

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass and Be Placed on the Consent Calendar
Vote:	8 - 0 - 1
Yeas:	Barker, Bonamici, Cameron, Komp, Krieger, Read, Whisnant, Macpherson
Nays:	0
Exc.:	Flores
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/8, 2/12

WHAT THE MEASURE DOES: Clarifies that for the purposes of determining if the distribution of an entity constitutes distribution of principal or income, the determination is based on whether the entity distributes more than 20 percent of its assets, not whether the trust receives more than 20 percent of the assets distributed.

ISSUES DISCUSSED:

- The Oregon Uniform Principal and Income Act
- When an entity distributes more than 20 percent of its assets, it should be considered a distribution of principal

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: “Trusts” are where one person holds property for the benefit of one or more other persons. A trust may hold property that produces income and may call for one person to receive the income and another person to receive the property producing the income at a later point in time. ORS 129.300 sets forth when a trust should treat property as “income” and when it should treat it as “principal.” Currently, if a trust receives a distribution of property from an entity that is greater than 20 percent of the entity’s gross assets, the distribution is treated as a distribution of principal. In a recent California case, interpreting a California statute that is identical to Oregon’s, the California court found that where five separate trusts each owned 20 percent of an entity and when this entity was liquidated, since none received more than 20 percent of the assets of the liquidated entity, all of the distribution was income. *California v. Elder*, 124 Cal. App 4th 711 (2004).