

# ALASKA STATE SENATE



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**Senator Ralph Seekins**  
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## **Senate Bill 87 Sponsor Statement** **Update of the Uniform Principal and Income Act**

[Statute 13.38](#) reflects the Alaska legislature's 1984 adoption of an early version of the Uniform Principal and Income Act. This Act provides rules for the determination of whether a trust's or estate's receipts should be considered income or principal. This distinction is often important because some beneficiaries may be entitled to income distributions, and others may be entitled to principal distributions. [Senate Bill 87](#) updates the above-described statute to the most recent (1997) version of the Uniform Principal and Income Act. Articles 4 through 7 provide updated rules for determining whether receipts should be considered income or principal.

The drafters of the 1997 Uniform Principal and Income Act have recognized that there is a conflict between income and principal beneficiaries, and this conflict creates pressures on the fiduciary. The income beneficiaries want the fiduciary to invest so as to maximize annual income. The principal beneficiaries want the fiduciary to invest for long term equity growth. As a result, a trustee trying to satisfy both sets of beneficiaries will have to compromise with respect to the choice of investments. Consequently, the total return of the trust or estate will suffer. Two techniques have been adopted to avoid the need for such a compromise. These techniques allow the trustee to choose investment approaches which will maximize the total investment return of the trust or estate.

The first technique is provided by Article 1 of Senate Bill 87, which gives the trustee the discretionary power to adjust. This power allows the trustee to reallocate receipts from income to principal, or vice versa, when the trustee determines that it is fair and reasonable to do so. The second technique is provided by Article 2 of Senate Bill 87, which allows the trustee to convert a trust to a unitrust. This is a trust which provides that a certain percentage of its assets (often 4%) will be distributed each year to the income beneficiary.

Both of the above techniques will allow the trustee to choose investment approaches which will maximize the total return. As a result, both the income beneficiaries and the principal beneficiaries will receive greater distributions. Further, the trustee will not be struggling with the above-described conflict of interest in regard to investment approaches.

As of January, 2003, thirty states have adopted the 1997 Uniform Principal and Income Act. Of these, twelve states have included the unitrust provisions. Senate Bill 87 follows the legislation enacted by Pennsylvania, which includes both techniques which enable the trustee to maximize total returns. The State of Washington enacted this version in 2002. Georgia is presently considering it this year.