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HOUSE BILL 185

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO TRUSTS; AMENDING A SECTION OF THE UNIFORM PRINCIPAL AND INCOME ACT TO ALLOW TRUSTEES DISCRETION IN CHOICE OF SOURCES OF DISTRIBUTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 46-3A-108 NMSA 1978 (being Laws 2005, Chapter 329, Section 6) is amended to read:

"46-3A-108. DISTRIBUTION OF TOTAL RETURN TRUST.--

A. Expenses, taxes and other charges that would otherwise be deducted from income if the trust was not a total return trust may not be deducted from the distribution amount.

B. Unless otherwise provided by the governing instrument, the distribution amount each year shall be paid from sources determined by the trustee in the exercise of the trustee's discretion. Absent such exercise, the distribution

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1 amount each year shall be deemed to be paid from the following
2 sources for that year in the following order:

3 (1) net income determined as if the trust were
4 not a total return trust;

5 (2) other ordinary income as determined for
6 federal income tax purposes;

7 (3) net realized short-term capital gains as
8 determined for federal income tax purposes;

9 (4) net realized long-term capital gains as
10 determined for federal income tax purposes;

11 (5) trust principal comprising assets for
12 which there is a readily available market value; and

13 (6) other trust principal."