

MINUTES
SENATE FINANCE COMMITTEE
March 16, 2004
9:07 AM

TAPES

SFC-04 # 40, Side A
SFC 04 # 40, Side B
SFC 04 # 41, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:07 AM.

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: SENATOR JOHN COWDERY; SENATOR KIM ELTON; SENATOR HOLLIS FRENCH; SENATOR SCOTT OGAN; SENATOR RALPH SEEKINS; SENATOR BERT STEDMAN; SENATOR GARY STEVENS; SENATOR TOM WAGONER; REPRESENTATIVE PEGGY WILSON; MARK STOPHA, Staff to Senator Georgianna Lincoln; MARK GNADT, Staff to Representative Eric Croft;

Attending via Teleconference: There were no teleconference participants.

SUMMARY INFORMATION

HB 233-INCREASE EDUCATION FUNDING

The Committee heard from the sponsor and the bill was held in Committee.

SJR 19-CONST. AM: PERMANENT FUND INCOME

The Committee heard from the sponsor and fielded questions from visiting Senators. The bill was held in Committee.

SJR 32- CONST AM: PERM FUND INCOME FOR DIVIDENDS

The Committee heard from the sponsor and fielded questions from visiting Senators. The bill was held in Committee.

SJR 24-CONST AM: GUARANTEE PERM FUND DIVIDEND

The Committee heard from the sponsor and the bill was held in Committee.

#hb233

CS FOR HOUSE BILL NO. 233(EDU) am
"An Act increasing the base student allocation used in the formula for state funding of public education; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken stated this bill, sponsored by Representative Wilson, "increases the student dollar by \$419 to \$4,588 per student."

REPRESENTATIVE PEGGY WILSON, read the sponsor statement into the record as follows.

School districts all over the state are budget trimming to cope with inflationary factors including but not limited to greatly increased insurance costs. The legislature supports the concept of "No Child Left [Behind] Act" and it is imperative that increased funds be allocated in order to implement this act and assure that no child is left behind. In addition greatly increased costs of PERS/TERS were largely unforeseen and if additional dollars are not added to cover these increased costs that will cause direct cuts to the classroom.

Public education is charged with assuming greater responsibility at the same time they face a reduction in the purchasing power of the student dollar. Alaska cannot continue to ask its school districts to meet all these additional responsibilities with insufficient dollars; therefore additional funding is a necessity.

Providing additional funding for K-12 education early in the session would be tremendously helpful to school districts. It would keep many school districts from having to hand out pink

slips, which cause unnecessary anxiety in schools across the state.

The substantial increase of \$419 to the base student allocation in CS House Bill 233 as amended would bring needed help to our local schools districts at this very challenging time. This would assist them in meeting and hopefully exceeding the public's expectations and demands. The time to act is now and I ask your support of CS HB 233 as amended which will raise the base student allocation to \$4,588.

Co-Chair Wilken noted a drafting error in the committee substitute passed by the House of Representatives, in which the current base student allocation should read \$4,169, rather than \$4,010. He also informed that fiscal note #2 is incorrect and the Department of Education and Early Development would submit an updated fiscal note.

Representative Wilson clarified that \$4,010 was the base student allocation amount the previous year when this bill was first introduced.

Co-Chair Wilken ordered the bill HELD in Committee.

#sjr19

CS FOR SENATE JOINT RESOLUTION NO. 19(JUD)
Proposing amendments to the Constitution of the State of Alaska relating to the Alaska permanent fund.

This was the first hearing for this resolution in the Senate Finance Committee.

Co-Chair Wilken stated this resolution, "places the current method to calculate the PFD dividend in the Constitution. In addition, the constitution amendment requires a majority vote by Alaskans before the Permanent Fund earnings reserve may be appropriated by the legislature. This is a constitutional amendment that must be placed in front of the voters in November of 2004."

MARK STOPHA, Staff to Senator Georgianna Lincoln, informed that Senator Lincoln is out of town and he read testimony into the record as follows.

SJR 19 before you contains three elements. It puts the Permanent Fund Dividend into the Constitution. It puts inflation proofing of the Permanent Fund into the

Constitution, and it creates a special account for the remaining earnings reserve of the Permanent Fund, rather than depositing those earnings into the general fund as we do now. Those earnings will be available for use by the legislature, but only by a vote of Alaskan voters.

This bill does not change the current structure of the dividend program. It continues to payout dividends and inflation proofs the Permanent Fund in that order, as we do now, but places these processes in the Constitution. The bill would never use the principal of the Permanent Fund to pay out dividends or pay for other government services.

Subsection (a) of Section 3 was added in the Senate Judiciary Committee. Senator Lincoln did not concur with that amendment. The vast majority of our constituents are in favor of putting the Permanent Fund Dividend into the Constitution period. We believe the Judiciary Committee amendment of an unknown spending limit as part of this bill is a separate issue and should be addressed in separate legislation.

Finally, subsection (b) and (c) of Section 3 ensures that if the bill were to make the Permanent Fund taxable by the IRS if dividends become part of the Constitution, then the amendment would be suspended and repealed. Attorney General Renkes has provided an opinion that he does not believe that the bill would make the Permanent Fund taxable. Section 3 provides a provision to rescind the amendment if it does.

As you can see from this stack of e-mails in front of me that has been sent to all legislators for the most part, the bill is supported by voters from all corners of the State. The bill is easy for the public to understand because it maintains the status quo regarding how the Permanent Fund Dividends are paid out. Guarantees payment of Permanent Fund Dividends as a priority and protects the earnings reserve from legislative spending by requiring a vote of the people.

Co-Chair Wilken questioned the claim made in the sponsor statement that permanent fund dividends represent one-eighth of Alaska's economy. He therefore calculated the economy of Alaska at \$8 billion, but had understood the amount to be approximately \$40 billion.

MARK GNADT, staff to Representative Eric Croft, was unsure where this figure was derived.

Co-Chair Green acknowledged her comments were premature, recalling

the conversation from the previous meeting indicating that the Permanent Fund is currently being over inflation proofed and asked if this resolution contains a provision in the event that a determination is made that investments are self-inflation proofing, the inflation proofing provision could be "relaxed".

Mr. Stopha responded that the Permanent Fund would be inflation proofed in the same manner as currently provided for in statute, except this resolution would place the provisions in the Constitution.

Co-Chair Green asked if the language in Section 1 on page 1, lines 10 - 12, inserting new language into Article IX, sec. 15 Alaska Permanent Fund, reflect this. This language, following "All income from the permanent fund shall be deposited in the..." reads "...earnings reserve account and distributed as provided for under AS 37.13.140, 37.13.145, and AS 43.23.025, as those statutes read on July 1, 2002."

Mr. Gnadt affirmed and explained this is standard method of determining inflation proofing from the prior year.

Co-Chair Green asked if changes were made in current statutes whether changes would automatically be made to this amendment.

Co-Chair Wilken answered yes.

SENATOR RALPH SEEKINS asked if the witnesses were aware of the Bess versus Ulmer case.

Mr. Gnadt was aware of this litigation.

Senator Seekins asked if the sponsor had procured a legal analysis regarding whether or not this resolution would be defined as an amendment or a revision to the Constitution.

Mr. Gnadt did not have an official legal opinion to address this resolution specifically. He indicated that other legal opinions pertain to a "potential Bess v. Ulmer problem"; however, he stated these opinions recommend language to comply the resolution with the amendment criteria.

Senator Seekins asked if witnesses were concerned that a constitutional amendment establishing a percentage of the annual budget that would be allocated to the Permanent Fund and thereby removing this authority from the legislature would constitute a revision to the Constitution.

Mr. Gnadt replied that no such formal analysis of this had been conducted.

Senator Seekins expressed concern that any constitutional amendment that removes significant discretion from the legislature may constitute a revision rather than an amendment.

Senator Bunde spoke to the proposal presented by Governor Jay Hammond, referred to as "the Hammond Plan", and a related legal opinion that determines the proposal to likely be unconstitutional because it proposes major revisions to the Alaska Constitution. Senator Bunde was unsure whether this pertains to the resolution before the Committee, but recommended a legal opinion be procured on this resolution before proceeding.

Senator Bunde remarked that the framers of the Alaska Constitution "learned from the mistakes" of other state constitutions and chose to not allow dedicated funds in Alaska's Constitution. He pointed out this resolution would dedicate funds and asked if the sponsor has considered the potential situation of required dividend payments in the event of inadequate funding for public safety, education, or other government services.

Mr. Stopha replied that funding for those purposes would continue to be available, however would require a vote of the people to authorize such expenditures from the Permanent Fund.

Senator Bunde clarified that each year in drafting the budget an election would be required to authorize specific expenditures from the Permanent Fund.

Mr. Stopha affirmed and noted the voting structure for these appropriations could be negotiated as to whether they were specific appropriations, "blanket" appropriations, or "forward funding," etc.

Senator Hoffman reported he has heard much on the topic of dedicated funds and concluded that the State has turned a non-renewable resource, oil, into a renewable resource i.e. the Permanent Fund, and that the Constitution allows the Legislature to allocate resources. He therefore questioned whether this resolution would be dedication of funds or rather, an allocation of resources.

SENATOR HOLLIS FRENCH asked about public reaction to this resolution since it was introduced.

Mr. Stopha qualified he has only worked for Senator Lincoln for one year, but relayed Senator Lincoln's claim that no other bill she

has sponsored has received this much attention during her tenure in the legislature. He told of the importance of dividends to families in the Yukon Kuskokwim census area, where these payments comprise 18 percent of annual family income.

Mr. Gnadt added that constituents of Representative Croft are also very supportive of this proposal.

Senator Bunde asked if this resolution would not change the method in which dividends are calculated.

Mr. Stopha affirmed.

Senator Bunde noted testimony provided at the previous hearing warning that if the dividend calculation were unchanged, the dividend amount would be very low or zero in some years. He asked if the sponsor has relayed this to constituents.

Mr. Stopha responded that the "spirit" of this resolution is constitutional protection of the Permanent Fund Dividend.

Senator Hoffman asked if public feedback on this resolution has been primarily related to constitutional protection of the dividend program, inflation proofing, or other provisions.

Mr. Stopha replied that Permanent Fund Dividends has been the primary concern.

Senator Hoffman asked if a large margin of expressed interest has been related to the dividends.

Mr. Stopha answered yes.

Mr. Gnadt added that Representative Croft's office has had the same experience. He noted that residents are accustomed to the current system and how it affects their dividend payments.

Senator Olson addressed Senator Bunde's comments regarding public understanding of the Percent of Market Value (POMV) approach to managing the Permanent Fund. Senator Olson reported that constituents are largely in favor of retaining the current system despite understanding that POMV would stabilize the amounts of dividend payments. He conveyed these residents are "wary" of the POMV management method.

Co-Chair Green recalled that she introduced legislation in 1997 that would have accomplished similar goals but in a different way. She learned from these efforts that to "get to the end of the

race", actions must be taken to provide assurance to the public. She opined that legislatures have been "very honorable stewards" of the earnings reserve fund and have "faithfully put forward the dividend program to the greatest extent every year" as well as had "great expectations of the investment boards" and Fund managers. She reiterated that the public must be provided assurance that the dividend program would continue, although she was unsure of the proper procedure to attain this. She was unsure she supported all elements of this resolution, but recognized it as an option.

Senator Hoffman concluded the dilemma is that three-quarters of the members of the legislature must approve any changes to the dividend program, after which, Alaskan voters must then approve those changes. He heard "overwhelming" support for a constitutional guarantee of dividend payments. He also noted that the membership of the Conference of Alaskans did not make recommendations as to what amounts should be allocated for dividends and government spending. He reiterated that the Committee must address, and subsequently reach an agreement that could receive support from both the full Senate and the House of Representatives.

Senator Dyson paraphrased Senator B. Stevens comments made at the Conference of Alaskans that guaranteeing the dividend in the Constitution would "tie the hands of legislators" in the future in the event of a fiscal crisis in which inadequate funds were otherwise available for education, public safety or other critical needs. Senator Dyson warned this would be a difficult situation and he asserted that future legislature should not be subjected to this possibility. He quoted Carl Marx, "The and once they've tasted it they will be insatiable until they have drained it." Senator Dyson cautioned the Committee to be wary of this.

Senator Bunde asserted the reason legislators are not elected at-large for the entire State is because they represent different constituencies. He reported that his constituency is of the opinion that the dividend program has "morphed" from an opportunity to receive extra money for themselves, into an entitlement. He deemed this a serious matter and did not support an enshrinement of the dividend in the Constitution and stated that residents in his election district do not support this either. He told of findings of a poll conducted by Dittman Research, in which a question was posed as to whether the dividend should be guaranteed in the Constitution. He informed that the results of this poll show an equal division among respondents. He commented this could be considered contentious, but disputed that a Constitutional enshrinement is widely supported statewide.

SENATOR BERT STEDMAN commented that some aspects of this resolution

might seem "attractive" but do not fit well into the entire "mosaic". He asked what consideration the sponsor has given to the effect a constitutional guarantee of dividends would have in the event of an immediate need to respond to a disaster, or in addressing the current fiscal dilemma.

Mr. Stopha pointed out the earnings reserve account would remain. He understood the concerns that a vote of the people would be required before dividend funds could be expended even if an immediate need were present, such as in the event of a disaster. He emphasized this resolution is intended to be a part of a long-range fiscal plan and he relayed Senator Lincoln's assertion that the all options should be considered and that the permanent fund should not be singled out.

Senator Stedman gave a historical perspective noting that since its inception, the legislature has had the authority to appropriate funds from the earnings reserve account; rather than doing this, he noted the legislature has deposited \$7.1 billion more into the Permanent Fund than required.

Mr. Gnadt agreed the legislature has a "fairly good history" of depositing monies into the Permanent Fund. However, he cautioned against relying upon past actions to reflect future decision-making. He furthered that the past actions were primarily taken during years with high oil prices and a strong economy. He assured this resolution would not eliminate the ability to appropriate funds from the earnings reserve account, but rather stipulates that the State currently garners 75 percent of oil revenues for the general fund and the remaining revenues are "the people's money". He furthered this resolution would require voter approval before the remaining 25 percent of oil revenues could be spent for government services.

Senator Bunde challenged characterization that the legislators are "running off to Vegas" to spend oil revenues unscrupulously, and countered that much of the money is spent in rural areas in which residents do not contribute to education or public safety.

Senator Olson commented that much of the oil revenues are expended in rural Alaska just as much of the resources came from rural Alaska.

Senator Hoffman pointed out that Alaska is the only state with a permanent fund situation and subsequent perceived "problems" with deciding how to utilize those funds. He disagreed that this resolution would "tie our hands", arguing that this is the "peoples' money" and if "they want to tie our hands," voters had

that right. He also surmised that this resolution could also fail and therefore the voters would not impose these restrictions on the legislature. He remarked this would not be known unless the question is placed in the ballot.

Co-Chair Wilken ordered the bill HELD in Committee.

AT EASE 9:45 AM / 9:46 AM

#sjr32

CS FOR SENATE JOINT RESOLUTION NO. 32(JUD)
Proposing amendments to the Constitution of the State of Alaska relating to appropriations from the Alaska permanent fund to be used for a program of dividends for all state residents and providing a conditional effect and effective date for the amendment.

This was the first hearing for this resolution in the Senate Finance Committee.

Co-Chair Wilken stated this resolution, "constitutionally guarantees that 80 percent of the revenue stream from the Permanent Fund under a percent of market value approach would go to the Permanent Fund Dividend. This constitutional amendment will take place only if the POMV amendment passes the legislature and is approved by the voters. This constitutional amendment must be placed before the voters November of 2004."

SENATOR KIM ELTON characterized himself as not a sponsor of this resolution as much as he is a carrier. He then characterized this resolution as an "if 'a' then 'b'" stipulation. He explained that if a constitutional amendment were adopted to implement a Percent of Market Value (POMV) procedure, this resolution would provide for a division of the revenue from the POMV approach.

Senator Elton relayed this resolution is a nexus of the Conference of Alaskans' recommendation that if POMV were adopted in the Alaska Constitution, the Constitution should also be amended to guarantee Permanent Fund dividends. He stated this resolution is one method to accomplish this. He detailed that POMV would provide a "revenue stream" of approximately five-percent the amount of the corpus of the Fund. Of that amount, he stated 80 percent would be appropriated to the dividend and 20 percent for government operations. He calculated that the current market value of the Fund would provide approximately \$280 million for government services of the approximate \$1.4 million POMV. He cited observations from

Permanent Fund Corporation representatives that reviewing past performance provides insight into predicting future performance. He listed various other divisions between 65 percent for dividends and 35 percent for government services, and 76 percent for dividends and 24 percent for government services. He acknowledged the difficulty in accurately predicting the future in that the certain market performances and asset allocation decisions must be assumed. He predicated this resolution based on calculations how a POMV would have affected the Permanent Fund if implemented since 1990.

Senator Elton also pointed out this approach would not prioritize dividend payments above inflation proofing, explaining the assumption that POMV provides inflation proofing because only five-percent is withdrawn from the Fund.

Senator Elton agreed with Senator Hoffman's comments that also reflect the "notion" of the Conference of Alaskans that the State has transformed a "pool of natural resources" into a "pool of money" that continues to grow. Senator Elton asserted that a significant portion of the corpus of the Permanent Fund is a direct result of prudent actions of past legislatures in inflation-proofing the Fund.

Senator Elton opposed the committee substitute adopted by the Senate Judiciary Committee because it was contingent upon legislative and voter approval of a constitutional spending limit, which he stated has not been finalized. He recommended against including a spending limit in a proposal to constitutionally guarantee the Permanent Fund Dividend program, as such action could be considered a revision rather than an amendment to the Constitution.

Senator Elton then addressed the matter of whether this resolution would be a revision of the Constitution. He surmised that making such a determination is inappropriate at the committee level.

Senator Bunde was pleased to note that the sponsor pointed out the income from the Permanent Fund, which he calculated has "outdistanced the income to the State" generated from development of oil resources. Senator Bunde remarked that a POMV is intended to stabilize the earnings of the Permanent Fund and the method in which those earnings are calculated. He understood the amounts of the dividend would subsequently become stable rather than fluctuate as it has in the past. By extension, he stated that the 20 percent used to fund State services would also be stabilized. He listed the budget deficit for the current year at \$500 million, of which approximately one half could be offset with the aforementioned 20-percent. However he warned that the deficit would continue to

increase and that this scenario would not adjust for inflation.

SFC 04 # 40, Side B 09:55 AM

Senator Bunde asked whether the sponsor had considered how the remaining government expenses in excess of those covered by the 20 percent of POMV funds would be addressed.

Senator Elton qualified that the State is fortunate this year because the price of oil is currently over \$36 per barrel, and the \$500 million deficit amount is a conservative estimate. In the future, he expected the gap between revenues and expenditures would be significantly higher. He did not consider this resolution to be a complete fiscal solution, but rather as a component of a broader fiscal plan. He clarified he did not intend to suggest that additional efforts to address government funding should be ignored.

Senator Bunde agreed that depending on the price of oil, the deficit could be approximately \$1 billion and that "draconian" taxes and budget reductions could be necessary to offset the balance. He asked whether, in the current year, the entire deficit would be equal to fifty-percent of the five percent earnings available for appropriation under the POMV method.

Senator Elton replied that an equal division of the total POMV earnings of \$1.4 billion would provide approximately \$700 million, an amount that would be adequate to cover the projected deficit. However, he cautioned that if the deficit increased to \$1 billion, the earnings would not be sufficient.

SENATOR GARY STEVENS expressed he is a "great fan" of the Alaska Constitution and was "loathe" to amend it too readily. He asked how the sponsor determined this issue merits such an amendment, given that the framers at the Constitutional Convention determined to leave the details to the Legislature to resolve.

Senator Elton replied that the Constitution has provided Alaskans with significant latitude. He stated this resolution would provide further definition as to how the Permanent Fund would be managed. He reiterated it would not be implemented unless a constitutional amendment relating to POMV was approved.

Senator Hoffman commented that the Constitution was very general; however specific changes have been made to benefit few people, such as the limited entry provision that benefited few fishers. He asserted this resolution would benefit every Alaskan.

Senator Seekins asked if the sponsor had obtained a legal opinion advising whether this resolution conforms to the ruling in Bess versus Ulmer.

Senator Elton informed he had and described the opinion from Tam Cook of the Division of Legal and Research Services advising that the matter is "indeterminate" and could be determined by a court to be a constitutional revision or amendment.

Senator Seekins clarified that currently all income generated from the Permanent Fund is deposited into the State general fund, and subject to discretionary appropriation by the legislature. He understood this resolution would provide that appropriation would no longer be discretionary and instead 80 percent would be distributed as dividends and only the remaining funds would be discretionary.

Senator Elton affirmed, noting these provisions are currently statutory and this resolution would codify them in the Constitution. He encouraged the Committee, as it considers all approaches, to consider that all Alaskans must endorse this constitutional amendment.

Senator Seekins asked if the sponsor would therefore not "have any problem that the first dollar that would have to be spent for any reason in any particular year regardless of the financial condition of the state of Alaska would be to pay the dividend."

Senator Elton corrected that the "first dollar" would be appropriated to inflation proof the Permanent Fund. The reminder, he affirmed would be allocated 20 percent for government services and 80 percent for the dividend.

Senator Seekins clarified, "we would inflation proof our savings account no matter what our other requirements were for State income to meet the needs of the State of Alaska. The second dollar then would be for a dividend. Then we could worry about the rest of State needs after that."

Senator Elton countered he would not characterize the process in this way. I saw no "difference" between the funding available for the dividend and that for State services; both would be guaranteed in the Constitution.

Senator Hoffman stated the Fund would first be inflation-proofed, "then government gets a crack at it and then the people get a crack at it." He noted the ratio of funds allocated for dividends and for

government services could be changed.

Senator Bunde asserted that the "ultimate recipient" of government spending is the people, that government services are provided for the people, and therefore 100 percent of the earnings would benefit the people.

Senator Bunde asked Senator Seekins as Chair of the Senate Judiciary Committee, if the issue of whether these proposals are amendments or revisions to the Constitution could be resolved before the process of an election and court challenges.

Senator Seekins shared his research into the matter of dedicating income in the Constitution from the Permanent Fund to the dividend program. He learned that if the legislature were to pass a resolution to amend the Constitution in this manner, the issue would be challenged in court before the election was held on the subsequent ballot initiative. He knew of no other method to obtain a court ruling on whether such a change would be deemed an amendment or a revision.

Senator Seekins warned that such change to the Constitution would be the first instance in which funds were allocated directly to individuals. He explained that historically, revenues from the Permanent Fund have been deposited into the State general fund then appropriated for dividends. He remarked this change would subvert the legislative appropriation authority and would therefore likely be considered a revision to the Constitution. He noted the State Supreme Court would make the ultimate decision on the matter.

Senator Elton relayed his understanding that a court decision would not be rendered until after a ballot initiative passed in a statewide election.

Co-Chair Green studied the calculations of the dividend payments provided in a POMV process and the impact on the dividends if a percentage of the available amount were appropriated for government services. She anticipated a "bidding war" could ensue in effort to establish support for certain percentage amounts.

Senator Elton interpreted the graph provided by the Alaska Permanent Fund Corporation, titled "Comparison of dividend payout methods; Historical and forecasted data" [copy on file], to indicate that if this resolution had been enacted between 1990 and the current year, the division would be "about 76 / 24". He qualified that the method of managing and investing the assets of the Fund have changed. He stated that under this approach, any asset allocation decision or market behavior changes could distort

future earnings. He cited testimony given by representatives of the Corporation that to replicate future "dividend behavior" under the current method, an allocation of 60 or 65 percent to dividends would be likely.

Senator Hoffman suggested that instead of entering a "bidding war", the legislature should present options to voters listing the impacts that allocating different percentages for government services would have on the dividend. He cautioned against practicing "one-ups-man-ship." He asserted that the State has developed its oil reserves, a nonrenewable resource, and allocating the proceeds to all Alaskan residents. He commented that whether or not these residents remain in Alaska in 25 years, they would still receive some benefits of the resources. He doubted any recipients of the dividend were "buying a golden condo", but opined that individuals are better able to spend these funds than the government.

Senator Bunde relayed a comment made during the Conference of Alaskans that the U.S. Congress has been "generous" to Alaska and is are "not unaware" of "what we do up here". He noted that over one-half of the State's annual \$10 billion budget is comprised of federal funding and that Alaska receives \$7 for every \$1 paid to the federal government. He hoped this practice would continue, but warned it is contingent upon the perceptions of members of Congress. If Alaskans vote to constitutionally "lock up" money and dedicate its use for personal expenditures, and yet expect the federal government to fund basic services, he predicted Congress could reconsider its appropriations to the State.

Senator Stedman calculated that a division of 60 percent and 40 percent of POMV revenue was more realistic. He reiterated his mosaic analogy and the impact of each component on the complete State fiscal situation, specifically the "doors" this proposal could "close" to other funding sources, such as from the federal government.

Senator Elton remarked that it is difficult to predict the future. He ascertained Alaskans do not consider the Permanent Fund to be a "shock absorber" for deficit funding. He recalled Governor Murkowski's statement that the "cushion" is the Constitutional Budget Reserve fund and that a balance of at least \$1 billion should be retained in that fund. Senator Elton agreed with the Governor on this point and furthered that the Permanent Fund should be managed in the same manner as other State resources.

SENATOR HOLLIS FRENCH emphasized the proposed constitutional amendment is the focus and characterized it as "highly principled"

and "highly pragmatic". He expounded that the discussion represents a "classic American struggle" between "power and liberty," of whether money should be appropriated to government or individuals. He furthered that the issue is pragmatic in that if a portion of earnings from the Permanent Fund are to be used for government services, a proposal for this must be crafted that would receive public approval. He predicted that a proposal to adopt a POMV method would not receive public approval without this resolution. He remarked upon the Conference of Alaskans conclusion that to receive public approval for POMV, an "iron clad guarantee" of continued dividend payments would be required.

Senator Elton appreciated the comments. He agreed the matter is a conflux of policy and philosophy but stressed that politics is also an issue. He surmised that the public needs assurance that dividends would be guaranteed if POMV were enacted and he stated this resolution is the result of this need.

Senator Hoffman asked about the division of three to five percent POMV between inflation proofing and allocation for dividends and government. He asked whether the sponsor had considered that five-percent could be too high.

Senator Elton stated that in constructing this resolution, he divorced himself from that question and rather addressed allocation of the income "stream". He emphasized that any discussion of POMV must include discussion on the appropriate annual amount to withdraw from the Permanent Fund. He qualified that different entities reached different conclusions of the appropriate amount. Exemplified that the withdrawal amount from the Harvard Endowment is decided annually based on the performance of that fund. He pointed out that other endowment funds are managed differently than the Alaska Permanent Fund. He stressed that this Committee as well as the Senate should scrutinize the percentage amount. He relayed a suggestion made at the Conference of Alaskans that five-percent is appropriate and would not impact the corpus of the Fund over time. Whatever decision on the POMV amount, he stressed would not affect this "tag-along" Constitutional amendment, because it is predicated on the annual revenue.

Co-Chair Wilken ordered the bill HELD in Committee.

#sjr24

CS FOR SENATE JOINT RESOLUTION NO. 24(JUD)

Proposing amendments to the Constitution of the State of Alaska to guarantee the permanent fund dividend, establishing the earnings reserve account, and relating to the Alaska

permanent fund; and providing for an effective date.

This was the first hearing for this resolution in the Senate Finance Committee.

Co-Chair Wilken stated this resolution "requires income earned from the Permanent Fund to be deposited into a constitutionally created earnings reserve account. Fifty-percent of the income available for distribution shall be transferred from the earnings reserve account and used as payments to State residents as a dividend. This Senate joint resolution takes effect only if voters approve a spending limit amendment."

SENATOR SCOTT OGAN, sponsor, proposed this resolution to "enshrine" the existing Permanent Fund dividend program into the Alaska Constitution, as it has been successful for many years. He opined, "Nothing [is] broke[n]; we don't need to fix it." and that usually government "fixes things until they are broken." He stressed that the legislature has exercised discipline in depositing significant portions of the earnings of the Permanent Fund into the corpus of the Fund. He predicted that Alaskans would have no confidence in the legislature until the dividend program is protected in the Constitution.

Senator Ogan shared the impetus of this proposal resulted from discussions in the Mat-Su Valley relating to subsurface rights. He remarked that the State of Alaska has those rights, that the "people" own those resources and as trustees, the legislature has the obligation to manage those resources to the benefit of all Alaskans. He stated the Permanent Fund operates with the same philosophy. He expounded further on subsurface rights and landowners before Statehood.

Senator Ogan then spoke to a spending limit, which he opined should be carefully considered. He suggested that making adoption of a constitutional amendment contingent upon passage of another amendment could be considered a revision to the Constitution. He recommended obtaining a legal opinion on the matter.

Senator Ogan referenced an article published in the Anchorage Daily News related to operating the State government like a business. He asserted this could be done. He noted that oil companies decide to reduce operations when prices fluctuate, making these decisions "behind closed doors," and that "unfortunately" the legislature does not have this "luxury". Therefore, he stressed a constitutional spending limit must be enacted, the dividend program must be enshrined in the Constitution, and the State government

should be "run like a business". Only then, he surmised, would people be willing to consider using excess earnings of the Permanent Fund for government services.

Senator Bunde understood the sponsor's comment that subsurface rights are held in trust for all residents of Alaska, regardless of the location of the resource.

Senator Ogan affirmed and cited Alaska Constitution Article 8 Section 3, regarding common use.

Senator Bunde also understood the sponsor supported a change of the "purpose of the dividend" to provide compensation for loss of subsurface rights. Senator Bunde had understood the dividend was originally instituted to provide ownership of the corpus of the Fund so residents would support the continuation of the Fund in exchange for receipt of a portion of the interest earned.

Senator Ogan countered that the purpose has not changed. He stated that 25 percent of the royalties generated from subsurface rights are deposited into the Permanent Fund, which is a reflection that the money "comes from a commonly owned resource". He shared that he has become aware that as the reality for some property owners that they do not own subsurface rights is understood, the necessity to ensure that all residents receive a portion of subsurface royalty is heightened.

Senator Bunde concluded that the sponsor attests that the dividend would constitute compensation for lack of personal ownership of subsurface rights.

Senator Bunde next referred to the sponsor's testimony that the legislature has been "good stewards" of the Permanent Fund by not appropriating significant amounts of the earnings and instead depositing it into the corpus of the Fund. However, Senator Bunde pointed out that currently \$35 million is expended annually for hold harmless provisions and other purposes.

Senator Bunde remarked that the dividend amount could have been "zero" in 2003 and "lower this year." He recalled testimony attesting that the dividend comprises up to 30 percent of household income for some residents and that loss of dividends could result in 30 percent lower income in some regions of the State. He predicted this would have a significant impact on the State's welfare system. He remarked that some residents indicate understanding of this possibility, but continue to support the current system of managing the Fund. He warned of serious consequences that could occur in years of low or no dividends.

Senator Ogan responded that the public accepts that dividend amounts increase and decrease depending upon the performance of the Fund. He noted that the Permanent Fund Corporation has advocated for a POMV management method for several years and that such a system could be implemented at a later date. However, he stressed that the existing system is sufficient at this time.

Senator Ogan continued commenting about government spending and of the difficulties in reducing the budget. He concluded the only way to "get rid of cancer is to cut off the blood supply" and asserted this must be done with government as well.

Senator Bunde commented recalled that funding was added to the dividend program due to public demand. He predicted that if the existing system continues, areas of the State that rely on dividends would suffer and subsequently the burden would be placed on the State. He warned that this could result in substantial increase in State spending.

Senator Olson addressed Senator Ogan's assertion that the State government should be operated like a business.

SFC 04 # 41, Side A 10:42 AM

Senator Olson cautioned against operating the State in the same manner as the now bankrupt Enron Corporation was operated, in which management is suspected of illegal activities that defrauded shareholders and employees.

Senator Bunde restated his concern about the impact sanctifying dividends in the Constitution would have on other states and their congressional delegations in appropriating federal funding for Alaska if the State reserves its earnings for individuals and not for government services.

Senator Ogan pointed out that the resolution was amended by the Senate Judiciary Committee to add a provision to repeal the Constitutional amendment if a final determination is made by the U.S. Internal Revenue Service that utilizing the Permanent Fund in this manner would cause the Fund to be taxable.

Co-Chair Wilken ordered the resolution HELD in Committee.

ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 10:45 AM