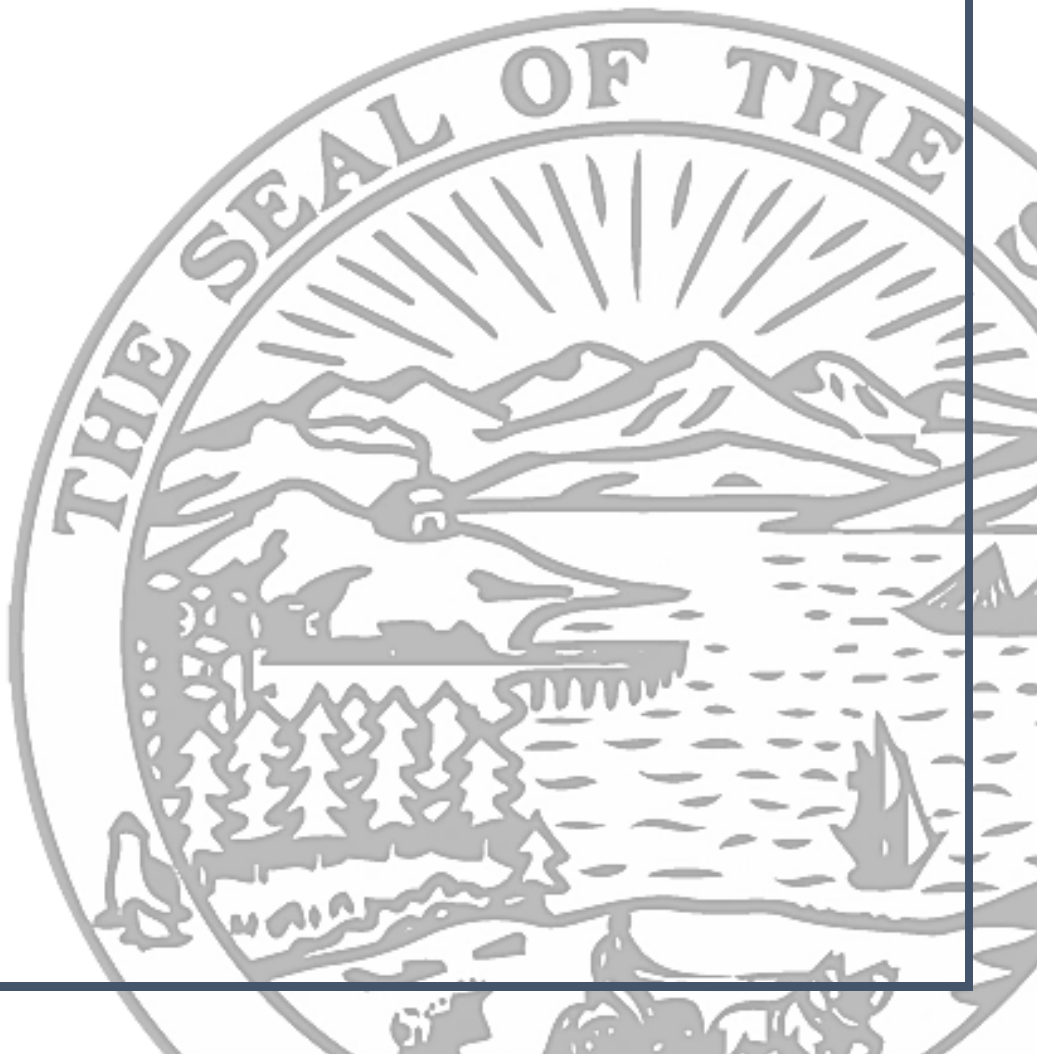
# The Alaska Permanent Fund and the Permanent Fund Protection Act

State of Alaska

Department of Revenue

January 2017



**SUMMARY OF PROPOSITION**

This proposal, if approved, would amend the Constitution of the State of Alaska by amending Article IX, Section 7 (Dedicated Funds) and adding a new Section to Article IX (Section 15, Alaska Permanent Fund). It would establish a constitutional permanent fund into which at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State would be paid. The principal of the fund would be used only for income-producing investments permitted by law and the income from the fund would be deposited in the general fund of the State and be available to be appropriated for expenditure by the State unless otherwise provided by law.

- - Summary prepared by Legislative Affairs Agency as required by law

***Excerpt from*** 1976 General Election Ballot, Proposition No. 2
Permanent Fund from Non-Renewable Resources Revenue
Constitutional Amendment

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# INTRODUCTION

With a persistent multi-billion dollar deficit and diminished budget reserves, Alaska is facing a serious fiscal crisis. Any realistic pathway to fiscal balance requires using the investment income of the permanent fund, now the state's largest revenue source. The Permanent Fund Protection Act (PFPA) proposes a framework for how to use permanent fund earnings in a sustainable fashion so that the fund can continue to provide for Alaskans into the future.

There is no question that using the permanent fund earnings to support annual general fund expenditures marks a significant turning point for both the fund and the state. The decision should not be taken lightly. To assist legislators and members of the public evaluate the proposals for how to use the permanent fund earnings and to better inform the public policy discussion, the Department of Revenue compiled information about the permanent fund and the Governor's proposal for the use of fund earnings.

# THE PERMANENT FUND

Established by constitutional amendment in 1976, the permanent fund is the state's largest savings fund. Decades of setting aside a portion of royalty proceeds, together with additional legislative appropriations, has grown the fund to $53 billion (as of the end of fiscal year 2016). This includes a $44 billion balance in the principal (or corpus) and $8.6 billion in the fund's earnings reserve account (ERA).[1]

## What is the purpose of the fund?

In 1976, the ballot that Alaskans voted on to create the permanent fund included a statement in favor of the constitutional amendment that argued the fund would serve to control government spending as oil production ramped up and to save for future needs, noting:

> "Today, as the result of anticipated oil and gas revenues, Alaska stands on the brink of unprecedented prosperity. No one, but no one, argues that these non-renewable resources will last but for a few decades."

The ballot also included an official summary of the amendment. That summary anticipated that earnings from the fund would "be deposited in the general fund and be available to be appropriated for expenditure by the State."

[1] APFC forecast anticipates the fund balance will be approximately $55 billion by the end of fiscal year 2017 (June 30, 2017).See Alaska Permanent Fund Financial History & Projections as of Nov. 30, 2016, available at http://www.apfc.org/_amiReportsArchive/Proj%20201611.pdf (last visited Jan. 30, 2017). The fund has grown ahead of expectations, reaching $56.4 billion as of January 30, 2017. APFC publishes the current value of the fund at http://apfc.org/home/Content/home/index.cfm.

Four years later, when it created the Alaska Permanent Fund Corporation (APFC) and authorized the first permanent fund dividend (PFD or dividend), the legislature articulated its view of the fund's purpose in statute, stating:

1. The fund should provide a means of conserving a portion of the state's revenue from mineral resources to benefit all generations of Alaskans;
2. The fund's goal should be to maintain safety of principal while maximizing total return;
3. The fund should be used as a savings device managed to allow the maximum use of disposable income from the fund for purposes designated by law.[2]

These sources indicate that the fund was intended to produce income and support state services, particularly after the decline of oil revenue.

Today, many Alaskans view the distribution of investment income, through the annual dividend, as an essential purpose of the fund. The dividend program was not part of the fund when it was created. However, this program has certainly played an important role in cementing Alaskans' interest in protecting the fund's assets.

Recognizing that oil production would eventually decline, Alaskans that voted to create the permanent fund likely wanted to prevent the state from spending windfall oil revenues immediately and to set aside a portion of Alaska's oil wealth for future needs. What those needs would be—the crux of the issue facing Alaska today—was never fully established.

## How is the fund structured?

The permanent fund consists of the principal (or corpus) and the earnings reserve account (ERA). Valued over $44 billion at the end of fiscal year 2016, the principal is composed of four types of deposits:

1. Dedicated mineral royalty revenues ($16.1 billion);[3]
2. Inflation proofing transfers from the ERA ($16.2 billion);
3. Additional special appropriations and lawsuit settlement proceeds ($7.1 billion); and
4. Unrealized gains and losses from the investment of funds in the principal ($4.8 billion).

In fiscal year 2017, the fund has grown ahead of expectations, reaching $56.4 billion as of January 30. The principal is invested to produce income but cannot be spent without amending the constitution.

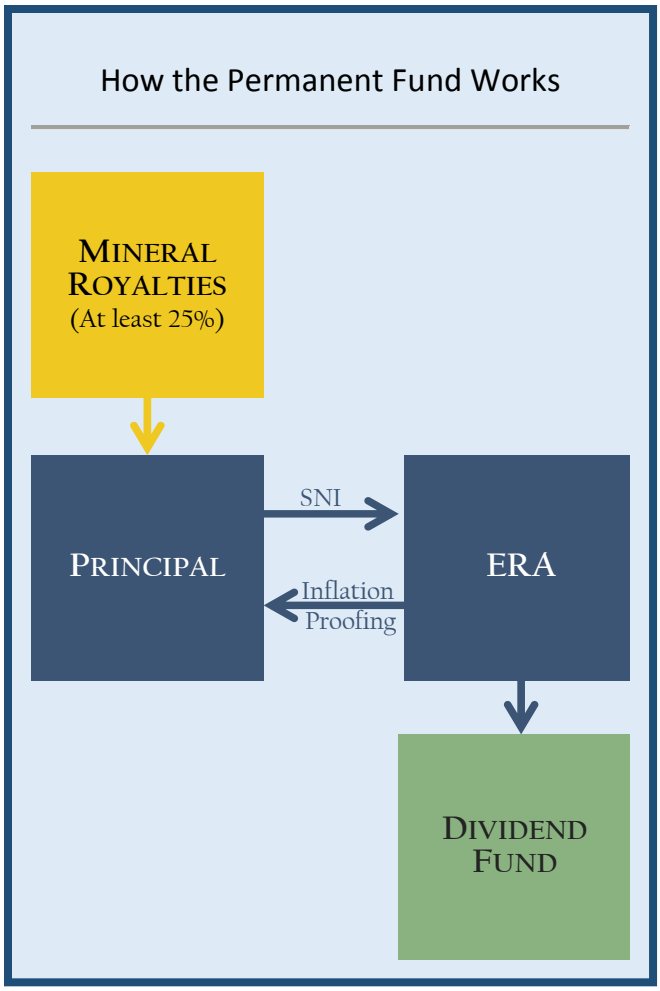
The legislature created the ERA to hold the fund's income and, unlike the principal, the balance of the ERA is available for appropriation by the legislature. At the end of fiscal year 2016, the account totaled

[2] AS 37.13.020.

[3] The constitution directs at least 25% of mineral royalties to the principal. For leases issued after 1980, statute increases this amount to 50%. Because Alaska's largest fields, such as Prudhoe Bay, were leased prior to 1980, the overall rate is closer to 25, than 50%. In recent years, deposits have equaled about 30% of all royalties.

$8.6 billion. Funds allocated to the ERA include: (1) statutory net income (SNI)[4] and (2) unrealized gains or losses accruing from the investment of funds in the ERA.

The legislature outlined a plan for how to use the money accruing in the ERA in statute. First, APFC calculates the "income available for distribution" (a rolling 5-year average of the fund's SNI); half of that amount is appropriated for dividends each year.[5] Second, "an amount sufficient to offset the effect of inflation on the principal of the fund" is transferred from the ERA back to the principal.[6] The cost of managing the fund and its investments are also paid from the ERA each year.[7] All remaining income has remained in the ERA. This practice has ensured that funds remain available for the dividend and inflation proofing even in years when the fund realizes significant investment losses.[8]




[4] In contrast with total return, SNI does not include unrealized gains and losses on investments (which stay in the principal until they are realized) or the earnings on the *Amerada Hess* funds (funds from the settlement of litigation, see note 8 below). SNI does include income from the fund's investments and realized earnings (or losses) from the sale of investment assets.

[5] AS 37.13.145(b); AS 37.13.140 ("Income available for distribution equals 21 percent of the net income of the fund for the last five fiscal years, including the fiscal year just ended, but may not exceed net income of the fund for the fiscal year just ended plus the balance in the earnings reserve account described in AS 37.13.145.").

[6] AS 37.13.145(c).

[7] AS 37.13.150.

[8] APFC separately accounts for certain royalties that originated from the early 1990s settlement of the "Amerada Hess" case, a 15-year-long civil lawsuit levied by the state of Alaska against 17 oil companies for underpayment of oil production royalties. Earnings from this portion of the fund, whose balance is $424.4 million, are excluded from the dividend calculation. Instead, income earned from the Amerada Hess settlement is transferred into Alaska Capital Income Fund. *See* AS 37.13.145(d).

## Who manages the fund and how is it invested?

In 1980, the legislature created APFC to manage and invest the fund.[9] The APFC Board of Trustees – composed of four public members, the Commissioner of Revenue, and one additional cabinet member[10] – is responsible for setting investment policy for the fund. Public members serve staggered four-year terms. The current Board members are: Bill Moran (first appointed by Governor Murkowski), Carl Brady (appointed by Governor Parnell), Larry Cash (appointed by Governor Parnell), Marty Rutherford (appointed by Governor Walker), Randall Hoffbeck (Commissioner of Revenue) and Sheldon Fisher (Commissioner of Administration).[11]

The fund's investment portfolio has evolved over time under the direction of the legislature and the Board. As outlined in the History of the Permanent Fund on page 7,[12] the legislature initially limited the types of investments that the fund could purchase. Over time, that list evolved and grew until, in 2005, the legislature removed all categorical restrictions on the types of investments the fund could make.

Today, the Board generally has broad discretion with respect to investment policy. However, APFC must adhere to the "prudent investor rule."[13] A well-established legal-doctrine, the prudent investor rule requires that the Board and APFC staff "exercise the judgment and care under the circumstances then prevailing that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the designation and management of large investments."[14] Statutes set out additional guidance for the Board, including direction regarding borrowing money, diversification, and instate investments.[15]

The Board's long-term investment goal is an average annual real (after accounting for inflation) rate of return of 5 percent. To achieve that goal, the trustees set a target asset allocation, defining the types of investments and what percent of the fund to place in each type of investment. The chart below outlines the fund's current asset allocation.

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[9] Initially, the fund was managed by the Department of Revenue. *See* APFC, About the Alaska Permanent Fund Corporation, http://www.apfc.org/home/Content/aboutAPFC/aboutAPFC.cfm (last visited Jan. 28, 2017).

[10] AS 37.13.050.

[11] For more about the Board of Trustees, see http://www.apfc.org/home/Content/aboutAPFC/board.cfm (last visited Jan. 30, 2017).

[12] This history is adopted from Alaska Permanent Fund Corporation, Landmarks in Permanent Fund History, available at http://www.apfc.org/home/Content/aboutFund/fundHistory.cfm (last visited Jan. 30, 2017).

[13] AS 37.13.120(a).

[14] *See* AS 37.13.120(a).

[15] AS 37.13.120.

| Asset Class and Sub Asset Class Targets | 2017 | 2018 | 2019 | 2020 | 2021 |
|---|---|---|---|---|---|
| Public Equities | 40% | 39% | 38% | 37% | 35% |
| Fixed Income Plus | 22% | 22% | 22% | 20% | 18% |
| Private Equity/Growth Opportunities | 11% | 11% | 12% | 13% | 14% |
| Real Estate | 11% | 11% | 11% | 12% | 13% |
| Private Credit/Infrastructure/Income Opportunities | 5% | 6% | 7% | 8% | 9% |
| Absolute Return | 5% | 5% | 5% | 5% | 6% |
| Asset Allocation | 6% | 6% | 5% | 5% | 5% |
| **Total** | **100%** | **100%** | **100%** | **100%** | **100%** |

Following the Board's policy direction, APFC's internal and external asset managers invest the fund under the supervision of APFC's executive director. External managers are generally used for investing globally in all asset classes, especially for specialized targeted investments. Internal management has historically focused on fixed income, but has been broadening into other areas over time.

## THE DIVIDEND

Perhaps the most well-known feature of the fund, the legislature has distributed a portion of the permanent fund's income to Alaskans in an annual dividend appropriation every year since 1982.

### What is the purpose of the dividend?

Like the fund itself, the dividend's purpose is multifaceted and evolving.[16] Legislation passed in 1980, which laid the foundation for today's dividend program,[17] articulated three purposes for a dividend:

1. Distributing a portion of the state's energy wealth to Alaskans;
2. Encouraging people to stay in Alaska; and
3. Encouraging awareness and involvement by Alaskans in the management and use of the permanent fund.[18]

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[16] *See e.g.* Dave Rose, Saving for the Future 158 (2008); Rural Research Agency of the Alaska State Senate, *Alaska's Permanent Fund: Legislative History, Intent and Operations* (1986, abridged 1987), *in* Alaska Permanent Fund Corporation, The Early History of the Alaska Permanent Fund The Trustee Papers vol. 5 34, 42-43, 50 *et seq.* (1997).

[17] PFDs were originally designed to reward long-term state residents with a larger dividend than those who were newer, paying $50 per year of residency beginning after statehood commenced in 1959. This portion of the original law was deemed unconstitutional by the U.S. Supreme Court in 1982. *Zobel v. Williams*, 457 U.S. 55 (1982).

[18] An Act Providing for the payment of Alaska Permanent Fund Income to State Residents, and Providing for and Effective Date, Senate Bill 122, 1980 Alaska Sess. Laws Ch. 21.

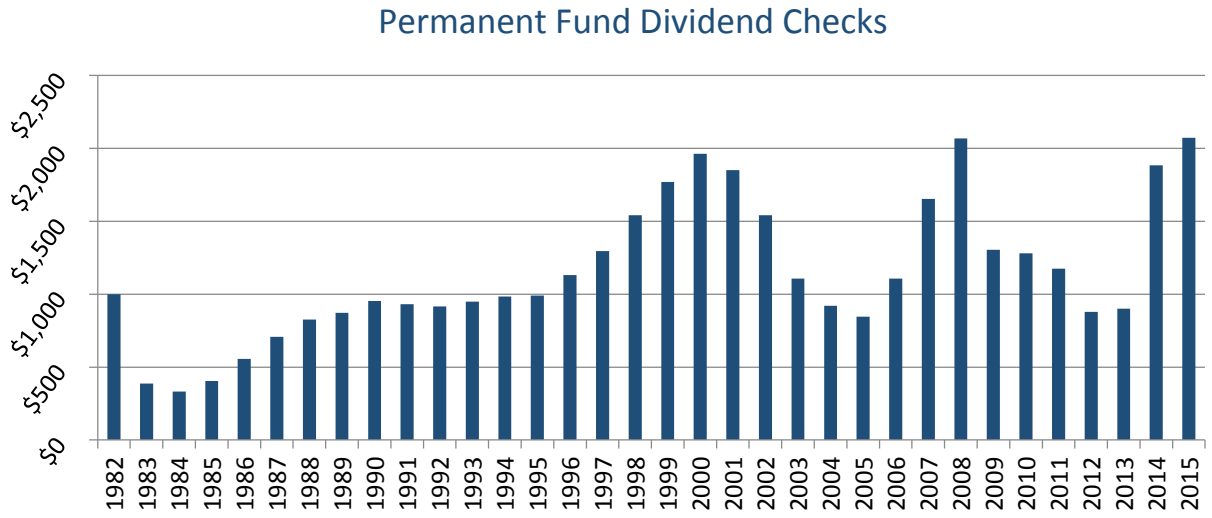
In the context of that 1980 legislation, the legislature also expressed a desire to help offset rising fuel costs.[19] Evident in public testimony regarding proposals for the use of fund earnings, these purposes for the dividend continue to be important to Alaskans today.

## How is the dividend calculated?

Somewhat simplified, current statutes governing the permanent fund and the dividend fund establish the following formula for dividend checks:

1. Total the fund's SNI from the current and previous four fiscal years;
2. Multiply by 21%;
3. Divide by 2;
4. Subtract any prior year obligations, expenses and PFD program operations; and
5. Divide by the number of eligible applicants.[20]

Since 1982, nearly $24 billion of the fund's income has been distributed in dividends that have varied from $331 per person (1984) to $2,072 (2015). Notably, the amount of dividend checks has varied widely from year to year. The following chart shows the amount of dividend checks for each year from 1982 to 2015.




The statutory formula has been used every year with two notable exceptions. In 2008, Governor Sarah Palin signed Senate Bill 4002, which provided a one-time special payment of $1,200 to every Alaskan eligible for the PFD. This additional payment came from the General Fund, however not the ERA. The second event was Governor Bill Walker's veto on June 29, 2016, which reduced the divided appropriation from $1,362 million to $695.6 million. This reduced the 2016 dividend payment from an estimated $2,000 to $1,022. The vetoed funds remained in the ERA.

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19 *Id.*

20 AS 37.13.140, AS 37.13.145(b), AS 43.23.025.

**History of Permanent Fund Investment**

1977 - The first deposit of $734,000 is received by the fund and invested in U.S. Government bonds.

1980 - The legislature creates APFC, deposits an additional $900 million in the fund through a special appropriation; and authorizes the first permanent fund dividend (PFD).

1982 - At the request of the Board, the legislature enacts inflation proofing to protect the fund's purchasing power. The first PFD is distributed.

1983 - Following an amendment to the statutory list of allowable investments, the fund makes its first investments in the stock market and directly held real estate.

1987 - Despite the stock market crash in October, the fund's performance ranks in the top 9% of all public funds in the country. Total annual throughput of oil in the trans-Alaska pipeline peaks.

1990 - The legislature again expands the statutory investment list and the fund begins to invest in stock and bond markets outside of the U.S.

1998 - For the first time, fund earnings exceed state oil revenues; the fund reaches $25 billion.

1999 - The legislature increases investment flexibility again, allowing up to 5% of the fund to be invested in alternative investments.

2000 - As the stock market begins a sharp decline that will last three years, the Board remains committed to a long-term, diverse investment strategy – further diversifying the investment portfolio and increasing the equity allocation to 53%.

2001 - The Board formally endorses a constitutional amendment to limit withdrawals from the fund to a percent of its total market value (POMV) and, at the Board's request, the legislature considers a resolution to place this proposed amendment on the next general election ballot.

2002 - The bear market that began in 2000 leads to the fund's first negative return.

2004 - APFC invests in two new asset classes: absolute return strategy funds and private equity. Furthering APFC's independence, the legislature changes state law so that public members of the Board may only be removed for cause.

2005 - Removing statutory limitations, the legislature authorizes APFC to make investment decisions solely under the guidelines of the prudent investor rule. The fund reaches $30 billion.

2007 - The Board adds the infrastructure asset class to the fund's investments. Several years of strong returns carry the fund's value to $40 billion.

2009 - To stabilize returns, the Board reorganizes investments into risk-based groups according to the market conditions they are intended to address. Based on this and other risk management strategies, APFC is awarded an aiCIO Industry Innovation Award the following year.

2013 - The Board works to bring international bond and infrastructure co-investments in house.

2015 - To lower costs and prevent over diversification, the Board authorizes a strategy of fewer, more concentrated investments. Fund value exceeds $50 billion.

## TODAY'S FISCAL CRISIS

Historically, petroleum related revenues have balanced most of the unrestricted general fund (UGF) budget. For example, from 2005 to 2014, over 90% of UGF revenues came from petroleum. But oil prices plummeted causing revenue to fall dramatically: from 2012 to 2015, oil revenue fell by $7.8 billion – an 88% drop. Though oil prices have recovered somewhat, they are still far from the over $100 per barrel price necessary to balance the budget.

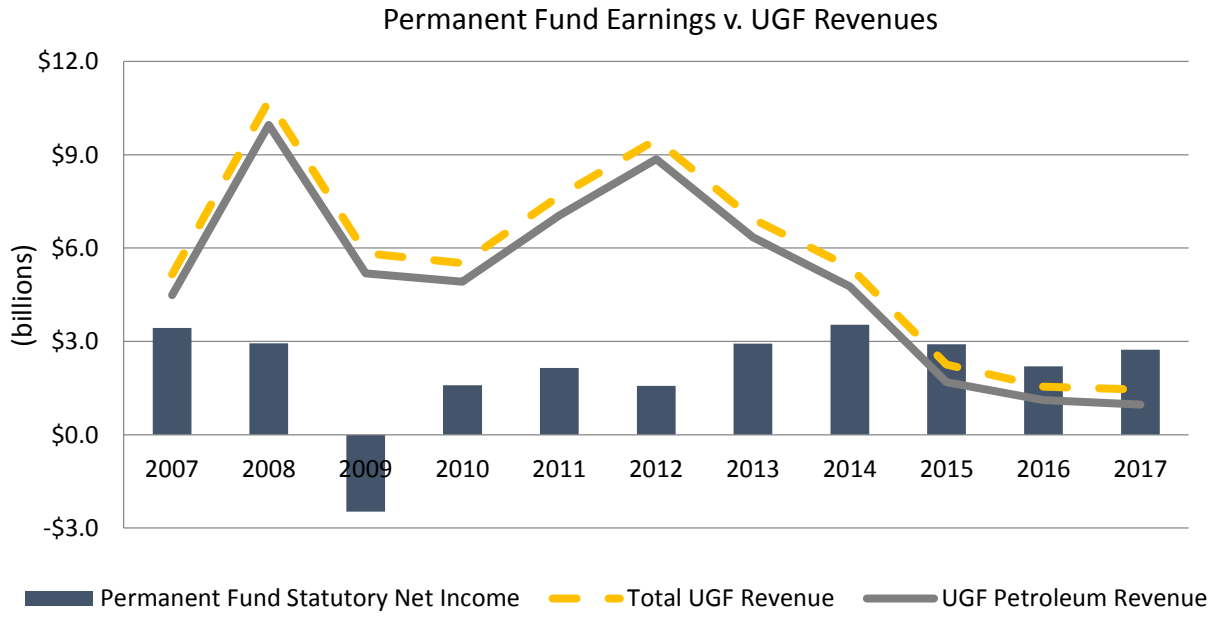
To address shortfalls, the State has dramatically reduced spending and is considering options for new revenues. However, even together, cuts and new revenue options cannot close the nearly $3 billion deficit (at current and forecasted oil prices). And, because Alaska's oil production is forecast to decline, even significantly higher oil prices can only delay—not solve—the State's long-term budget problems.

Concurrent with cutting expenditures, the state has relied on its budget reserve funds to cover deficits. Since 2013, the state has withdrawn approximately $13 billion from those funds since 2013. The remaining budget reserve balances can bridge only one more budget cycle.

## THE PERMANENT FUND PROTECTION ACT

### Why is it necessary to use permanent fund earnings?

The permanent fund is essential for any plan to balance the budget. Once the budget reserves are gone (absent change, this is expected in FY19), the $8.6 billion ERA will be the largest aggregation of state savings available for appropriation. More significantly, the permanent fund's annual earnings now exceed all other UGF revenues combined. The annual earnings also dramatically exceed all other potential new revenues examined by the department. While other new revenues may produce millions in revenue each year, the permanent fund can sustainably provide billions.



## How should we use permanent fund earnings?

For all the different opinions about the purpose of the fund and the dividend, there is no doubt that Alaskans agree: the permanent fund is special. Facing the conclusion that sometime soon we will have no choice but to use fund earnings to support the UGF budget, the question becomes: how?

Mindful of the fund's purpose, particularly its importance to future Alaskans, any proposal to use permanent fund earnings should be:

1. Rule-based,
2. Sustainable, and
3. Stabilizing.

To protect the fund and the dividend, a plan for using fund earnings must have these three characteristics.

A **rule-based** framework sets out explicit rules governing the use of the fund. These include rules for what revenues are deposited in the fund and the amount, timing, and purpose of withdrawals. Clear standards and rules protect the fund's long-term health against short-term priorities. As outlined above, the fund is currently governed by a system of statutory rules, including formulas for deposits to the principal, withdrawals for dividends, and others. Any proposal to use fund earnings should continue this practice of defining and following a framework in established in statute.

Any use of the fund should be **sustainable**. First, this means that the fund must continue to grow at least in pace with inflation over the long term so it can provide the same value to future Alaskans. A plan should grow the fund as a whole, but also, grow the constitutionally protected principal (i.e. continue inflation proofing transfers to the corpus to the extent feasible). Second, because only the ERA is available for appropriation, a plan must maintain an adequate balance in the ERA to reduce the risk of depleting the account. A durable ERA is required to ensure funds remain available for dividends and to support the general fund even over several years of low or negative investment returns.

**Stabilizing** the state budget will (1) eliminate inefficiencies associated with repeated ramping-up and drawing-down of state programs and (2) contribute to a more growth-friendly fiscal environment for the broader economy. The state has used budget reserve funds to stabilize state spending in the past. But the stabilizing effect of these funds was constrained by their smaller size and more limited investment returns. But, at $53 billion, the permanent fund is big enough today to cushion swings in oil prices and revenues in a more deliberate, planned fashion going forward. Stabilizing mechanisms also have the practical effect of reducing or ceasing use of permanent fund earnings if oil prices recover.

## What does the Governor's proposed legislation do?

Facing the reality that, very soon, we will likely have no choice but to turn to the permanent fund earnings, the Permanent Fund Protection Act (PFPA) seeks to establish a framework that will protect the fund and the dividend. The bill essentially proposes a long-term plan for how we use fund earnings that ensures withdrawals are sustainable and that the fund maintains its inflation-adjusted value over time. The bill also will mitigate future year-to-year swings in general fund revenue so we avoid repeating this experience and provide the best footing possible for the state going forward. Based on the bill passed by the Senate last year (SB 128), the PFPA proposes formulas defining how much to transfer among funds.

The two-part **draw formula** defines the amount to transfer from the ERA to the general fund each year. The first part of the formula is a percent of market value (POMV) calculation that defines the maximum amount that can be withdrawn in a single year. The bill proposes this maximum amount be equal to 5.25% of the market value of the average value of the fund in the first five of the last six years. Because the POMV formula is based on a lagged-5 year average value of the fund, assuming the fund is growing, the effective POMV is considerably less (it varies, but is generally well below 5% of the value of the fund in the current year). This level of withdrawals is aggressive; but also sustainable with the draw limit.

The second part of the draw formula is a "draw limit" that smooths the ups and downs in UGF revenue by reducing the amount withdrawn from the ERA when oil revenues increase. More specifically, the draw limit calls for the amount calculated under the POMV formula to be reduced by one dollar for every dollar that general fund production taxes and royalties exceed $1.2 billion. The draw limit has a stabilizing effect on UGF revenues and allows the fund to grow more in years of high oil revenues.

The bill also proposes a sustainable **dividend formula** that ensures funds will be available for annual distributions. For the first two years, the PFPA proposes that dividends would be set at $1,000 per person. After that, an amount equal to 20% of general fund royalties plus 20% of the POMV draw would be transferred from the general fund to the dividend fund for distribution. This formula keeps the dividend connected to the permanent fund while ensuring that the total withdrawal from the ERA is sustainable. The POMV formula should provide a relatively stable foundation for the dividend. The royalty portion of the dividend connects Alaskans to the health of our economy, diversifies its funding source, and adds significant upside potential to the formula if oil prices peak or production increases. We expect that this 20/20 formula will produce dividends around $1,000 per person going forward.

The bill also amends two formulas that define how much to **deposit in the principal** each year. First, the bill reduces the amount of royalties deposited in the principal from about 30% to 25%. Second, the formula for inflation proofing transfers is changed from a fixed calculation based on the rate of inflation to a "four times" rule. This new rule would transfer any balance of the ERA over four times the full POMV draw to the corpus. This more flexible rule is necessary to help maintain a robust balance in the ERA and protect against the risk of depleting the ERA over years of low or negative investment returns. However, growing the principal of the fund (not just the fund as a whole) with inflation remains an important aspect of protecting the fund and ensuring it can provide for future Alaskans.[21]

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[21] *See* The Trustees' Papers, Volume VII, Making the case for complete and protected inflation proofing (July 2002) available at. http://www.apfc.org/home/Content/publications/reportArchive.cfm.

**The Value of Stability**

Over the long term, economies that experience repeated ups and downs grow more slowly than stable economies. Because commodity prices tend to be volatile, economies that are dominated by a commodity industry experience more (and more pronounced) of these damaging cycles. These cycles contribute to the "resource curse," the observed phenomenon of slower GDP growth in resource-rich economies.

Government spending that follows the same cycle as the commodity industry amplifies the damaging effect. This is more than a hypothesis. The International Monetary Fund reported a study of 85 economies over three decades. The study noted the relationship between this type of pro-cyclical government spending and slowed economic development. Conversely, where governments implemented stabilizing fiscal policy, economies grew by 0.3% faster than places where governments spending followed the ups and downs of a dominant commodity industry.

"The Commodities Roller Coaster: A Fiscal Framework for Uncertain Times," Fiscal Monitor (October 2015) available at http://www.imf.org/external/pubs/ft/fm/2015/02/fmindex.htm

## CONCLUSION

Resource based economies face greater uncertainty because of the boom-bust nature of commodity industries. This uncertainty makes those regions less attractive to private sector investors. Today's fiscal crisis is just one symptom of a larger and longer-term challenge Alaska faces as a petroleum-based economy. But we have the tools to put the state on more stable footing.

Today, revenues generated by our financial resources exceed revenue from petroleum resources – and this dynamic is expected to persist into the future. Moreover, the permanent fund itself has grown enough that its annual investment income can cover a significant portion of the UGF budget, meaning it can cushion the ups and downs of petroleum revenue. The fund can be used to stabilize the state budget and thereby produce an element of greater stability in the broader economy.

The approach proposed in the PFPA makes sense for the state's economy over the long term; but it also makes sense for the fund. Ad hoc, unplanned withdrawals from the fund pose a danger of allowing short-term priorities to overwhelm concern for the long-term health of the fund. A series of rules that define how much goes into and comes out of the fund (and when) provide a framework for measured and sustainable reliance on the fund. This type of framework ensures that the permanent fund remains permanent, providing for Alaskans well into the future.

"Alaska Permanent Fund. At least twenty-five per cent of all [mineral royalties] received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law."

~ Alaska Constitution, Article IX, Section 15

"The earnings reserve account is established as a separate account in the [permanent] fund. Income from the fund shall be deposited by the corporation into the account as soon as it is received. Money in the account shall be invested in investments authorized under AS 37.13.120."

~ Alaska Statute 37.13.145(a)