

HOUSE BILL NO. 429

INTRODUCED BY GRADY, BLAYLOCK, MAZUREK,
STORY, SIMON, PATTERSON, MERCER, QUILICI, HARPER

IN THE HOUSE

JANUARY 25, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS AND ECONOMIC DEVELOPMENT.
JANUARY 26, 1989	FIRST READING.
FEBRUARY 7, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 8, 1989	PRINTING REPORT.
FEBRUARY 11, 1989	SECOND READING, DO PASS.
FEBRUARY 13, 1989	ENGROSSING REPORT.
FEBRUARY 14, 1989	THIRD READING, PASSED. AYES, 95; NOES, 2.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 15, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
	FIRST READING.
MARCH 3, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 7, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

MARCH 8, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 *House* BILL NO. *429*
 2 INTRODUCED BY *Sen. Gary Boyington*
 3 *Sen. Gary Boyington*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING PERSONAL
 5 REPRESENTATIVES AND TRUSTEES TO INVEST FUNDS IN UNITED
 6 STATES OBLIGATIONS EITHER DIRECTLY OR IN THE FORM OF
 7 SECURITIES OF OR OTHER INTERESTS IN CERTAIN INVESTMENT
 8 COMPANIES OR INVESTMENT TRUSTS; AND AMENDING SECTIONS
 9 72-3-613 AND 72-21-202, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 72-3-613, MCA, is amended to read:

13 "72-3-613. Transactions authorized for personal
 14 representative. Except as restricted by this code or
 15 otherwise provided by the will or by an order in a formal
 16 proceeding and subject to the priorities stated in 72-3-901,
 17 a personal representative, acting reasonably for the benefit
 18 of the interested persons, may properly:

19 (1) retain assets owned by the decedent pending
 20 distribution or liquidation, including those in which the
 21 representative is personally interested or which are
 22 otherwise improper for trust investment;

23 (2) receive assets from fiduciaries or other sources;

24 (3) perform, compromise, or refuse performance of the
 25 decedent's contracts that continue as obligations of the

1 estate, as he may determine under the circumstances. In
 2 performing enforceable contracts by the decedent to convey
 3 or lease land, the personal representative, among other
 4 possible courses of action, may:

5 (a) execute and deliver a deed of conveyance for cash
 6 payment of all sums remaining due or the purchaser's note
 7 for the sum remaining due secured by a mortgage or deed of
 8 trust on the land; or

9 (b) deliver a deed in escrow with directions that the
 10 proceeds, when paid in accordance with the escrow agreement,
 11 be paid to the successors of the decedent, as designated in
 12 the escrow agreement;

13 (4) satisfy written charitable pledges of the decedent
 14 irrespective of whether the pledges constituted binding
 15 obligations of the decedent or were properly presented as
 16 claims, if in the judgment of the personal representative
 17 the decedent would have wanted the pledges completed under
 18 the circumstances;

19 (5) if funds are not needed to meet debts and expenses
 20 currently payable and are not immediately distributable,
 21 deposit or invest liquid assets of the estate, including
 22 moneys money received from the sale of other assets, in
 23 federally insured interest-bearing accounts, readily
 24 marketable secured loan arrangements, or other prudent
 25 investments which that would be reasonable for use by

trustees generally; If the personal representative is authorized to invest funds in United States obligations, he may invest in these obligations either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust

boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) with the consent of the heirs or devisees or the court, abandon property when in the opinion of the personal representative it is valueless or is so encumbered or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate, but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss, and liability and himself against liability as to

third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise and advance money for the protection of the estate;

(17) with the consent of the heirs or devisees or the court, effect a fair and reasonable compromise with any debtor or obligor or extend, renew, or in any manner modify the terms of any obligation owing to the estate. If the personal representative holds a mortgage, pledge, or other lien upon property of another person, he may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien.

(18) pay taxes, assessments, compensation of the personal representative, and other expenses incident to the administration of the estate;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated

with the personal representative, to advise or assist the personal representative in the performance of his administrative duties; act without independent investigation upon their recommendations; and, instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of his duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein for cash, credit, or for part cash and part credit and with or without security for unpaid balances; provided, however, no a personal representative ~~shall~~ may not, without prior court approval in a supervised proceeding, either directly or indirectly purchase any property of the estate he represents, nor ~~shall~~ may he be interested in ~~any--such~~ the sale. All sales ~~shall~~ must be fairly conducted and made for the best price obtainable.

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of his death:

(a) in the same business form for a period of not more than 4 months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business, including

1 good will;

2 (b) in the same business form for any additional
3 period of time that may be approved by order of the court in
4 a formal proceeding to which the persons interested in the
5 estate are parties; or

6 (c) throughout the period of administration, if the
7 business is incorporated by the personal representative and
8 if none of the probable distributees of the business who are
9 competent adults object to its incorporation and retention
10 in the estate;

11 (25) incorporate any business or venture in which the
12 decedent was engaged at the time of his death;

13 (26) satisfy and settle claims and distribute the
14 estate as provided in this code."

15 **Section 2.** Section 72-21-202, MCA, is amended to read:

16 "72-21-202. Powers of trustee. (1) From time of
17 creation of the trust until final distribution of the assets
18 of the trust, a trustee has the power to perform, without
19 court authorization, every act which that a prudent man
20 would perform for the purposes of the trust, including but
21 not limited to the powers specified in subsection (2).

22 (2) A trustee has the power, subject to subsection (1)
23 ~~of this section~~ and to 72-21-203:

24 (a) to collect, hold, and retain trust assets received
25 from a trustor until, in the judgment of the trustee,

1 disposition of the assets should be made; and the assets may
2 be retained even though they include an asset in which the
3 trustee is personally interested or which is not otherwise a
4 qualified investment;

5 (b) to receive additions to the assets of the trust
6 from any source;

7 (c) to continue or participate in the operation of any
8 business or other enterprise and to effect incorporation,
9 dissolution, or other change in the form of the organization
10 of the business or enterprise;

11 (d) to acquire an undivided interest in a trust asset
12 in which the trustee, in any trust capacity, holds an
13 undivided interest;

14 (e) to invest and reinvest trust assets in accordance
15 with the provisions of the trust or as provided by law. If
16 the trustee is authorized to invest funds in United States
17 obligations, he may invest in these obligations either
18 directly or in the form of securities of or other interests
19 in an open-end or closed-end management type investment
20 company or investment trust registered under the Investment
21 Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as
22 amended, if:

23 (i) the portfolio of the investment company or
24 investment trust is limited to United States government
25 obligations and repurchase agreements fully collateralized

by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(f) to deposit trust funds in a bank, including a bank operated by the trustee;

(g) to invest trust funds, including investments, in demand time savings accounts and time certificates of deposit in any bank, including a bank operated by the trustee;

(h) to acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(i) to make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;

(j) to subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on

exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;

(k) to enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the trust;

(l) to enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(m) to grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;

(n) to vote a security, in person or by general or limited proxy, and enter into voting trusts;

(o) to pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(p) to sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise and retain any property received pursuant thereto;

(q) to hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery, but the trustee is liable

1 for any act of the nominee in connection with the stock so
2 held;

3 (r) to insure the assets of the trust against damage
4 or loss and the trustee against liability with respect to
5 third persons;

6 (s) to borrow money from any source to be repaid from
7 trust assets or otherwise; to advance money for the
8 protection of the trust and for all expenses, losses, and
9 liability sustained in the administration of the trust or
10 because of the holding or ownership of any trust assets, for
11 which advances with any interest the trustee has a lien on
12 the trust assets as against the beneficiary;

13 (t) to pay or contest any claim; to settle a claim by
14 or against the trust by compromise, arbitration, or
15 otherwise; and to release, in whole or in part, any claim
16 belonging to the trust to the extent that the claim is
17 uncollectible;

18 (u) to pay taxes, assessments, compensation of the
19 trustee, and other expenses incurred in the collection,
20 care, administration, and protection of the trust;

21 (v) to allocate items of income or expense to either
22 trust income or principal, as provided by law, including
23 creation of reserves out of income for depreciation,
24 obsolescence, or amortization or for depletion in mineral or
25 timber properties;

1 (w) to pay any property distributable to a beneficiary
2 under disability, without liability to the trustee, to the
3 beneficiary or for use of the beneficiary either to his
4 parent, his guardian, person with whom he resides, or
5 others;

6 (x) to effect distribution of property and money in
7 divided or undivided interests and to adjust resulting
8 differences in valuation;

9 (y) to employ persons, including attorneys, auditors,
10 investment advisors, or agents, even if they are associated
11 with the trustee, to advise or assist the trustee in the
12 performance of his administrative duties;

13 (z) to prosecute or defend actions, claims, or
14 proceedings for the protection of trust assets and of the
15 trustee in the performance of his duties;

16 (aa) to execute and deliver all instruments which that
17 will accomplish or facilitate the exercise of the powers
18 vested in the trustee."

19 **NEW SECTION. Section 3. Extension of authority.** Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

-End-

APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

1 *House* BILL NO. *429*
 2 INTRODUCED BY *Donny Blaylock*
 3 *Stacy Sonma* *Patricia Mercer* *Julian Hagan*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING PERSONAL
 5 REPRESENTATIVES AND TRUSTEES TO INVEST FUNDS IN UNITED
 6 STATES OBLIGATIONS EITHER DIRECTLY OR IN THE FORM OF
 7 SECURITIES OF OR OTHER INTERESTS IN CERTAIN INVESTMENT
 8 COMPANIES OR INVESTMENT TRUSTS; AND AMENDING SECTIONS
 9 72-3-613 AND 72-21-202, MCA."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 72-3-613, MCA, is amended to read:

13 "72-3-613. Transactions authorized for personal
 14 representative. Except as restricted by this code or
 15 otherwise provided by the will or by an order in a formal
 16 proceeding and subject to the priorities stated in 72-3-901,
 17 a personal representative, acting reasonably for the benefit
 18 of the interested persons, may properly:

19 (1) retain assets owned by the decedent pending
 20 distribution or liquidation, including those in which the
 21 representative is personally interested or which are
 22 otherwise improper for trust investment;

23 (2) receive assets from fiduciaries or other sources;

24 (3) perform, compromise, or refuse performance of the
 25 decedent's contracts that continue as obligations of the

1 estate, as he may determine under the circumstances. In
 2 performing enforceable contracts by the decedent to convey
 3 or lease land, the personal representative, among other
 4 possible courses of action, may:

5 (a) execute and deliver a deed of conveyance for cash
 6 payment of all sums remaining due on the purchaser's note
 7 for the sum remaining due secured by a mortgage or deed of
 8 trust on the land; or

9 (b) deliver a deed in escrow with directions that the
 10 proceeds, when paid in accordance with the escrow agreement,
 11 be paid to the successors of the decedent, as designated in
 12 the escrow agreement;

13 (4) satisfy written charitable pledges of the decedent
 14 irrespective of whether the pledges constituted binding
 15 obligations of the decedent or were properly presented as
 16 claims, if in the judgment of the personal representative
 17 the decedent would have wanted the pledges completed under
 18 the circumstances;

19 (5) if funds are not needed to meet debts and expenses
 20 currently payable and are not immediately distributable,
 21 deposit or invest liquid assets of the estate, including
 22 moneys money received from the sale of other assets, in
 23 federally insured interest-bearing accounts, readily
 24 marketable secured loan arrangements, or other prudent
 25 investments which that would be reasonable for use by

trustees generally; If the personal representative is authorized to invest funds in United States obligations, he may invest in these obligations either directly or in the form of securities of or other interests in an open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

(a) the portfolio of the investment company or investment trust is limited to United States government obligations and repurchase agreements fully collateralized by United States government obligations; and

(b) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust

boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) with the consent of the heirs or devisees or the court, abandon property when in the opinion of the personal representative it is valueless or is so encumbered or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate, but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss, and liability and himself against liability as to

1 third persons;

2 (16) borrow money with or without security to be repaid
3 from the estate assets or otherwise and advance money for
4 the protection of the estate;

5 (17) with the consent of the heirs or devisees or the
6 court, effect a fair and reasonable compromise with any
7 debtor or obligor or extend, renew, or in any manner modify
8 the terms of any obligation owing to the estate. If the
9 personal representative holds a mortgage, pledge, or other
10 lien upon property of another person, he may, in lieu of
11 foreclosure, accept a conveyance or transfer of encumbered
12 assets from the owner thereof in satisfaction of the
13 indebtedness secured by lien.

14 (18) pay taxes, assessments, compensation of the
15 personal representative, and other expenses incident to the
16 administration of the estate;

17 (19) sell or exercise stock subscription or conversion
18 rights; consent, directly or through a committee or other
19 agent, to the reorganization, consolidation, merger,
20 dissolution, or liquidation of a corporation or other
21 business enterprise;

22 (20) allocate items of income or expense to either
23 estate income or principal, as permitted or provided by law;

24 (21) employ persons, including attorneys, auditors,
25 investment advisors, or agents, even if they are associated

1 with the personal representative, to advise or assist the
2 personal representative in the performance of his
3 administrative duties; act without independent investigation
4 upon their recommendations; and, instead of acting
5 personally, employ one or more agents to perform any act of
6 administration, whether or not discretionary;

7 (22) prosecute or defend claims or proceedings in any
8 jurisdiction for the protection of the estate and of the
9 personal representative in the performance of his duties;

10 (23) sell, mortgage, or lease any real or personal
11 property of the estate or any interest therein for cash,
12 credit, or for part cash and part credit and with or without
13 security for unpaid balances; provided, however, no a
14 personal representative ~~shall~~ may not, without prior court
15 approval in a supervised proceeding, either directly or
16 indirectly purchase any property of the estate he
17 represents, nor ~~shall~~ may he be interested in ~~any--such~~ the
18 sale. All sales ~~shall~~ must be fairly conducted and made for
19 the best price obtainable.

20 (24) continue any unincorporated business or venture in
21 which the decedent was engaged at the time of his death:

22 (a) in the same business form for a period of not more
23 than 4 months from the date of appointment of a general
24 personal representative if continuation is a reasonable
25 means of preserving the value of the business, including

1 good will;

2 (b) in the same business form for any additional
3 period of time that may be approved by order of the court in
4 a formal proceeding to which the persons interested in the
5 estate are parties; or

6 (c) throughout the period of administration, if the
7 business is incorporated by the personal representative and
8 if none of the probable distributees of the business who are
9 competent adults object to its incorporation and retention
10 in the estate;

11 (25) incorporate any business or venture in which the
12 decedent was engaged at the time of his death;

13 (26) satisfy and settle claims and distribute the
14 estate as provided in this code."

15 **Section 2.** Section 72-21-202, MCA, is amended to read:

16 "72-21-202. Powers of trustee. (1) From time of
17 creation of the trust until final distribution of the assets
18 of the trust, a trustee has the power to perform, without
19 court authorization, every act ~~which~~ that a prudent man
20 would perform for the purposes of the trust, including but
21 not limited to the powers specified in subsection (2).

22 (2) A trustee has the power, subject to subsection (1)
23 ~~of this section~~ and to 72-21-203:

24 (a) to collect, hold, and retain trust assets received
25 from a trustor until, in the judgment of the trustee,

1 disposition of the assets should be made; and the assets may
2 be retained even though they include an asset in which the
3 trustee is personally interested or which is not otherwise a
4 qualified investment;

5 (b) to receive additions to the assets of the trust
6 from any source;

7 (c) to continue or participate in the operation of any
8 business or other enterprise and to effect incorporation,
9 dissolution, or other change in the form of the organization
10 of the business or enterprise;

11 (d) to acquire an undivided interest in a trust asset
12 in which the trustee, in any trust capacity, holds an
13 undivided interest;

14 (e) to invest and reinvest trust assets in accordance
15 with the provisions of the trust or as provided by law; If
16 the trustee is authorized to invest funds in United States
17 obligations, he may invest in these obligations either
18 directly or in the form of securities of or other interests
19 in an open-end or closed-end management type investment
20 company or investment trust registered under the Investment
21 Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as
22 amended, if:

23 (i) the portfolio of the investment company or
24 investment trust is limited to United States government
25 obligations and repurchase agreements fully collateralized

1 by United States government obligations; and

2 (ii) the investment company or investment trust takes
3 delivery of the collateral for any repurchase agreement,
4 either directly or through an authorized custodian.

5 (f) to deposit trust funds in a bank, including a bank
6 operated by the trustee;

7 (g) to invest trust funds, including investments, in
8 demand time savings accounts and time certificates of
9 deposit in any bank, including a bank operated by the
10 trustee;

11 (h) to acquire or dispose of an asset, for cash or on
12 credit, at public or private sale; and to manage, develop,
13 improve, exchange, partition, change the character of, or
14 abandon a trust asset or any interest therein; and to
15 encumber, mortgage, or pledge a trust asset for a term
16 within or extending beyond the term of the trust, in
17 connection with the exercise of any power vested in the
18 trustee;

19 (i) to make ordinary or extraordinary repairs or
20 alterations in buildings or other structures, to demolish
21 any improvements, to raze existing or erect new party walls
22 or buildings;

23 (j) to subdivide, develop, or dedicate land to public
24 use; or to make or obtain the vacation of plats and adjust
25 boundaries; or to adjust differences in valuation on

1 exchange or partition by giving or receiving consideration;
2 or to dedicate easements to public use without
3 consideration;

4 (k) to enter for any purpose into a lease as lessor or
5 lessee, with or without option to purchase or renew, for a
6 term within or extending beyond the term of the trust;

7 (l) to enter into a lease or arrangement for
8 exploration and removal of minerals or other natural
9 resources or enter into a pooling or unitization agreement;

10 (m) to grant an option involving disposition of a
11 trust asset, or to take an option for the acquisition of any
12 asset;

13 (n) to vote a security, in person or by general or
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24 other form without disclosure of the trust so that title to
25 the security may pass by delivery, but the trustee is liable

1 for any act of the nominee in connection with the stock so
2 held;

3 (r) to insure the assets of the trust against damage
4 or loss and the trustee against liability with respect to
5 third persons;

6 (s) to borrow money from any source to be repaid from
7 trust assets or otherwise; to advance money for the
8 protection of the trust and for all expenses, losses, and
9 liability sustained in the administration of the trust or
10 because of the holding or ownership of any trust assets, for
11 which advances with any interest the trustee has a lien on
12 the trust assets as against the beneficiary;

13 (t) to pay or contest any claim; to settle a claim by
14 or against the trust by compromise, arbitration, or
15 otherwise; and to release, in whole or in part, any claim
16 belonging to the trust to the extent that the claim is
17 uncollectible;

18 (u) to pay taxes, assessments, compensation of the
19 trustee, and other expenses incurred in the collection,
20 care, administration, and protection of the trust;

21 (v) to allocate items of income or expense to either
22 trust income or principal, as provided by law, including
23 creation of reserves out of income for depreciation,
24 obsolescence, or amortization or for depletion in mineral or
25 timber properties;

1 (w) to pay any property distributable to a beneficiary
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3 beneficiary or for use of the beneficiary either to his
4 parent, his guardian, person with whom he resides, or
5 others;

6 (x) to effect distribution of property and money in
7 divided or undivided interests and to adjust resulting
8 differences in valuation;

9 (y) to employ persons, including attorneys, auditors,
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11 with the trustee, to advise or assist the trustee in the
12 performance of his administrative duties;

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14 proceedings for the protection of trust assets and of the
15 trustee in the performance of his duties;

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17 will accomplish or facilitate the exercise of the powers
18 vested in the trustee."

19 NEW SECTION. **Section 3.** Extension of authority. Any
20 existing authority to make rules on the subject of the
21 provisions of [this act] is extended to the provisions of
22 [this act].

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 3 *Sen. Sonja Peters* *Sen. Mercer* *Sen. Zeller* *Sen. Hagan*
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 18 of the interested persons, may properly:

19 (1) retain assets owned by the decedent pending
 20 distribution or liquidation, including those in which the
 21 representative is personally interested or which are
 22 otherwise improper for trust investment;

23 (2) receive assets from fiduciaries or other sources;

24 (3) perform, compromise, or refuse performance of the
 25 decedent's contracts that continue as obligations of the

1 estate, as he may determine under the circumstances. In
 2 performing enforceable contracts by the decedent to convey
 3 or lease land, the personal representative, among other
 4 possible courses of action, may:

5 (a) execute and deliver a deed of conveyance for cash
 6 payment of all sums remaining due on the purchaser's note
 7 for the sum remaining due secured by a mortgage or deed of
 8 trust on the land; or

9 (b) deliver a deed in escrow with directions that the
 10 proceeds, when paid in accordance with the escrow agreement,
 11 be paid to the successors of the decedent, as designated in
 12 the escrow agreement;

13 (4) satisfy written charitable pledges of the decedent
 14 irrespective of whether the pledges constituted binding
 15 obligations of the decedent or were properly presented as
 16 claims, if in the judgment of the personal representative
 17 the decedent would have wanted the pledges completed under
 18 the circumstances;

19 (5) if funds are not needed to meet debts and expenses
 20 currently payable and are not immediately distributable,
 21 deposit or invest liquid assets of the estate, including
 22 moneys money received from the sale of other assets, in
 23 federally insured interest-bearing accounts, readily
 24 marketable secured loan arrangements, or other prudent
 25 investments which that would be reasonable for use by

1 trustees generally. If the personal representative is
 2 authorized to invest funds in United States obligations, he
 3 may invest in these obligations either directly or in the
 4 form of securities of or other interests in an open-end or
 5 closed-end management type investment company or investment
 6 trust registered under the Investment Company Act of 1940
 7 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

8 (a) the portfolio of the investment company or
 9 investment trust is limited to United States government
 10 obligations and repurchase agreements fully collateralized
 11 by United States government obligations; and

12 (b) the investment company or investment trust takes
 13 delivery of the collateral for any repurchase agreement,
 14 either directly or through an authorized custodian.

15 (6) acquire or dispose of an asset, including land in
 16 this or another state, for cash or on credit, at public or
 17 private sale and manage, develop, improve, exchange,
 18 partition, change the character of, or abandon an estate
 19 asset;

20 (7) make ordinary or extraordinary repairs or
 21 alterations in buildings or other structures, demolish any
 22 improvements, raze existing or erect new party walls or
 23 buildings;

24 (8) subdivide, develop, or dedicate land to public
 25 use; make or obtain the vacation of plats and adjust

1 boundaries; adjust differences in valuation on exchange or
 2 partition by giving or receiving considerations; or dedicate
 3 easements to public use without consideration;

4 (9) enter for any purpose into a lease as lessor or
 5 lessee, with or without option to purchase or renew, for a
 6 term within or extending beyond the period of
 7 administration;

8 (10) enter into a lease or arrangement for exploration
 9 and removal of minerals or other natural resources or enter
 10 into a pooling or unitization agreement;

11 (11) with the consent of the heirs or devisees or the
 12 court, abandon property when in the opinion of the personal
 13 representative it is valueless or is so encumbered or is in
 14 condition that it is of no benefit to the estate;

15 (12) vote stocks or other securities in person or by
 16 general or limited proxy;

17 (13) pay calls, assessments, and other sums chargeable
 18 or accruing against or on account of securities, unless
 19 barred by the provisions relating to claims;

20 (14) hold a security in the name of a nominee or in
 21 other form without disclosure of the interest of the estate,
 22 but the personal representative is liable for any act of the
 23 nominee in connection with the security so held;

24 (15) insure the assets of the estate against damage,
 25 loss, and liability and himself against liability as to

1 third persons;

2 (16) borrow money with or without security to be repaid
3 from the estate assets or otherwise and advance money for
4 the protection of the estate;

5 (17) with the consent of the heirs or devisees or the
6 court, effect a fair and reasonable compromise with any
7 debtor or obligor or extend, renew, or in any manner modify
8 the terms of any obligation owing to the estate. If the
9 personal representative holds a mortgage, pledge, or other
10 lien upon property of another person, he may, in lieu of
11 foreclosure, accept a conveyance or transfer of encumbered
12 assets from the owner thereof in satisfaction of the
13 indebtedness secured by lien.

14 (18) pay taxes, assessments, compensation of the
15 personal representative, and other expenses incident to the
16 administration of the estate;

17 (19) sell or exercise stock subscription or conversion
18 rights; consent, directly or through a committee or other
19 agent, to the reorganization, consolidation, merger,
20 dissolution, or liquidation of a corporation or other
21 business enterprise;

22 (20) allocate items of income or expense to either
23 estate income or principal, as permitted or provided by law;

24 (21) employ persons, including attorneys, auditors,
25 investment advisors, or agents, even if they are associated

1 with the personal representative, to advise or assist the
2 personal representative in the performance of his
3 administrative duties; act without independent investigation
4 upon their recommendations; and, instead of acting
5 personally, employ one or more agents to perform any act of
6 administration, whether or not discretionary;

7 (22) prosecute or defend claims or proceedings in any
8 jurisdiction for the protection of the estate and of the
9 personal representative in the performance of his duties;

10 (23) sell, mortgage, or lease any real or personal
11 property of the estate or any interest therein for cash,
12 credit, or for part cash and part credit and with or without
13 security for unpaid balances; provided, however, no a
14 personal representative shall may not, without prior court
15 approval in a supervised proceeding, either directly or
16 indirectly purchase any property of the estate he
17 represents, nor shall may he be interested in any--such the
18 sale. All sales shall must be fairly conducted and made for
19 the best price obtainable.

20 (24) continue any unincorporated business or venture in
21 which the decedent was engaged at the time of his death:

22 (a) in the same business form for a period of not more
23 than 4 months from the date of appointment of a general
24 personal representative if continuation is a reasonable
25 means of preserving the value of the business, including

1 good will;

2 (b) in the same business form for any additional
3 period of time that may be approved by order of the court in
4 a formal proceeding to which the persons interested in the
5 estate are parties; or

6 (c) throughout the period of administration, if the
7 business is incorporated by the personal representative and
8 if none of the probable distributees of the business who are
9 competent adults object to its incorporation and retention
10 in the estate;

11 (25) incorporate any business or venture in which the
12 decedent was engaged at the time of his death;

13 (26) satisfy and settle claims and distribute the
14 estate as provided in this code."

15 **Section 2.** Section 72-21-202, MCA, is amended to read:

16 "72-21-202. Powers of trustee. (1) From time of
17 creation of the trust until final distribution of the assets
18 of the trust, a trustee has the power to perform, without
19 court authorization, every act which that a prudent man
20 would perform for the purposes of the trust, including but
21 not limited to the powers specified in subsection (2).

22 (2) A trustee has the power, subject to subsection (1)
23 of this section and to 72-21-203:

24 (a) to collect, hold, and retain trust assets received
25 from a trustor until, in the judgment of the trustee,

1 disposition of the assets should be made; and the assets may
2 be retained even though they include an asset in which the
3 trustee is personally interested or which is not otherwise a
4 qualified investment;

5 (b) to receive additions to the assets of the trust
6 from any source;

7 (c) to continue or participate in the operation of any
8 business or other enterprise and to effect incorporation,
9 dissolution, or other change in the form of the organization
10 of the business or enterprise;

11 (d) to acquire an undivided interest in a trust asset
12 in which the trustee, in any trust capacity, holds an
13 undivided interest;

14 (e) to invest and reinvest trust assets in accordance
15 with the provisions of the trust or as provided by law. If
16 the trustee is authorized to invest funds in United States
17 obligations, he may invest in these obligations either
18 directly or in the form of securities of or other interests
19 in an open-end or closed-end management type investment
20 company or investment trust registered under the Investment
21 Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as
22 amended, if:

23 (i) the portfolio of the investment company or
24 investment trust is limited to United States government
25 obligations and repurchase agreements fully collateralized

by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(f) to deposit trust funds in a bank, including a bank operated by the trustee;

(g) to invest trust funds, including investments, in demand time savings accounts and time certificates of deposit in any bank, including a bank operated by the trustee;

(h) to acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(i) to make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;

(j) to subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust boundaries; or to adjust differences in valuation on

exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;

(k) to enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the trust;

(l) to enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(m) to grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;

(n) to vote a security, in person or by general or limited proxy, and enter into voting trusts;

(o) to pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(p) to sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise and retain any property received pursuant thereto;

(q) to hold a security in the name of a nominee or in other form without disclosure of the trust so that title to the security may pass by delivery, but the trustee is liable

1 for any act of the nominee in connection with the stock so
 2 held;
 3 (r) to insure the assets of the trust against damage
 4 or loss and the trustee against liability with respect to
 5 third persons;
 6 (s) to borrow money from any source to be repaid from
 7 trust assets or otherwise; to advance money for the
 8 protection of the trust and for all expenses, losses, and
 9 liability sustained in the administration of the trust or
 10 because of the holding or ownership of any trust assets, for
 11 which advances with any interest the trustee has a lien on
 12 the trust assets as against the beneficiary;
 13 (t) to pay or contest any claim; to settle a claim by
 14 or against the trust by compromise, arbitration, or
 15 otherwise; and to release, in whole or in part, any claim
 16 belonging to the trust to the extent that the claim is
 17 uncollectible;
 18 (u) to pay taxes, assessments, compensation of the
 19 trustee, and other expenses incurred in the collection,
 20 care, administration, and protection of the trust;
 21 (v) to allocate items of income or expense to either
 22 trust income or principal, as provided by law, including
 23 creation of reserves out of income for depreciation,
 24 obsolescence, or amortization or for depletion in mineral or
 25 timber properties;

1 (w) to pay any property distributable to a beneficiary
 2 under disability, without liability to the trustee, to the
 3 beneficiary or for use of the beneficiary either to his
 4 parent, his guardian, person with whom he resides, or
 5 others;
 6 (x) to effect distribution of property and money in
 7 divided or undivided interests and to adjust resulting
 8 differences in valuation;
 9 (y) to employ persons, including attorneys, auditors,
 10 investment advisors, or agents, even if they are associated
 11 with the trustee, to advise or assist the trustee in the
 12 performance of his administrative duties;
 13 (z) to prosecute or defend actions, claims, or
 14 proceedings for the protection of trust assets and of the
 15 trustee in the performance of his duties;
 16 (aa) to execute and deliver all instruments which that
 17 will accomplish or facilitate the exercise of the powers
 18 vested in the trustee."
 19 NEW SECTION. Section 3. Extension of authority. Any
 20 existing authority to make rules on the subject of the
 21 provisions of [this act] is extended to the provisions of
 22 [this act].

-End-

1 HOUSE BILL NO. 429

2 INTRODUCED BY GRADY, BLAYLOCK, MAZUREK,

3 STORY, SIMON, PATTERSON, MERCER, QUILICI, HARPER

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING PERSONAL
6 REPRESENTATIVES AND TRUSTEES TO INVEST FUNDS IN UNITED
7 STATES OBLIGATIONS EITHER DIRECTLY OR IN THE FORM OF
8 SECURITIES OF OR OTHER INTERESTS IN CERTAIN INVESTMENT
9 COMPANIES OR INVESTMENT TRUSTS; AND AMENDING SECTIONS
10 72-3-613 AND 72-21-202, MCA."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 72-3-613, MCA, is amended to read:

14 "72-3-613. Transactions authorized for personal
15 representative. Except as restricted by this code or
16 otherwise provided by the will or by an order in a formal
17 proceeding and subject to the priorities stated in 72-3-901,
18 a personal representative, acting reasonably for the benefit
19 of the interested persons, may properly:

20 (1) retain assets owned by the decedent pending
21 distribution or liquidation, including those in which the
22 representative is personally interested or which are
23 otherwise improper for trust investment;

24 (2) receive assets from fiduciaries or other sources;

25 (3) perform, compromise, or refuse performance of the

1 decedent's contracts that continue as obligations of the
2 estate, as he may determine under the circumstances. In
3 performing enforceable contracts by the decedent to convey
4 or lease land, the personal representative, among other
5 possible courses of action, may:

6 (a) execute and deliver a deed of conveyance for cash
7 payment of all sums remaining due on the purchaser's note
8 for the sum remaining due secured by a mortgage or deed of
9 trust on the land; or

10 (b) deliver a deed in escrow with directions that the
11 proceeds, when paid in accordance with the escrow agreement,
12 be paid to the successors of the decedent, as designated in
13 the escrow agreement;

14 (4) satisfy written charitable pledges of the decedent
15 irrespective of whether the pledges constituted binding
16 obligations of the decedent or were properly presented as
17 claims, if in the judgment of the personal representative
18 the decedent would have wanted the pledges completed under
19 the circumstances;

20 (5) if funds are not needed to meet debts and expenses
21 currently payable and are not immediately distributable,
22 deposit or invest liquid assets of the estate, including
23 moneys money received from the sale of other assets, in
24 federally insured interest-bearing accounts, readily
25 marketable secured loan arrangements, or other prudent

1 investments which that would be reasonable for use by
 2 trustees generally. If the personal representative is
 3 authorized to invest funds in United States obligations, he
 4 may invest in these obligations either directly or in the
 5 form of securities of or other interests in an open-end or
 6 closed-end management type investment company or investment
 7 trust registered under the Investment Company Act of 1940
 8 (15 U.S.C. 80a-1 through 80a-64), as amended, if:

9 (a) the portfolio of the investment company or
 10 investment trust is limited to United States government
 11 obligations and repurchase agreements fully collateralized
 12 by United States government obligations; and

13 (b) the investment company or investment trust takes
 14 delivery of the collateral for any repurchase agreement,
 15 either directly or through an authorized custodian.

16 (6) acquire or dispose of an asset, including land in
 17 this or another state, for cash or on credit, at public or
 18 private sale and manage, develop, improve, exchange,
 19 partition, change the character of, or abandon an estate
 20 asset;

21 (7) make ordinary or extraordinary repairs or
 22 alterations in buildings or other structures, demolish any
 23 improvements, raze existing or erect new party walls or
 24 buildings;

25 (8) subdivide, develop, or dedicate land to public

1 use; make or obtain the vacation of plats and adjust
 2 boundaries; adjust differences in valuation on exchange or
 3 partition by giving or receiving considerations; or dedicate
 4 easements to public use without consideration;

5 (9) enter for any purpose into a lease as lessor or
 6 lessee, with or without option to purchase or renew, for a
 7 term within or extending beyond the period of
 8 administration;

9 (10) enter into a lease or arrangement for exploration
 10 and removal of minerals or other natural resources or enter
 11 into a pooling or unitization agreement;

12 (11) with the consent of the heirs or devisees or the
 13 court, abandon property when in the opinion of the personal
 14 representative it is valueless or is so encumbered or is in
 15 condition that it is of no benefit to the estate;

16 (12) vote stocks or other securities in person or by
 17 general or limited proxy;

18 (13) pay calls, assessments, and other sums chargeable
 19 or accruing against or on account of securities, unless
 20 barred by the provisions relating to claims;

21 (14) hold a security in the name of a nominee or in
 22 other form without disclosure of the interest of the estate,
 23 but the personal representative is liable for any act of the
 24 nominee in connection with the security so held;

25 (15) insure the assets of the estate against damage,

1 loss, and liability and himself against liability as to
2 third persons;

3 (16) borrow money with or without security to be repaid
4 from the estate assets or otherwise and advance money for
5 the protection of the estate;

6 (17) with the consent of the heirs or devisees or the
7 court, effect a fair and reasonable compromise with any
8 debtor or obligor or extend, renew, or in any manner modify
9 the terms of any obligation owing to the estate. If the
10 personal representative holds a mortgage, pledge, or other
11 lien upon property of another person, he may, in lieu of
12 foreclosure, accept a conveyance or transfer of encumbered
13 assets from the owner thereof in satisfaction of the
14 indebtedness secured by lien.

15 (18) pay taxes, assessments, compensation of the
16 personal representative, and other expenses incident to the
17 administration of the estate;

18 (19) sell or exercise stock subscription or conversion
19 rights; consent, directly or through a committee or other
20 agent, to the reorganization, consolidation, merger,
21 dissolution, or liquidation of a corporation or other
22 business enterprise;

23 (20) allocate items of income or expense to either
24 estate income or principal, as permitted or provided by law;

25 (21) employ persons, including attorneys, auditors,

1 investment advisors, or agents, even if they are associated
2 with the personal representative, to advise or assist the
3 personal representative in the performance of his
4 administrative duties; act without independent investigation
5 upon their recommendations; and, instead of acting
6 personally, employ one or more agents to perform any act of
7 administration, whether or not discretionary;

8 (22) prosecute or defend claims or proceedings in any
9 jurisdiction for the protection of the estate and of the
10 personal representative in the performance of his duties;

11 (23) sell, mortgage, or lease any real or personal
12 property of the estate or any interest therein for cash,
13 credit, or for part cash and part credit and with or without
14 security for unpaid balances; provided, however, no a
15 personal representative shall may not, without prior court
16 approval in a supervised proceeding, either directly or
17 indirectly purchase any property of the estate he
18 represents, nor shall may he be interested in any--such the
19 sale. All sales shall must be fairly conducted and made for
20 the best price obtainable.

21 (24) continue any unincorporated business or venture in
22 which the decedent was engaged at the time of his death;

23 (a) in the same business form for a period of not more
24 than 4 months from the date of appointment of a general
25 personal representative if continuation is a reasonable

1 means of preserving the value of the business, including
2 good will;

3 (b) in the same business form for any additional
4 period of time that may be approved by order of the court in
5 a formal proceeding to which the persons interested in the
6 estate are parties; or

7 (c) throughout the period of administration, if the
8 business is incorporated by the personal representative and
9 if none of the probable distributees of the business who are
10 competent adults object to its incorporation and retention
11 in the estate;

12 (25) incorporate any business or venture in which the
13 decedent was engaged at the time of his death;

14 (26) satisfy and settle claims and distribute the
15 estate as provided in this code."

16 **Section 2.** Section 72-21-202, MCA, is amended to read:

17 "72-21-202. Powers of trustee. (1) From time of
18 creation of the trust until final distribution of the assets
19 of the trust, a trustee has the power to perform, without
20 court authorization, every act which that a prudent man
21 would perform for the purposes of the trust, including but
22 not limited to the powers specified in subsection (2).

23 (2) A trustee has the power, subject to subsection (1)
24 of this section and to 72-21-203:

25 (a) to collect, hold, and retain trust assets received

1 from a trustor until, in the judgment of the trustee,
2 disposition of the assets should be made; and the assets may
3 be retained even though they include an asset in which the
4 trustee is personally interested or which is not otherwise a
5 qualified investment;

6 (b) to receive additions to the assets of the trust
7 from any source;

8 (c) to continue or participate in the operation of any
9 business or other enterprise and to effect incorporation,
10 dissolution, or other change in the form of the organization
11 of the business or enterprise;

12 (d) to acquire an undivided interest in a trust asset
13 in which the trustee, in any trust capacity, holds an
14 undivided interest;

15 (e) to invest and reinvest trust assets in accordance
16 with the provisions of the trust or as provided by law. If
17 the trustee is authorized to invest funds in United States
18 obligations, he may invest in these obligations either
19 directly or in the form of securities of or other interests
20 in an open-end or closed-end management type investment
21 company or investment trust registered under the Investment
22 Company Act of 1940 (15 U.S.C. 80a-1 through 80a-64), as
23 amended, if:

24 (i) the portfolio of the investment company or
25 investment trust is limited to United States government

obligations and repurchase agreements fully collateralized by United States government obligations; and

(ii) the investment company or investment trust takes delivery of the collateral for any repurchase agreement, either directly or through an authorized custodian.

(F) to deposit trust funds in a bank, including a bank operated by the trustee;

(g) to invest trust funds, including investments, in demand time savings accounts and time certificates of deposit in any bank, including a bank operated by the trustee;

(h) to acquire or dispose of an asset, for cash or on credit, at public or private sale; and to manage, develop, improve, exchange, partition, change the character of, or abandon a trust asset or any interest therein; and to encumber, mortgage, or pledge a trust asset for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(i) to make ordinary or extraordinary repairs or alterations in buildings or other structures, to demolish any improvements, to raze existing or erect new party walls or buildings;

(j) to subdivide, develop, or dedicate land to public use; or to make or obtain the vacation of plats and adjust

boundaries; or to adjust differences in valuation on exchange or partition by giving or receiving consideration; or to dedicate easements to public use without consideration;

(k) to enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the term of the trust;

(l) to enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(m) to grant an option involving disposition of a trust asset, or to take an option for the acquisition of any asset;

(n) to vote a security, in person or by general or limited proxy, and enter into voting trusts;

(o) to pay calls, assessments, and any other sums chargeable or accruing against or on account of securities;

(p) to sell or exercise stock subscription or conversion rights; to consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise and retain any property received pursuant thereto;

(q) to hold a security in the name of a nominee or in other form without disclosure of the trust so that title to

1 the security may pass by delivery, but the trustee is liable
2 for any act of the nominee in connection with the stock so
3 held;

4 (r) to insure the assets of the trust against damage
5 or loss and the trustee against liability with respect to
6 third persons;

7 (s) to borrow money from any source to be repaid from
8 trust assets or otherwise; to advance money for the
9 protection of the trust and for all expenses, losses, and
10 liability sustained in the administration of the trust or
11 because of the holding or ownership of any trust assets, for
12 which advances with any interest the trustee has a lien on
13 the trust assets as against the beneficiary;

14 (t) to pay or contest any claim; to settle a claim by
15 or against the trust by compromise, arbitration, or
16 otherwise; and to release, in whole or in part, any claim
17 belonging to the trust to the extent that the claim is
18 uncollectible;

19 (u) to pay taxes, assessments, compensation of the
20 trustee, and other expenses incurred in the collection,
21 care, administration, and protection of the trust;

22 (v) to allocate items of income or expense to either
23 trust income or principal, as provided by law, including
24 creation of reserves out of income for depreciation,
25 obsolescence, or amortization or for depletion in mineral or

1 timber properties;

2 (w) to pay any property distributable to a beneficiary
3 under disability, without liability to the trustee, to the
4 beneficiary or for use of the beneficiary either to his
5 parent, his guardian, person with whom he resides, or
6 others;

7 (x) to effect distribution of property and money in
8 divided or undivided interests and to adjust resulting
9 differences in valuation;

10 (y) to employ persons, including attorneys, auditors,
11 investment advisors, or agents, even if they are associated
12 with the trustee, to advise or assist the trustee in the
13 performance of his administrative duties;

14 (z) to prosecute or defend actions, claims, or
15 proceedings for the protection of trust assets and of the
16 trustee in the performance of his duties;

17 (aa) to execute and deliver all instruments which that
18 will accomplish or facilitate the exercise of the powers
19 vested in the trustee."

20 NEW SECTION. **Section 3.** Extension of authority. Any
21 existing authority to make rules on the subject of the
22 provisions of [this act] is extended to the provisions of
23 [this act].

-End-