

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

February 18, 2004

7:02 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Representative Bruce Weyhrauch, Vice Chair
Representative Dan Ogg
Representative Ralph Samuels
Representative Peggy Wilson
Representative Carl Moses

MEMBERS ABSENT

Representative Vic Kohring
Representative Norman Rokeberg
Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 31

Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund and to payments to certain state residents from the Alaska permanent fund; and providing for an effective date for the amendments.

- MOVED CSHJR 31(W&M) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 31

SHORT TITLE: CONST AM: PERMANENT FUND

REPRESENTATIVE(S): HOLM

01/02/04	(H)	PREFILE RELEASED 1/2/04
01/12/04	(H)	READ THE FIRST TIME - REFERRALS
01/12/04	(H)	W&M, STA, JUD, FIN
01/23/04	(H)	W&M AT 8:00 AM HOUSE FINANCE 519
01/23/04	(H)	Heard & Held
01/23/04	(H)	MINUTE(W&M)
02/04/04	(H)	W&M AT 8:00 AM HOUSE FINANCE 519
02/04/04	(H)	Heard & Held
02/04/04	(H)	MINUTE(W&M)
02/18/04	(H)	W&M AT 7:00 AM HOUSE FINANCE 519

WITNESS REGISTER

REPRESENTATIVE JIM HOLM
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As sponsor, explained an amendment to the proposed committee substitute (CS) for HJR 31, and answered questions.

ROGER GAY
Big Lake, Alaska

POSITION STATEMENT: Testified against HJR 31.

STEVEN PORTER, Deputy Commissioner
Office of the Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Explained fiscal notes related to HJR 31.

JOHN MALLONEE, Acting Director
Child Support Enforcement Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Explained fiscal notes related to HJR 31.

SHARON BARTON, Director
Permanent Fund Dividend Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Explained fiscal notes related to HJR 31.

ACTION NARRATIVE

TAPE 04-6, SIDE A
Number 0001

CHAIR MIKE HAWKER called the House Special Committee on Ways and Means meeting to order at 7:02 a.m. Representatives Hawker, Samuels, Weyhrauch, Wilson, Moses, and Ogg were present at the call to order.

HJR 31-CONST AM: PERMANENT FUND

Number 0032

CHAIR HAWKER announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 31, Proposing amendments to the

Constitution of the State of Alaska relating to the Alaska permanent fund and to payments to certain state residents from the Alaska permanent fund; and providing for an effective date for the amendments. He noted that Version U was before the committee, having been adopted for discussion purposes at the last meeting.

Number 0200

REPRESENTATIVE JIM HOLM, Alaska State Legislature, sponsor of HJR 31, explained his intention to offer an amendment to the proposed committee substitute (CS).

Number 0228

REPRESENTATIVE WILSON moved to adopt the aforementioned amendment as Amendment 1, which read [original punctuation provided, some formatting changes made]:

Pg.2, line 23, insert new paragraph (c) to read:

(c) Section 15 of Article IX as it read on June 30, 2004, applies to appropriations for fiscal year 2005. Notwithstanding Section 15(b) of Article IX, appropriations from the permanent fund may not exceed the following amounts for the following fiscal years:

(1) fiscal year 2006 - five percent of the market value of the fund on June 30, 2005;

(2) fiscal year 2007 - five percent of the average of the market values of the fund on June 30, 2005, and June 30, 2006;

(3) fiscal year 2008 - five percent of the average of the market values of the fun [sic] on June 30, 2005, June 30, 2006, and June 30, 2007;

(4) fiscal year 2009 - five percent of the average of the market values of the fund on June 30, 2005, June 30, 2006, June 30, 2007, and June 30, 2008;

(5) fiscal year 2010 - five percent of the average of the market values of the fund on June 30, 2005, June 30, 2006, June 30, 2007 June 30, 2008, and June 30, 2009.

CHAIR HAWKER objected to Amendment 1 for discussion purposes.

REPRESENTATIVE HOLM explained that Amendment 1 is a transitional clause amendment - there is no "look back provision" - and it "starts from the time that the fund is left -- that will be the balance for the five-year [percent of market value] (POMV)."

CHAIR HAWKER asked Representative Holm what his original concern was.

REPRESENTATIVE HOLM answered, "The balance at 5 percent would be based upon the five proceeding years, which would be the \$27 billion to \$28 billion it is today, plus the year before this, and what we're saying [is] it just goes forward for the time it's left and, eventually, it evens itself out."

Number 0334

CHAIR HAWKER asked if his understanding is correct, "That the language is intended, that as we go forward with this newly established balance level, we phase in every year doing an average until we reach the five-year look back."

REPRESENTATIVE HOLM replied that is correct.

REPRESENTATIVE WILSON noted that when the bill was previously discussed the price of oil was \$32 a barrel, so 5 percent, using the POMV methodology, was \$800 million. She inquired if that number is still the same.

Number 0420

REPRESENTATIVE HOLM explained that the amount changes depending on how much is left over. He said in the Version U of the bill the amount is capped at \$20,000. He continued:

If you take the number of people that would qualify, and you multiply that times \$20,000, and you take that amount of money out of the corpus of the fund, and the earnings, -- so it starts with one base. Then, from that point forward we don't know what the numbers are going to be at this point because it keeps growing at [the] oil price.

REPRESENTATIVE WILSON said she understood, but responded that last time the amount was specific.

REPRESENTATIVE HOLM stated that [the amount] has changed because the size of the permanent fund left is unknown. The only number known is the \$20,000 payout. He said it was the reverse of what it used to be.

REPRESENTATIVE WILSON asked for further clarification.

REPRESENTATIVE HOLM replied that if there were \$17 billion it could be computed.

CHAIR HAWKER explained that the CS before the committee reversed the calculation mechanism for the distribution. The distribution now is sum certain and the residual, whatever that might be, is left in the fund. He said it is a significant change in the methodology.

Number 0615

REPRESENTATIVE WILSON requested further discussion to clarify the issue for people listening online.

CHAIR HAWKER asked if there was any further discussion of Amendment 1.

REPRESENTATIVE WEYHRAUCH asked Representative Holm if the amendment maintains the lock-in for who is eligible to receive the payout, or if people would become eligible every year.

REPRESENTATIVE HOLM stated that [Amendment 1] has no bearing on who is eligible.

Number 0700

CHAIR HAWKER removed his objection to Amendment 1. He asked whether there was any further objection to adopting Amendment 1. Hearing none, it was so ordered.

Number 0705

REPRESENTATIVE OGG moved to adopt Amendment 2, which read [original punctuation provided, some formatting changes made]:

BILL ID: HJR 31

00 HOUSE JOINT RESOLUTION NO. 31

01 Proposing amendments to the Constitution of the State of Alaska relating to the Alaska

02 permanent fund, **education fund**, and to payments to certain state residents from the Alaska permanent

03 fund; and providing for an effective date for the amendments.

04 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. Article IX, sec. 15, Constitution of the State of Alaska is amended to read:

Section 15. (a) At least twenty per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses 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. Up to five percent of market value of the permanent fund may be deposited in the general fund and may be used for any public purpose excepting any program that provides dividends or other payments to all State residents.

(b) At least five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in an education fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. The fund shall be managed by the by the managers of the permanent fund as provided by law. Up to five percent of market value of the education fund may only be expended as follows: one third to the University of Alaska for instruction and or scholarships and two thirds to the Department of Education for primary and secondary education.

01 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new

14 02 section to read: .

[UNLESS OTHERWISE PROVIDED BY LAW].

01 * Sec. 2. Article XV, Constitution of the State of Alaska, is amended by adding a new

02 section to read:

03 Section 30. Payments From the Alaska Permanent Fund and Effective

04 Date. (a) Notwithstanding Section 15 of Article IX, each individual who is eligible

05 under State statute to receive a permanent fund dividend for the year 2004 shall

06 receive from the State a payment in addition to that dividend. All provisions of statute

07 and regulation that are both applicable to
permanent fund dividends for 2004 and in
08 effect on January 1, 2004, apply to payments
under this subsection except provisions
09 that relate to the amount of the dividend and the
date the dividend is paid. The
10 balance of the principal of the Alaska permanent
fund on the effective date of this
11 section, less **twenty one**[fifteen] billion
dollars, shall be used for payments under this
section. The
12 balance, after the **twenty one** [fifteen] billion
dollar deduction is made, shall be divided equally
13 among all eligible individuals so that each
eligible individual receives an equal
14 payment, rounded to the nearest cent.

15 **(b) Notwithstanding Section 15 of Article IX,
upon effect of Section 30 (a) of
16 this amendment, six billion dollars shall be
transferred from the permanent
17 fund (Section 15(a) of Article IX) and deposited
in the education fund
18 Section 15(b) of Article IX.**

19 **(c)** [(b)] The 2004 amendment that amends Section
15 of Article IX and adds this
20 section to this article takes effect on the day
after certification of the election
21 returns for the 2004 general election.
22 * Sec. 3. The amendments proposed by this
resolution shall be placed before the
23 voters of the state at the next general election
in conformity with art. XIII, sec. 1,
24 Constitution of the State of Alaska, and the
election laws of the state.

Number 0720

CHAIR HAWKER objected for discussion purposes.

REPRESENTATIVE OGG explained that [Amendment 2] creates two sections in Section 15; a permanent fund, with changes from 25 percent to 20 percent in the amount of money going into the permanent fund, and a new section, (b), an education endowment, which would collect 5 percent of the lease royalties on an annual basis. He added that [Amendment 2] would transfer \$6

billion from the permanent fund to the education endowment, and would also leave \$21 billion in the fund. The payout would be \$10,000 rather than \$20,000, he said.

Number 0828

REPRESENTATIVE HOLM responded that he did not agree with Representative Ogg's amendment for several reasons. One of the issues is the problem of "dedication of funds" creating difficulties for state governments. Another issue is whether \$10,000 rather than \$20,000 is enough to entice people to give up the dividend. He said [\$10,000] would be equal to a 10-year buyout, rather than a 20-year buyout. Another reason for the \$20,000 is to allow enough capital to come back to Alaska and make life-altering changes for people, he added. For those reasons, he opined, HJR 31 would work better in its present form. He said he appreciated Representative Ogg's ideas, but didn't think they would work, and he was fearful of setting up a program which the government couldn't fund in the future.

REPRESENTATIVE WILSON asked Representative Ogg to explain page 2, lines 15-18.

REPRESENTATIVE OGG responded, "What that says is when this bill is enacted, if it is enacted as a constitutional amendment, you're not able to take monies out of the permanent fund except by particular formula under 15(a) - the POMV formula - and those lines there say, notwithstanding that." He said it creates an enactment to remove \$6 million for an education fund.

Number 1107

REPRESENTATIVE OGG, in response to Representative Holm's comments, said he didn't know what the proper amount was to buy people out, but that he was very interested in creating an educational endowment. He reflected that Representative Holm did raise an interesting point on the unconstitutional designation of funds. He referred to a legal analysis [Legal Services Memorandum, from Tamara Brandt Cook, February 11, 2004] requested by Representative Con Bunde, and questioned what would entail a dramatic change that would require a constitutional convention, as opposed to just making a revision [to the constitution]. He quoted from page 3 of the Memorandum:

The complication factor here, of course, is that the original amendment to the state constitution under which the permanent fund was established was, itself,

a significant restriction on the legislative power of appropriation.

Number 1220

REPRESENTATIVE OGG added that this issue certainly hasn't been challenged, but legal analysis believes that there are persuasive arguments that creating the fund, in the first place, was a restriction on the power of appropriation, and it may be of such a magnitude that it would have required a constitutional convention instead of just a revision. He said he is reconsidering his amendment because of the "dedication of funds" point made by the sponsor of the bill. He queried the sponsor about the legal analysis of putting to the voters the power of appropriation by the adoption of the constitutional amendment. Is that, in itself, an unconstitutional designation of funds, and a restriction on the power of the legislature, he asked. He said he didn't have an answer to that question and, having read the legal opinion, concluded it may be problematic for HJR 31 and put into question the whole permanent fund itself. Having said that, Representative Ogg withdrew [Amendment 2].

Number 1430

CHAIR HAWKER thanked Representative Ogg for his comments and stated that he has a great interest in the larger constitutional issue. He commented on the process of dealing with HJR 31, the fact that [House Judiciary Standing Committee] would deal with the legal ramifications of the bill, and the adequate due diligence process as the bill moves forward.

Number 1538

REPRESENTATIVE WEYHRAUCH added his appreciation for the discussion of Amendment 2. He mentioned that he is viewing HJR 31 from a [House Special Committee on Ways and Means] viewpoint to analyze how to provide fiscal revenues to the state of Alaska. He said that it appears, with a \$27 billion permanent fund, [the legislature] has become frozen in the ability to deal with the fiscal problem. He said, "What we've done is we've set in our constitution a permanent fund, and we've given ourselves a permanent headache on how to deal with money distribution to the public and for money distribution to the state."

REPRESENTATIVE WEYHRAUCH stated that education is a preeminent concern of his. Balanced against that is the concern that putting an education endowment into the constitution would lead

to a future debate similar to the one now regarding the permanent fund. He noted that, in the future, there could be a top-heavy amount of money in education, but all other functions of government could be suffering: the court system, the law enforcement branch, environmental protection, et cetera. "Therefore, it becomes incumbent upon the legislature to have the ability to look at the corporation resources, as it stands, and make those both substantive and political decisions at a time and in the context" He concluded by saying he hopes Representative Ogg will bring the same debate back at a future date.

Number 1758

REPRESENTATIVE OGG replied he appreciates Representative Weyhrauch's comments, and he explained the reasoning behind withdrawing his amendment. He added that his intention was to provide a fiscal solution.

REPRESENTATIVE HOLM also stated his appreciation for Representative Ogg's amendment and added his support to finding a solution to education's dilemma soon. He added that this bill is not the vehicle to fix the problem of funding education, but it could free up the dollars so that the state could do its appropriate business.

Number 1932

REPRESENTATIVE WILSON added that she hopes Representative Ogg continues "in that vein" in order to get answers to questions about [education funding]. She said that throughout the state there is concern about two things, the permanent fund dividend, and education. She emphasized that the majority of the people feel that [the legislature] is not doing a good enough job [funding education] and it needs to be pursued. She encouraged Representative Ogg to continue [his pursuit of funding education.]

REPRESENTATIVE OGG thanked the committee and joked that he felt much better for having withdrawn [his amendment].

Number 2100

ROGER GAY, spoke about the \$20,000 payout. He said that amount was supposed to equal permanent fund dividends for 20 years, but argued that there is a need to look at what the next 20 years of future checks would be, not the last 20 years. He stated he

believes the permanent fund checks have a beneficial effect on the economy of Alaska. He questioned how to offset the loss of the boost to the economy if the program is discontinued.

MR. GAY opined that with the fund at \$28 billion, the fund no longer needs to be increased by the 25 percent yearly mineral lease contribution. He said the 25 percent could be used to start a new fund to support state government - a long-term fix. In 20 years the state of Alaska could have a second fund of its own to be used for whatever purposes it chooses. He emphasized he does not think the permanent fund, as it is today, should be abandoned. He suggested the permanent fund be changed to "The People's Fund, and that a new fund be established called a "Trust Fund," because, "We should not trust the government." He concluded by saying the money the people spend is none of the legislature's business and the current permanent fund should remain.

REPRESENTATIVE HAWKER thanked Mr. Gay for his testimony and summed up the discussion thus far. He mentioned that Representative Holm has provided a stack of e-mails for the committee's information.

Number 2532

REPRESENTATIVE HOLM said he would appreciate it if the e-mails were included in the members' packets. He said he hoped, in the process, the committee would come up with a solution the state could live with. He applauded the debate process as being good for the state of Alaska. He pointed out, "We have the opportunity to make this state, on a solid financial basis, work properly."

CHAIR HAWKER announced that public testimony was concluded. He stated that the following fiscal notes had been received: Department of Education, Department of Revenue, Department of Labor and Workforce Development, and Alaska Court System. The committee is waiting for a fiscal note from the Department of Corrections, he added.

Number 2737

STEVE PORTER, Deputy Commissioner, Office of the Commissioner, Department of Revenue, explained the department's two fiscal notes. The first one is from the Child Support Enforcement Division (CSED) which would receive a substantial impact from this bill, he said. In the CSED there are about \$500 million of

arrearages in child support payments, and a single event such as a \$20,000 payout, with the garnishments from PFD's, would wipe out about half [of the arrearages], or \$240 million. He explained there would also be a short-term benefit to federal incentives the first year, followed by a negative impact of about \$1.7 million the following years because of no opportunity to garnish the PFD's.

CHAIR HAWKER asked about the outyears of decline and wondered if this calculation took into account the front-end loading of over \$240 million in payments to recipients of child support.

MR. PORTER replied that it would depend on the age of the child. If a child has reached the age of majority and the amount of money is just owed to the state, then the case would be closed out. If there is on-going child support, it would bring that case current. [The department] can't garnish into the future, he added. He said that the problem is that federal incentive programs are based on "annual basis" and the gains in '05 can't be carried forward into '06, '07, and '08.

Number 3030

JOHN MALLONEE, Acting Director, Child Support Enforcement Division, Department of Revenue, stated that Mr. Porter was correct in that a lot of the cases would be paid off at one settlement because there are no on-going child support payments to be charged. He said it was hard to determine how many cases would fall into each category. He guessed that about 60 percent of the cases would probably be on-going and 40 percent of the cases would close out. He said that even \$20,000 would not close out some cases which are as large as \$60,000 to \$200,000 in arrears. He explained that the larger cases would have continued to collect money if there was a yearly PFD, which would have helped incentives. The incentive measure for arrears happens to be the number of cases in which there was at least a collection, he added.

CHAIR HAWKER said it sounds like beneficiaries would be receiving a great up-front benefit, but, if this resolution were to pass, it would not put the CSED out of business.

MR. MALLONEE answered that it wouldn't.

CHAIR HAWKER suggested CSED would receive support from the legislature to pursue those difficult cases.

Number 3229

MR. PORTER spoke about the fiscal note from the Permanent Fund Dividend Division (PFDD). He said there would no longer be a PFDD if this bill passed. The initial gain in '05 would be close to \$1 million; followed by '06, '07, and '08 recapturing the \$5.2 spent managing the permanent fund dividend. There would be a number of unresolved issues, which would have to be transferred to another organization within the department or to another department. For example, individuals, when they reach the age of 18, can apply for missed dividends. Appeals and collections is an example of an area which will be hanging on, he added.

Number 3414

SHARON BARTON, Director, Permanent Fund Dividend Division, Department of Revenue, added that the fiscal note projects how the PFDD would be phased out. She offered to answer questions.

CHAIR HAWKER noted the presence of other fiscal notes. The Department of Education and Early Development, Student Loan Program Collection fiscal note indicates up front some very significant loan collections and then reduced collections into the future, he explained. The Alaska Court System fiscal note indicates some affect on fines and forfeitures, but the most significant item is having to find a new database from which to pick jurors. The Department of Labor has a zero fiscal note, he reported, and Division of Elections fiscal note indicates a small cost to put the resolution on the election ballot.

Number 3637

REPRESENTATIVE OGG asked if the Department of Health and Social Services (HESS) has a fiscal note.

CHAIR HAWKER answered that [the committee] is waiting for a fiscal note from HESS and from the Department of Corrections.

REPRESENTATIVE OGG asked if there was a fiscal note from the Department of Public Safety.

CHAIR HAWKER answered that [the committee] is waiting for that fiscal note, also.

REPRESENTATIVE HOLM asked when [the committee] would be receiving those fiscal notes and if it could wait for the bill

to go the House State Affairs Standing Committee to deal with them.

Number 3732

CHAIR HAWKER stated that the fiscal notes were, at best, large estimates and he was willing to allow the bill to move on to the House State Affairs Standing Committee.

Number 3830

REPRESENTATIVE OGG responded to the flavor of testimony in some of the e-mails regarding this bill. He said there is a sense that people do better with their money than the state does, and he said he would like to speak, from a historical perspective, to that issue. "Since the development of oil in the state, he said, there has been \$52 billion in revenue to the state government. We now have a permanent fund of \$28 billion the legislature managed to save. If you throw in the constitutional budget reserve, that's almost 60 percent of the money from the oil revenue, still in hand." He called that, "astounding fiscal management by the state of Alaska and the people of Alaska." He added that it was interesting to note in the excess earnings [reserve] account, the legislature had the ability to spend about \$14 billion, but put it into that [account] and was not mandated by the constitution to do so. He stated, that not only has [the legislature] set aside a savings account, they also have acted in a responsible manner. He concluded by saying, over the period of time of the permanent fund, the legislature has handed out about \$12 billion to the citizens of the state. He emphasized that the legislature has been very responsible and has done very well.

Number 4053

REPRESENTATIVE WILSON added her comments about the perceptions of people regarding the money in the earnings reserve account. She said [the legislature], at any time, could have by a simple majority vote, taken money out of the account. Instead, they acted responsibly and used the money only to pay permanent fund dividends or to increase the value of the account. She stated her concern about the perception of irresponsibility on the part of the legislature, but added that that was not at all true.

REPRESENTATIVE WEYHRAUCH mentioned the Conference of Alaskans where people clamored for money for state services, broad-based revenue sources, constitutionalization of the permanent fund,

and payout of the permanent fund. He noted that [Alaska] is at a critical time in the state's fiscal history. He suggested the committee move the bill forward and let the people analyze it in the public forum of debate.

Number 4304

CHAIR HAWKER reminded listeners that the committee process is an on-going process, and the movement of a bill from a committee is part of a process. It does not indicate that the individual committee members will endorse or support the bill, ultimately, when it gets to the floor of the body. He said there may be individual recommendations on the bill, but that he concurs with Representative Weyhrauch that this bill merits further debate that addresses the question, "What role shall the permanent fund play in the future fiscal policy of the state of Alaska?" He suggested moving [HJR 31] on to the House State Affairs Standing Committee.

REPRESENTATIVE SAMUELS asked Representative Holm if the bill mentions anything about putting the payout for children under 18 in an escrow account so it would be theirs when they turn 18. He noted several e-mails in the packet that advocate for that idea.

Number 4444

REPRESENTATIVE HOLM replied that the idea was discussed, but there was never an agreement on the method for the state to reserve the payouts for minors. He stated, "It's not our business how people spend their money." Then he posed the question, "How beneficial would it be to a family to have a life-altering situation, financially, so they could buy a home?" Whether or not the monies are transferred to the children in value as a capital asset or given to them in cash when they are 18, he said he didn't know which way was the best. He concluded it was a good issue for debate.

Number 4655

REPRESENTATIVE WEYHRAUCH moved to report CSHJR 31, Version 23-LS1282\U out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHJR 31(W&M) was reported out of House Special Committee on Ways and Means.

TAPE 04-6, SIDE B

Number 4700

CHAIR HAWKER thanked Representative Holm and his staff for their work on the bill. He concluded the meeting with announcements for next week.

ADJOURNMENT

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 8:53 a.m.