
36 hearing before the agency, the court may remand the case to the agency with directions to
37 reconsider the same in the light of such evidence. The court may in any case hear and
38 consider evidence of alleged irregularities in procedure or of unfairness by the agency, not
39 shown in the record.

40 5. The court shall render judgment affirming, reversing, or modifying the agency's
41 order, and may order the reconsideration of the case in the light of the court's opinion and
42 judgment, and may order the agency to take such further action as it may be proper to require;
43 but the court shall not substitute its discretion for discretion legally vested in the agency,
44 unless the court determines that the agency decision was arbitrary or capricious.

45 6. Appeals may be taken from the judgment of the court as in other civil cases.

559.115. 1. Neither probation nor parole shall be granted by the circuit court between
2 the time the transcript on appeal from the offender's conviction has been filed in appellate
3 court and the disposition of the appeal by such court.

4 2. Unless otherwise prohibited by subsection [8] 9 of this section, a circuit court only
5 upon its own motion and not that of the state or the offender shall have the power to grant
6 probation to an offender anytime up to one hundred twenty days after such offender has been
7 delivered to the department of corrections but not thereafter. The court may request
8 information and a recommendation from the department concerning the offender and such
9 offender's behavior during the period of incarceration. Except as provided in this section, the
10 court may place the offender on probation in a program created pursuant to section 217.777,
11 or may place the offender on probation with any other conditions authorized by law.

12 3. The court may recommend placement of an offender in a department of corrections
13 one hundred twenty-day program under this subsection. The department of corrections shall
14 assess each offender to determine the appropriate one hundred twenty-day program in which
15 to place the offender, which may include placement in the structured cognitive behavioral
16 intervention program or institutional treatment program. The placement of an offender in the
17 structured cognitive behavioral intervention program or institutional treatment program shall
18 be at the sole discretion of the department based on the assessment of the offender and
19 available bed space. When the court recommends and receives placement of an offender in a
20 department of corrections one hundred twenty-day program, the offender shall be released on
21 probation if the department of corrections determines that the offender has successfully
22 completed the program except as follows. Upon successful completion of a program under
23 this subsection, the division of probation and parole shall advise the sentencing court of an
24 offender's probationary release date thirty days prior to release. The court shall follow the

25 recommendation of the department unless the court determines that probation is not
26 appropriate. If the court determines that probation is not appropriate, the court may order the
27 execution of the offender's sentence only after conducting a hearing on the matter within
28 ninety to one hundred twenty days from the date the offender was delivered to the department
29 of corrections. If the department determines the offender has not successfully completed a
30 one hundred twenty-day program under this subsection, the division of probation and parole
31 shall advise the prosecuting attorney and the sentencing court of the defendant's unsuccessful
32 program exit and the defendant shall be removed from the program. The department shall
33 report on the offender's participation in the program and may provide recommendations for
34 terms and conditions of an offender's probation. The court shall then have the power to grant
35 probation or order the execution of the offender's sentence.

36 **4. Upon successful completion of a one hundred twenty-day institutional**
37 **treatment program under subsection 3 of this section, the offender may petition the**
38 **court for limited driving privileges as provided under section 302.309.**

39 **5.** If the court is advised that an offender is not eligible for placement in a one
40 hundred twenty-day program under subsection 3 of this section, the court shall consider other
41 authorized dispositions. If the department of corrections one hundred twenty-day program
42 under subsection 3 of this section is full, the court may place the offender in a private program
43 approved by the department of corrections or the court, the expenses of such program to be
44 paid by the offender, or in an available program offered by another organization. If the
45 offender is convicted of a class C, class D, or class E nonviolent felony, the court may order
46 probation while awaiting appointment to treatment.

47 ~~[5-]~~ **6.** Except when the offender has been found to be a predatory sexual offender
48 pursuant to section 566.125, the court shall request the department of corrections to conduct a
49 sexual offender assessment if the defendant has been found guilty of sexual abuse when
50 classified as a class B felony. Upon completion of the assessment, the department shall
51 provide to the court a report on the offender and may provide recommendations for terms and
52 conditions of an offender's probation. The assessment shall not be considered a one hundred
53 twenty-day program as provided under subsection 3 of this section. The process for granting
54 probation to an offender who has completed the assessment shall be as provided under
55 subsections 2 and ~~[6]~~ 7 of this section.

56 ~~[6-]~~ **7.** Unless the offender is being granted probation pursuant to successful
57 completion of a one hundred twenty-day program the circuit court shall notify the state in
58 writing when the court intends to grant probation to the offender pursuant to the provisions of
59 this section. The state may, in writing, request a hearing within ten days of receipt of the
60 court's notification that the court intends to grant probation. Upon the state's request for a
61 hearing, the court shall grant a hearing as soon as reasonably possible. If the state does not

62 respond to the court's notice in writing within ten days, the court may proceed upon its own
63 motion to grant probation.

64 ~~[7-]~~ **8.** An offender's first incarceration under this section prior to release on probation
65 shall not be considered a previous prison commitment for the purpose of determining a
66 minimum prison term under the provisions of section 558.019.

67 ~~[8-]~~ **9.** Notwithstanding any other provision of law, probation may not be granted
68 pursuant to this section to offenders who have been convicted of murder in the second degree
69 pursuant to section 565.021; forcible rape pursuant to section 566.030 as it existed prior to
70 August 28, 2013; rape in the first degree under section 566.030; forcible sodomy pursuant to
71 section 566.060 as it existed prior to August 28, 2013; sodomy in the first degree under
72 section 566.060; statutory rape in the first degree pursuant to section 566.032; statutory
73 sodomy in the first degree pursuant to section 566.062; child molestation in the first degree
74 pursuant to section 566.067 when classified as a class A felony; abuse of a child pursuant to
75 section 568.060 when classified as a class A felony; or an offender who has been found to be
76 a predatory sexual offender pursuant to section 566.125; any offense under section 557.045;
77 or any offense in which there exists a statutory prohibition against either probation or parole.

590.653. 1. Each city, county and city not within a county may establish a civilian
2 review board, division of civilian oversight, or any other entity which provides civilian
3 review or oversight of police agencies, or may use an existing civilian review board or
4 division of civilian oversight or other named entity which has been appointed by the local
5 governing body, with the authority to investigate allegations of misconduct by local law
6 enforcement officers towards members of the public. The members shall not receive
7 compensation but shall receive reimbursement from the local governing body for all
8 reasonable and necessary expenses.

9 2. The board, division, or any other such entity, shall have the power solely limited to
10 receiving, investigating, making findings, and recommending disciplinary action upon
11 complaints by members of the public against members of the police department that allege
12 misconduct involving excessive use of force, abuse of authority, discourtesy, or use of
13 offensive language, including, but not limited to, slurs relating to race, ethnicity, religion,
14 gender, sexual orientation, and disability. The findings and recommendations of the board,
15 division, or other entity and the basis therefor, shall be submitted to the chief law enforcement
16 official. No finding or recommendation shall be based solely upon an unsworn complaint or
17 statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the basis
18 for any such findings or recommendations. Only the powers specifically granted herein are
19 authorized and any and all authority granted to future or existing boards, divisions, or entities
20 outside the scope of the powers listed herein are expressly preempted and void as a matter of
21 law.

22 **3. The provisions of subsection 2 of this section shall not apply to any city with**
23 **more than one hundred twenty-five thousand but fewer than one hundred sixty**
24 **thousand inhabitants and any such city may establish such board, division, or any other**
25 **such entity and may grant to such board, division, or any other entity the power to**
26 **receive, investigate, make findings, and recommend disciplinary action upon complaints**
27 **by members of the public against members of the police department.**

 621.045. 1. The administrative hearing commission shall conduct hearings and make
2 findings of fact and conclusions of law in those cases when, under the law, a license issued by
3 any of the following agencies may be revoked or suspended or when the licensee may be
4 placed on probation or when an agency refuses to permit an applicant to be examined upon
5 his or her qualifications or refuses to issue or renew a license of an applicant who has passed
6 an examination for licensure or who possesses the qualifications for licensure without
7 examination:

8 Missouri State Board of Accountancy
9 Missouri State Board for Architects, Professional Engineers, Professional Land
10 Surveyors and Landscape Architects
11 Board of Barber Examiners
12 Board of Cosmetology
13 Board of Chiropody and Podiatry
14 Board of Chiropractic Examiners
15 Missouri Dental Board
16 Board of Embalmers and Funeral Directors
17 Board of Registration for the Healing Arts
18 Board of Nursing
19 Board of Optometry
20 Board of Pharmacy
21 Missouri Real Estate Commission
22 Missouri Veterinary Medical Board
23 Supervisor of Liquor Control
24 Department of Health and Senior Services
25 Department of Commerce and Insurance
26 Department of Mental Health
27 Board of Private Investigator Examiners.

28 2. If in the future there are created by law any new or additional administrative
29 agencies which have the power to issue, revoke, suspend, or place on probation any license,
30 then those agencies are under the provisions of this law.

31 3. The administrative hearing commission is authorized to conduct hearings and make
32 findings of fact and conclusions of law in those cases brought by the Missouri state board for
33 architects, professional engineers, professional land surveyors and landscape architects
34 against unlicensed persons under section 327.076.

35 4. **The administrative hearing commission is authorized to conduct hearings and**
36 **make findings of fact and conclusions of law in those cases brought by the division of**
37 **workers' compensation of the department of labor and industrial relations against**
38 **administrative law judges under section 287.610.**

39 5. Notwithstanding any other provision of this section to the contrary, after August
40 28, 1995, in order to encourage settlement of disputes between any agency described in
41 subsection 1 or 2 of this section and its licensees, any such agency shall:

42 (1) Provide the licensee with a written description of the specific conduct for which
43 discipline is sought and a citation to the law and rules allegedly violated, together with copies
44 of any documents which are the basis thereof and the agency's initial settlement offer, or file a
45 contested case against the licensee;

46 (2) If no contested case has been filed against the licensee, allow the licensee at least
47 sixty days, from the date of mailing, to consider the agency's initial settlement offer and to
48 contact the agency to discuss the terms of such settlement offer;

49 (3) If no contested case has been filed against the licensee, advise the licensee that the
50 licensee may, either at the time the settlement agreement is signed by all parties, or within
51 fifteen days thereafter, submit the agreement to the administrative hearing commission for
52 determination that the facts agreed to by the parties to the settlement constitute grounds for
53 denying or disciplining the license of the licensee; and

54 (4) In any contact under this subsection by the agency or its counsel with a licensee
55 who is not represented by counsel, advise the licensee that the licensee has the right to consult
56 an attorney at the licensee's own expense.

57 ~~[5-]~~ 6. If the licensee desires review by the administrative hearing commission under
58 subdivision (3) of subsection ~~[4]~~ 5 of this section at any time prior to the settlement becoming
59 final, the licensee may rescind and withdraw from the settlement and any admissions of fact
60 or law in the agreement shall be deemed withdrawn and not admissible for any purposes
61 under the law against the licensee. Any settlement submitted to the administrative hearing
62 commission shall not be effective and final unless and until findings of fact and conclusions
63 of law are entered by the administrative hearing commission that the facts agreed to by the
64 parties to the settlement constitute grounds for denying or disciplining the license of the
65 licensee.

66 ~~[6-]~~ 7. When a holder of a license, registration, permit, or certificate of authority
67 issued by the division of professional registration or a board, commission, or committee of the

68 division of professional registration against whom an affirmative decision is sought has failed
 69 to plead or otherwise respond in the contested case and adequate notice has been given under
 70 sections 536.067 and 621.100 upon a properly pled writing filed to initiate the contested case
 71 under this chapter or chapter 536, a default decision shall be entered against the licensee
 72 without further proceedings. The default decision shall grant such relief as requested by the
 73 division of professional registration, board, committee, commission, or office in the writing
 74 initiating the contested case as allowed by law. Upon motion stating facts constituting a
 75 meritorious defense and for good cause shown, a default decision may be set aside. The
 76 motion shall be made within a reasonable time, not to exceed thirty days after entry of the
 77 default decision. "Good cause" includes a mistake or conduct that is not intentionally or
 78 recklessly designed to impede the administrative process.

~~2 [469.409. 1. Any claim for breach of a trustee's duty to impartially
 3 administer a trust related, directly or indirectly, to an adjustment made by a
 4 fiduciary to the allocation between principal and income pursuant to
 5 subsection 1 of section 469.405 or any allocation made by the fiduciary
 6 pursuant to any authority or discretion specified in subsection 1 of section
 7 469.403, unless previously barred by adjudication, consent or other limitation,
 8 shall be barred as provided in this section.~~

~~9 (1) Any such claim brought by a qualified beneficiary is barred if not
 10 asserted in a judicial proceeding commenced within two years after the trustee
 11 has sent a report to that qualified beneficiary that adequately discloses the facts
 12 constituting the claim.~~

~~13 (2) Any such claim brought by a beneficiary (other than a qualified
 14 beneficiary) with any interest whatsoever in the trust, no matter how remote or
 15 contingent, or whether or not the beneficiary is ascertainable or has the
 16 capacity to contract, is barred if not asserted in a judicial proceeding
 17 commenced within two years after the first to occur of:~~

~~18 (a) The date the trustee sent a report to all qualified beneficiaries that
 19 adequately discloses the facts constituting the claim; or~~

~~20 (b) The date the trustee sent a report to a person that represents the
 21 beneficiary under the provisions of subdivision (2) of subsection 2 of this
 22 section.~~

~~23 2. For purposes of this section the following rules shall apply:~~

~~24 (1) A report adequately discloses the facts constituting a claim if it
 25 provides sufficient information so that the beneficiary should know of the
 26 claim or reasonably should have inquired into its existence;~~

~~27 (2) Section 469.402 shall apply in determining whether a beneficiary
 28 (including a qualified beneficiary) has received notice for purposes of this
 29 section;~~

~~30 (3) The determination of the identity of all qualified beneficiaries shall
 31 be made on the date the report is deemed to have been sent; and~~

~~32 (4) This section does not preclude an action to recover for fraud or
 misrepresentation related to the report.]~~

2 ~~[469.411. 1. (1) If the provisions of this section apply to a trust, the~~
3 ~~unitrust amount determined for each accounting year of the trust shall be a~~
4 ~~percentage between three and five percent of the average net fair market value~~
5 ~~of the trust, as of the first day of the trust's current accounting year. The~~
6 ~~percentage applicable to a trust shall be that percentage specified by the terms~~
7 ~~of the governing instrument or by the election made in accordance with~~
8 ~~subdivision (2) of subsection 5 of this section.~~

9 ~~(2) The unitrust amount for the current accounting year computed~~
10 ~~pursuant to this section shall be proportionately reduced for any distributions,~~
11 ~~in whole or in part, other than distributions of the unitrust amount, and for any~~
12 ~~payments of expenses, including debts, disbursements and taxes, from the trust~~
13 ~~within a current accounting year that the trustee determines to be material and~~
14 ~~substantial, and shall be proportionately increased for the receipt, other than a~~
15 ~~receipt that represents a return on investment, of any additional property into~~
16 ~~the trust within a current accounting year.~~

17 ~~(3) For purposes of this section, the net fair market values of the assets~~
18 ~~held in the trust on the first business day of a prior accounting quarter shall be~~
19 ~~adjusted to reflect any reduction, in the case of a distribution or payment, or~~
20 ~~increase, in the case of a receipt, for the prior accounting year pursuant to~~
21 ~~subdivision (1) of this subsection, as if the distribution, payment or receipt had~~
22 ~~occurred on the first day of the prior accounting year.~~

23 ~~(4) In the case of a short accounting period, the trustee shall prorate~~
24 ~~the unitrust amount on a daily basis.~~

25 ~~(5) In the case where the net fair market value of an asset held in the~~
26 ~~trust has been incorrectly determined in any quarter, the unitrust amount shall~~
27 ~~be increased in the case of an undervaluation, or be decreased in the case of an~~
28 ~~overvaluation, by an amount equal to the difference between the unitrust~~
29 ~~amount determined based on the correct valuation of the asset and the unitrust~~
30 ~~amount originally determined.~~

31 ~~2. As used in this section, the following terms mean:~~

32 ~~(1) "Average net fair market value", a rolling average of the fair~~
33 ~~market value of the assets held in the trust on the first business day of the~~
34 ~~lessor of the number of accounting quarters of the trust from the date of~~
35 ~~inception of the trust to the determination of the trust's average net fair market~~
36 ~~value, or twelve accounting quarters of the trust, regardless of whether this~~
37 ~~section applied to the ascertainment of net income for all valuation quarters;~~

38 ~~(2) "Current accounting year", the accounting period of the trust for~~
39 ~~which the unitrust amount is being determined.~~

40 ~~3. In determining the average net fair market value of the assets held in~~
41 ~~the trust, there shall not be included the value of:~~

42 ~~(1) Any residential property or any tangible personal property that, as~~
43 ~~of the first business day of the current valuation year, one or more income~~
44 ~~beneficiaries of the trust have or had the right to occupy, or have or had the~~
45 ~~right to possess or control, other than in a capacity as trustee, and instead the~~
46 ~~right of occupancy or the right to possession or control shall be deemed to be~~
47 ~~the unitrust amount with respect to the residential property or the tangible~~
~~personal property; or~~

48 ~~(2) Any asset specifically given to a beneficiary under the terms of the~~
49 ~~trust and the return on investment on that asset, which return on investment~~
50 ~~shall be distributable to the beneficiary.~~

51 ~~4. In determining the average net fair market value of the assets held in~~
52 ~~the trust pursuant to subsection 1 of this section, the trustee shall, not less often~~
53 ~~than annually, determine the fair market value of each asset of the trust that~~
54 ~~consists primarily of real property or other property that is not traded on a~~
55 ~~regular basis in an active market by appraisal or other reasonable method or~~
56 ~~estimate, and that determination, if made reasonably and in good faith, shall be~~
57 ~~conclusive as to all persons interested in the trust. Any claim based on a~~
58 ~~determination made pursuant to this subsection shall be barred if not asserted~~
59 ~~in a judicial proceeding brought by any beneficiary with any interest~~
60 ~~whatsoever in the trust within two years after the trustee has sent a report to all~~
61 ~~qualified beneficiaries that adequately discloses the facts constituting the~~
62 ~~claim. The rules set forth in subsection 2 of section 469.409 shall apply to the~~
63 ~~barring of claims pursuant to this subsection.~~

64 ~~5. This section shall apply to the following trusts:~~

65 ~~(1) Any trust created after August 28, 2001, with respect to which the~~
66 ~~terms of the trust clearly manifest an intent that this section apply;~~

67 ~~(2) Any trust created under an instrument that became irrevocable on,~~
68 ~~before, or after August 28, 2001, if the trustee, in the trustee's discretion, elects~~
69 ~~to have this section apply unless the instrument creating the trust specifically~~
70 ~~prohibits an election under this subdivision. The trustee shall deliver notice to~~
71 ~~all qualified beneficiaries and the settlor of the trust, if he or she is then living,~~
72 ~~of the trustee's intent to make such an election at least sixty days before~~
73 ~~making that election. The trustee shall have sole authority to make the~~
74 ~~election. Section 469.402 shall apply for all purposes of this subdivision. An~~
75 ~~action or order by any court shall not be required. The election shall be made~~
76 ~~by a signed writing delivered to the settlor of the trust, if he or she is then~~
77 ~~living, and to all qualified beneficiaries. The election is irrevocable, unless~~
78 ~~revoked by order of the court having jurisdiction of the trust. The election~~
79 ~~may specify the percentage used to determine the unitrust amount pursuant to~~
80 ~~this section, provided that such percentage is between three and five percent,~~
81 ~~or if no percentage is specified, then that percentage shall be three percent. In~~
82 ~~making an election pursuant to this subsection, the trustee shall be subject to~~
83 ~~the same limitations and conditions as apply to an adjustment between income~~
84 ~~and principal pursuant to subsections 3 and 4 of section 469.405; and~~

85 ~~(3) No action of any kind based on an election made by a trustee~~
86 ~~pursuant to subdivision (2) of this subsection shall be brought against the~~
87 ~~trustee by any beneficiary of that trust three years from the effective date of~~
88 ~~that election.~~

89 ~~6. (1) Once the provisions of this section become applicable to a trust,~~
90 ~~the net income of the trust shall be the unitrust amount.~~

91 ~~(2) Unless otherwise provided by the governing instrument, the~~
92 ~~unitrust amount distributed each year shall be paid from the following sources~~
93 ~~for that year up to the full value of the unitrust amount in the following order:~~

94 ~~(a) Net income as determined if the trust were not a unitrust;~~

95 ~~(b) Other ordinary income as determined for federal income tax~~
 96 ~~purposes;~~

97 ~~(c) Assets of the trust principal for which there is a readily available~~
 98 ~~market value; and~~

99 ~~(d) Other trust principal.~~

100 ~~(3) Additionally, the trustee may allocate to trust income for each~~
 101 ~~taxable year of the trust, or portion thereof:~~

102 ~~(a) Net short term capital gain described in the Internal Revenue Code,~~
 103 ~~26 U.S.C. Section 1222(5), for such year, or portion thereof, but only to the~~
 104 ~~extent that the amount so allocated together with all other amounts to trust~~
 105 ~~income, as determined under the provisions of this chapter without regard to~~
 106 ~~this section, for such year, or portion thereof, does not exceed the unitrust~~
 107 ~~amount for such year, or portion thereof;~~

108 ~~(b) Net long term capital gain described in the Internal Revenue Code,~~
 109 ~~26 U.S.C. Section 1222(7), for such year, or portion thereof, but only to the~~
 110 ~~extent that the amount so allocated together with all other amounts, including~~
 111 ~~amounts described in paragraph (a) of this subdivision, allocated to trust~~
 112 ~~income for such year, or portion thereof, does not exceed the unitrust amount~~
 113 ~~for such year, or portion thereof.~~

114 ~~7. A trust with respect to which this section applies on August 28,~~
 115 ~~2011, may calculate the unitrust amount in accordance with the provisions of~~
 116 ~~this section, as it existed either before or after such date, as the trustee of such~~
 117 ~~trust shall determine in a writing kept with the records of the trust in the~~
 118 ~~trustee's discretion.]~~

2 ~~[469.461. 1. A fiduciary may make adjustments between principal and~~
 3 ~~income to offset the shifting of economic interests or tax benefits between~~
 4 ~~income beneficiaries and remainder beneficiaries which arise from:~~

5 ~~(1) Elections and decisions, other than those described in subsection 2~~
 6 ~~of this section, that the fiduciary makes from time to time regarding tax~~
 7 ~~matters;~~

8 ~~(2) An income tax or any other tax that is imposed upon the fiduciary~~
 9 ~~or a beneficiary as a result of a transaction involving or a distribution from the~~
 10 ~~estate or trust; or~~

11 ~~(3) The ownership by an estate or trust of an interest in an entity whose~~
 12 ~~taxable income, whether or not distributed, is includable in the taxable income~~
 13 ~~of the estate, trust or a beneficiary.~~

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

24 ~~taxes are reduced shall be the same as its proportionate share of the total~~
25 ~~decrease in income tax. An estate or trust shall reimburse principal from~~
26 ~~income.]~~

✓